

**ANCHORAGE CONDOMINIUM ASSOCIATION
SPECIAL MEETING
JULY 9, 2005
Dillon, Colorado**

I. CALL TO ORDER

The Anchorage Condominium Association Special meeting was called to order at 9:07 a.m. at the Best Western Ptarmigan Lodge.

Board members present were:

Brad Odekirk, President, #36	Jay Budnick, Director, #24
Larry Bruner, Director, #33	Anne Grady, Director, #34
Cathleen VanBuskirk, Director, #44	

Owners attending were:

Gail Murray, #11	Ron and Ellen Laub, #12
Ken Richardson, #13	Brad O'Neill, #14
James Sherry, #15	Janet Stiles, #31
Warren and Judy Wood, #41	Florrie and Bruce Katchen, #42
Marylu Flight, #45	Laverne Darr, #46
Deborah Eaton, #51	Ned and Susan Calonge, #54

Five proxies were received (Units #21, #22, #23, #32 and #43).

Others attending were Lauren Holms, Attorney for the Association and Peter Schutz from Summit Resort Group. Erika Krainz was recording secretary.

II. PROOF OF NOTICE/INTRODUCTIONS/QUORUM

Notice was sent by certified mail on June 21, 2005.

III. DECLARATION AMENDMENT DISCUSSION

“Consideration of a Change to the Anchorage Condominium Declaration Regulating Owners Who Rent Their Units at the Complex to Include the Amount of a Special Assessment Charged to Owners Renting Their Unit”.

Peter Schutz said a Resolution was passed at the Annual Meeting to implement an assessment to owners who rent their units. Brad Odekirk commented that the meeting was going to be informational regarding what is stated in the Declarations and what the owners might want to do to change them. In a vote at the Annual Meeting, most owners indicated they did not want to have short term rentals in the building.

An owner asked what was considered a short term rental. Brad Odekirk responded that point would have to be defined. Peter Schutz said in the property management business, short term was defined as anything less than thirty days. Lauren Holms stated the community could define it as desired. An owner asked who paid the lodging tax. Peter Schutz explained the guest paid the tax and it was

collected by the management company as part of the rental fee.

Lavern Darr asked why the Association felt the need to assess owners who are renting their units. Brad Odekirk responded that since the Association was starting to see renters, it would need some way to handle rules violations.

Lauren Holms said the condominium documents allow for regular assessments and special assessment, but a special assessment cannot be levied for just any reason, such as how the property is being used. She clarified that there would not be a vote on a special assessment. The amendment being discussed would not change the assessment structure. There are other ways to address owners and renters who violate the rules, such as fines.

The community has changed since the documents were drafted over thirty years ago. The Declarations can be amended to better define the type of leasing desired by the community. There is an amendment provision in the Declarations so all owners were legally on notice that the Declarations could be changed. As a community, they can impose restrictions on the community.

Senate Bill 100 (SB 100) was recently passed and certain sections apply to this Association. In order to amend the Declarations, approval is required from owners owning 60% of the aggregate ownership (weighted based on unit size), as well as 100% of the mortgagee consent. SB100 makes this provision easier to fulfill. Historically, banks have not given attention to amendments making it virtually impossible to get mortgagee approval. SB100 put in a process for the mortgagee approval. Dated notice must be sent to all mortgage holders with a copy of the proposed amendment, and it must be published in the local paper for two weeks with instructions for obtaining a copy of the proposed amendment. If no negative response is received within sixty days the lack of response is assumed to be an approval. The Colorado Common Interest Ownership Act (CCIOA) allows for a petition process if one mortgagee does not approve. If no more than one-third of the mortgagees object through the court, then the court has to approve it.

Lauren Holms explained the function of the three main Association documents. The Declarations is the document that was recorded in 1970. It establishes the property as a condominium and governs what can be done with the property. It is binding on the property and contains information about the assessments and maintenance obligations. The Articles of Incorporation establish the Association as a corporation. The Bylaws govern the day to day operation of the Association, including the owner and board quorum requirements, how many votes each member gets and meeting schedules. The Bylaws for this Association also contain use restrictions, which are customarily outlined in the Declarations. In the proposed amendment the use restrictions would be incorporated in the Declarations.

Brad Odekirk said the Board would need consent from the owners to tackle this issue. An informal show of hands at the meeting indicated the owners wanted to

limit rentals.

An owner commented that he did not like the idea of a restriction against rental. He noted there were rules in place and a Manager on site. He pointed out there were some owners who do not obey the rules. An owner said he would want to be able to have his unit available for trade.

Brad Odekirk noted this issue had been brought up previously in 1980.

An owner commented that if the community decides to go forward with this process, the owners opposed would have to participate in the legal fees against their will. Ron Laub thought the cost would be minimal, around \$5,000.

Deborah Eaton acknowledged that this was a difficult issue. She pointed out such a decision could limit the investment potential and could impact the resales of the units.

Ellen Laub felt the problem was often caused by guests who do not know the rules. Deborah Eaton pointed out there could be problems with owner guests as well.

Peter Schutz commented that costs would go up if the management company were required to police violations. It would increase man-hours and administrative costs.

