

Whispering Pines Condominium Association (WPCA)
Summary of By-Laws

Liber 1308, October 17, 1988

Article I Association of Co-Owners

This article stipulates that Whispering Pines Condominium, a residential community, will be administered by an "Association" in which all Condominium owners are entitled to membership.

Article II Assessments

The expenses to manage, administer, and operate the Association will be paid by levying an assessment on the Condominium owners with the following provisions:

Section 1 Assessments for Common Elements

The costs to insure and maintain the common elements will be paid through the Assessment.

Section 2 Determination of Assessments The annual General Assessment shall be determined as follows:

- (a) Budget The Board of Directors must prepare an annual budget to project its costs for the following fiscal year and from which the annual assessment will be determined, including the following:
 - 1. An adequate reserve fund (10% minimum) must be established to maintain, repair, and replace depreciation of the common elements.
 - 2. Copies of the Annual Budget are to be provided to all owners
 - 3. If during the year an emergency should occur for which the Board has insufficient funds, the Board may, at its sole discretion increase the assessment to cover the emergency
- (b) Special Assessments In addition to the annual assessment, a special assessment may be required under the following conditions:
 - 1. Additions to the common elements exceeding \$2000
 - 2. Purchase of a Unit upon foreclosure
 - 3. Any other appropriate purpose
 - 4. All Special Assessments must be approved by 60% of the homeowners

Section 3 Apportionment of Assessments and Penalty for Default

- (a) Each unit is assigned an equal value and therefore the annual assessment for all units will be equal

- (b) Initially, the annual assessment could be paid in 12 equal, monthly payments to the Association, but this was amended (Fifth Amendment, 1999) to be paid in two equal, semi-annual installments.
- (c) Payments late by 10 days will incur a 7% per annum interest charge plus any interest surcharge as approved by the Board
- (d) A fine for late payment may also be levied by the Board

Section 4 Waiver of Use or Abandonment of Unit No co-owner can exempt himself from the assessment by waiving use of the common elements or abandoning his unit.

Section 5 Enforcement Failure by any co-owner to pay the assessment increases the burden on the remaining co-owners. Therefore, the following actions can be taken by the Association

(a) Remedies

- 1. A lawsuit may be applied to collect the assessment
- 2. Utilities may be suspended with 7 days' written notice
- 3. The co-owner cannot vote at Association meetings
- 4. Other remedies as may be available by law

(b) Foreclosure Proceedings

- 1. The Association has the right to foreclose and sell a unit to recover the lien for delinquent assessments
- 2. All co-owners acknowledged that this process is possible at the time he acquired the property
- 3. Any such proceedings must and will follow all applicable laws pertaining to Foreclosure

(c) Notice of Action

- 1. A written notice must be sent to the owners last known address at least 10 days before any actions described above may be taken
- 2. The written notice must be sent by an Officer of the Association and include a description of the property and a list of the costs associated with the delinquent assessment payment
- 3. This Notification will also be recorded in the Office of the Register of Deeds of the county

(c) Expenses of Collection All expenses associated with the collection of the unpaid assessments shall be charged to the co-owner.

Section 6 Liability of Mortgagee Anyone who purchases a unit shall be free and clear of any delinquent assessment payments

Section 7 Developer's Responsibility for Assessments This section no longer applies since the Developer is no longer is functioning in the community (The section basically said the developer did not have to pay the assessments.)

Section 8 Property Taxes and Special Assessments All property taxes and special assessments levied by any public taxing authority shall be assessed in accordance with Section 131 of the Act.

Section 9 Personal Property Tax Assessment of Association Property Taxes on the Common Elements will be paid by the Association and treated as expenses by the Association.

Section 10 Mechanic's Lien A mechanic's Lien arising under Act 497 of the Michigan Public Acts of 1980 shall be subject to Section 132 of the Act.

Section 11 Statement as to unpaid Assessments Co-owners, in writing, may request a list of unpaid assessments from the Association

Article III Arbitration

Section 1 Scope and Election Disputes, claims, or grievances with the Condominium documents, among co-owners, or between co-owners and the Association, with written consent of all affected parties, may be settled by arbitration in Michigan Circuit Court.

Section 2 Judicial Relief If written consent of all parties cannot be obtained, any co-owner can still petition the courts to resolve a dispute, claim, or grievance.

Section 3 Election of Remedies If the affected parties accept Section 1, then they cannot take other means of litigation.

Article IV Insurance

Section 1 Extent of Coverage The Association shall carry all appropriate property and liability insurance related to the common elements with the following provisions:

- (a) Responsibilities of Association The Association shall purchase the insurances for the benefit of the co-owners
- (b) Insurance of Common Elements All general common elements shall be insured appropriately as determined annually by the Board
- (c) Premium Expenses All premiums shall be expenses to the Association
- (d) Proceeds of Insurance Policies Proceeds of all insurance policies shall be received by the Association and be applied to repair or reconstruct damage which resulted in the payment initially unless all co-owners recommend otherwise in writing to the Association.
- (e)

Section 2 Authority of Association to Settle Insurance Claims The Association has full authority to purchase and manage insurances as stated on behalf of the co-owners.

Section 3 Responsibility of Co-Owners Each Co-owner is responsible for obtaining insurance on his property and provide evidence of this insurance to the Association if requested.

Section 4 Waiver of Right of Subrogation The Association and all co-owners shall purchase insurances that do not transfer responsibilities between the co-owners and the Association for any claims.

Article V Reconstruction and Repair

Section 1 Responsibility for Reconstruction and Repair If any part of the condominium premises is damaged, the following shall apply:

- (a) General Common Elements The Association shall rebuild or repair any common element damage unless 100% of the co-owners agree otherwise.
- (b) Unit or Improvements Thereon If co-owners sustain damage, they have the sole right to determine what to do. They also have the responsibility to remove debris and/or restore the damage in reasonable time following the occurrence of the damage.

Section 2 Repair in Accordance with Master Deed The reconstruction or repair shall be accordance with the requirements of the Master Deed unless unanimously agreed otherwise by the co-owners.

Section 3 Association Responsibility for Repair The Association will reconstruct or repair common elements. If the insurance does not entirely cover the costs and the Association does not have adequate funds to complete the repair, then an assessment will be made against the co-owners for the repairs.

Section 4 Timely Reconstruction and Repair If damage to the common elements adversely affects the appearance of the community, the Association will proceed without delay.

Section 5 Eminent Domain In the improbable event that Eminent Domain is applied to any or all of the Condominium project, applicable law shall apply. The Association will notify all co-owners of these actions when made aware of it.

Section 6 Notification of FHLMC If the Federal Home Loan Mortgage Corporation requests information regarding damage of a unit they have mortgaged, the Association will provide the information to them.

Section 7 Priority of Mortgagee Interests First mortgage holders have first priority to distributions from insurance or condemnation awards.

Article VI Mortgages

Section 1 Notice to Association Co-owners must register their mortgages with the Association, the Association will keep a record of all first mortgages, and shall give notice to the holder of any first mortgage that the co-owner is in arrears (if non-payment exceeds 60 days).

Section 2 Insurance The Association shall notify all first mortgage holders of the insurances the Association holds on all common elements.

Section 3 Notification of Meetings Upon written request, any first mortgage holder shall be notified by the Association of every Association meeting.

Article VII Voting

Section 1 Vote Each co-owner is entitled to one vote for each unit owned.

Section 2 Eligibility to Vote Co-owners must provide proof of ownership to vote.

Section 3 Designation of Voting Representative Each co-owner may assign a voting representative by written notice to the Association of the name and address of the representative.

Section 4 Quorum A quorum for an Association meeting is met if 30% of the eligible voters are present in person or proxy, including written votes received at or prior to the meeting. Amendment 8 changed the quorum from 50% to 30%.

Section 5 Voting Votes may be cast in person or in writing furnished to the Secretary at or prior to the meeting.

Section 6 Majority In general, a majority shall consist of 50% of voters present or voting in writing at a given meeting of the Association. There are specific exceptions specified in the by-laws for certain Association business.

Article VIII Meetings

Section 1 Place of Meeting Meetings shall be held at a suitable place convenient to the co-owners as designated by the Board.

Section 2 First Annual Meeting This occurred in the past and no longer applies.

Section 3 Annual Meetings Annuals meetings are to occur in April to elect a Board of Directors and conduct any other pertinent business.

Section 4 Special Meetings A Special Meeting can be called by the President or by a petition signed by 1/3 of the co-owners. Notice of the meeting shall state the time, place, and purpose of the meeting.

Section 5 Notice of Meetings The Secretary or his designate must notify all co-owners of the Annual Meeting or a Special Meeting at least 10 days but not more than 60 days prior to the meeting. The time, place, and purpose of the meeting must be stated.

Section 6 Adjournment If a quorum is not present at the meeting, the co-owners who are present may adjourn the meeting to another time, but not less than 48 hours from the first meeting.

Section 7 Order of Business Meetings shall be chaired by the most senior Officer present. The order of business at all meetings shall be as follows:

- (a) Roll call to determine the voting power at the meeting
- (b) Proof of Notice of the meeting
- (c) Reading Minutes of previous meeting
- (d) Reports of Officers
- (e) Reports of Committees
- (f) Appointment of inspectors of election (if electing Directors or Officers)
- (g) Election of Directors (if required)
- (h) Unfinished business
- (i) New business

Section 8 Action without Meeting Any Actions which may be taken at a meeting may also be taken by written ballot. All eligible co-owners will be solicited, response times indicated and votes counted in the same manner as in a meeting including quorum requirements for the vote.

Section 9 Consent of Absentees Homeowners absent from the meeting can file a written waiver of notice or consent to the holdings of the meeting and these shall be included with the minutes of the meeting.

Section 10 Minutes, Presumption of Notice Meeting minutes, if signed by the President or Secretary shall be presumed truthful and represent the actions taken in the meeting.

Article IX Advisory Committee

The Advisory Committee was formed in the beginning stages of the development to help advise the Developer. This Committee was disbanded when the co-owners had majority control of the Association.

Article X Board of Directors

Section 1 Number and Qualification of Directors There are five members of the Board of Directors and all must be members of the Association or agents of members of the Association. Board members serve without compensation. Amendment 8 changed the number of Directors from three to five.

Section 2 Election of Directors

- (a) First Board of Directors This no longer applies.
- (b) Appointment of Non-developer Co-Owners to Board prior to First Meeting This no longer applies

(c) Election of Officers at and After First Annual Meeting

1. This provision allowed the developer one Board seat until 75% of the units were sold. This provision no longer applies.
2. This provision determined the number of developer appointed Directors versus co-owner Directors based on % of units sold. This provision also no longer applies.
3. This provision also dealt with the split of Board members during the early development and now no longer applies.
4. The term of each Director is two years that should be staggered so that two are elected at one Annual Meeting and three at the next Annual Meeting. Amendment 8 changed the number of Board members from three to five.

Section 3 Powers and Duties The Board shall have the powers and duties necessary for the administration of the Association as required in the By-Laws of the Association.

Section 4 Other Duties In addition to the duties stipulated in the By-Laws, the Board will have these additional duties:

- (a) To manage and administer the affairs of the condominium and maintain the common elements.
- (b) To levy, collect and disburse assessments and to use these assessments for the Association.
- (c) To carry insurance for the Association.
- (d) To rebuild the common elements in the case of damage or casualty.
- (e) To contract agents to assist in the management and operation of the condominium project.
- (f) To conduct whatever business is required on behalf of the Association.
- (g) To borrow money for the maintenance and operation of the Association only if approved by 75% of all members of the Association.
- (h) To make rules and regulations in accordance with Section 6 of the Protective Covenants. Amendment 8 referenced these Covenants because the original document referenced an Article of the By-Laws that did not exist.
- (i) To establish and delegate responsibilities to any committees required to implement the requirements of the Association.
- (j) To make rules and regulations which enable co-owners to obtain mortgage loans from any Federal or State mortgage agencies.
- (k) To levy, collect, and disburse fines from the members of the Association after due process is observed.
- (l) To settle all claims on behalf of the co-owners regarding the common elements after providing 10 days written notice of any such claims.
- (m) To enforce the provisions of the Condominium documents.

Section 5 Management Agent The Board may employ a professional management agent for the Association as long as the term of the contract does not exceed 1 year and can be terminated with 60 days written notice.

Section 6 Vacancies If a vacancy arises on the Board, the remaining Board members may elect a replacement until the next Annual Meeting.

Section 7 Removal At any regular or special meeting of the Association, with due notification to all co-owners, any member of the Board may be removed if 50% of the members present agree (assuming a quorum is present).

Section 8 First Meeting This has occurred in the past and no longer applies.

Section 9 Regular Meetings A minimum of 2 regular meetings of the Board are required each year and require 10 days notice to the Board members.

Section 10 Special Meetings Special meetings may be called by the President on 3 days' notice.

Section 11 Waiver of Notice Business to be conducted at all Board meetings must be given to all Board members in advance. Board members may waive the right to notice in writing or their attendance at the meeting signifies they have waived this right and any business can be conducted without prior notice given.

Section 12 Quorum A majority of the Directors shall constitute a quorum.

Section 13 First Board of Directors This occurred in the past and no longer applies.

Section 14 Fidelity Bonds All Officers and employees of the Association handling or responsible for funds must furnish adequate fidelity bonds. The cost of these bonds will be expenses of the Association.

Article XI Officers

Section 1 Officers The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer. Any two offices except President and Vice President may be held by one person.

- (a) President The President is the chief executive officer and presides at all meetings of the Association and the Board of Directors. He has all the powers and duties typically vested in such a position.
- (b) Vice President The Vice President shall take the duties of the President when he is absent or unavailable.
- (c) Secretary The Secretary shall keep the minutes of all meetings and keep such books and papers as required by the Board.
- (d) Treasurer The Treasurer shall be responsible for the Association funds and for keeping accurate records of all receipts and disbursements.

Section 2 Election The Officers shall be elected annually by the Board.

Section 3 Removal Any Officer can be removed by an affirmative vote of the Board as long as notice of such action was given to all Board members.

Section 4 Duties The Officers shall have the powers, duties and responsibilities as authorized by the Board.

Article XII Seal

The Association may (but need not) have a Seal.

Article XIII Finance

Section 1 Records Detailed books of account shall be kept by the Association showing all expenditures and receipts, including the maintenance and repair expenses of the Common Elements.

- (a) Accounts shall be open for co-owner inspection
- (b) The Association will distribute a Financial Statement annually
- (c) The Books of Account shall be audited annually by qualified independent auditors (but need not be a certified audit)
- (d) The annual audit statement shall be made available to any first mortgage holder, if so requested

Section 2 Fiscal Year The Fiscal Year of the Association is determined by the Board (begins May 1).

Section 3 Bank Funds shall be deposited in a bank or savings association designated by the Board. Funds may be invested in insured institutions in CDs or interest bearing obligations of the US Government.

Article XIV Indemnification of Officers and Directors

Every Officer and Director of the Association shall be indemnified by the Association against all expenses and liabilities if he has become involved in litigation as a result of his Association participation. Co-owners will be apprised of any such action taken against an Officer or a Board member.

Article XV Amendments

Section 1 Proposal Amendments to these By-Laws may be proposed by a majority of the Board members or by 1/3 of the co-owners submitted in writing to the Board.

Section 2 Meeting If an amendment is proposed, a meeting shall be called to act on the amendment.

Section 3 Voting The proposed amendment may be approved at an annual meeting or a special meeting for such purpose if 2/3 of all co-owners approve the amendment.

Section 4 By Developer The Developer had the right to amend the By-Laws without co-owner approval. This section no longer applies.

Section 5 When Effective An approved amendment becomes effective when it is registered with the Register of Deeds of Livingston County.

Section 6 Binding A copy of each amendment will be given to all co-owners of the Association.

Article XVI Compliance

The acquisition, occupancy, or rental of any unit signifies that the Condominium documents are accepted and ratified by the co-owners.

Article XVII Definitions

All terms used in the By-Laws shall have the same meaning as defined in the Master Deed.

Article XVIII Remedies for Default

Any default by a co-owner shall entitle the Association or another co-owner to the following relief:

Section 1 Legal Action Failure to comply with any of the terms or provisions of the Condominium documents shall be grounds for relief.

Section 2 Recovery of Costs In any proceedings regarding default by a co-owner, the Association, if successful, shall be entitled to recover the costs of the proceedings and reasonable attorney's fees but in no event shall a co-owner be entitled to recover such attorney's fees.

Section 3 Removal and Abatement If the Condominium documents are violated, the Association has the right to correct the violation, on common elements or on co-owner property, at the expense of the co-owner.

Section 4 Assessment of Fines If any Condominium documents are violated, the Association has the right to assess fines for such violations assuming rules and regulations have been established by the Board and communicated to the co-owners beforehand. No fine shall be levied for the first violation, \$25 max for the second, \$50 max for the third and \$100 maximum for the fourth and subsequent violations.

Section 5 Non-Waiver of Right The failure of the Association to enforce any provision of the condominium documents does not waive the right of the Association to enforce the provision in the future.

Section 6 Cumulative Rights, Remedies, and Privileges Just because a waiver has been granted to one homeowner does not mean that the waiver must be granted to any other owner.

Section 7 Enforcement of Provisions of Condominium Documents A co-owner may take action against the Association, its officers and Directors, or another co-owner to enforce the provisions of the Condominium Documents.

Article XIX Rights Reserved to Developer

The Developer turned over all rights to the Association and therefore this Article no longer applies.

Article XX Severability

If any of the terms, provisions, or covenants of these documents are found to be invalid, this does not invalidate the other terms, provisions, or covenants in the documents.

GAL
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