Cathleen VanBuskirk disagreed that the units would be less sellable if rentals were defined but an owner said her real estate agent said it would affect resales.

Annual occupancy average is four days, about 30% on a year-round basis. An owner noted there would be less wear and tear with winter occupants because they ski during the day. Summer is when most property abuse and wear and tear is noticed.

Ron Laub said he did not want to eliminate all rentals, but rather to make the property primarily owner use and possibly allow longer term rentals.

Cathleen VanBuskirk said Section 4.R. of the Articles as currently written specifies that owners must use the same management company for rental management as for association management. An owner asked if something had changed or if it just was not enforced. Lauren Holms said the Articles were not amended, but the restriction was not being enforced.

An owner stated Anchorage was the nicest property in Dillon and the nightly rental issue should be addressed because he believed it would decrease the property value.

Ron Laub asked Deborah Eaton if she paid lodging taxes and if she would use Summit Resort Group for rental management. She responded that she did pay all

taxes and she would not be opposed to using the management company. She noted that some owners rented and charged a “cleaning fee” which is technically renting.

Cathleen VanBuskirk said the property was known in the community as primarily an owner use property. Deborah Eaton responded that she did not know that it was primarily owner use before she purchased, but she did know there were other units being rented in the building. She purchased the unit and within two months spent about \$20,000 upgrading. An owner asked how she would feel if all the other owners rented their units. She replied she would never put limitations on the other owners’ use of their property. Laverne Darr pointed out that there have been rentals in the building in the past and there have not been any major problems. Ned Calonge said it made him nervous to live next to a rental unit.

An owner noted it was hard to bring in a long term rental that would pay enough to cover the costs; the same amount of money could be made with one short term weekend rental. Deborah Eaton said in her professional experience long term renters were much harder on the property than short term.

Lauren Holms explained that if the owners decide to go forward with an amendment, they would receive a consent form with the amendment. It is a written document and once executed, it will be recorded. A minimum of 60% of the aggregate ownership would have to sign in order to make the amendment.

The owners were then polled on a number of issues and provided their feedback through an informal “show of hands”. Owners were only allowed to raise their hand for one option:

1. Limit the length of stay for renters - 12 in favor, 3 opposed and 2 abstained.
2. Limit rentals to a minimum stay of three months - 5 in favor.
3. Limit rentals to a minimum stay of four days - 2 in favor.

Deborah Eaton asked Peter Schutz to comment on the length of stays. Peter said the average stay was four days and it would be harder to get a two week rental. Catherine VanBuskirk proposed sending a survey to the owners to determine the length of stay minimum preferred by the majority and to use that number for the proposed amendment. Deborah reiterated that this process would be costly and ultimately limiting and she would continue to rent her unit regardless of the outcome.

The owners were then polled again and provided their feedback through another informal “show of hands”. Owners were allowed to raise their hand for more than one option:

1. Limit rentals to a minimum stay of three months – 11 in favor.
2. Limit rentals to a minimum stay of one month – 10 in favor.
3. Limit rentals to a minimum stay of two weeks – 4 in favor.
4. Limit rentals to a minimum stay of one week – 5 in favor.
5. Limit rentals to a minimum stay of four days – 4 in favor.
6. None of the above – 3 in favor.

7. Assuming a defined rental period minimum stay requirement, enforce the required use of the Association management company for rental management – 13 in favor, 2 abstentions.

Laverne Darr clarified that owners started using other management companies when Peter and his partner split the business and Peter was not allowed to take on any rental management units.

Peter Schutz said it was clearly the direction of the community that they want to prioritize the rental term to a one or three month minimum stay. The next step will be to draft an amendment. A poll could be sent to the owners with three different minimum stay requirements, i.e. one week, one month or three months.

An owner asked if it would be possible to bring in a mediator to help to resolve the issue to everyone's satisfaction instead of amending the documents. Lauren Holms said a mediation agreement would not be binding on the property.

An owner asked for a cost estimate for the amendment process. Lauren Holms estimated it would cost around \$5,000.

An owner was concerned about changing the condominium documents "after the fact". Lauren Holms said owners purchasing a condominium should have understood there is a process for amending the official documents so the rules can potentially change anytime.

Deborah Eaton spoke again in opposition to long term rentals, noting they are harder on the units and the entire complex. She said it was a financial necessity for her to rent.

Peter Schutz thanked the owners for their feedback and returned to a discussion about how to proceed from this point. The owners were asked if they supported going forward with the procedure to amend the Declarations, including voting on the different options of minimum rental terms (one week, one month, three months or none of the above). A poll would be sent to the owners by mail, the results would be prioritized based on the majority, and then the Board would proceed with the amendment. In a show of hands, eleven were in favor, three opposed and two abstained.

Brad Odekirk said he was not very comfortable with the whole amendment process, the meeting, and the cost issue. An owner suggested amending the Declarations to prohibit rentals from this point forward, but grandfathering the right to rent for existing owners.

Lauren Holms recapped the process going forward:

1. Send a letter to all mortgagees of record with a copy of the proposed amendment. If the mortgagees do not respond within sixty days, their lack of response will be deemed as consent.
2. If a mortgagee objects, the objection must be filed in writing with the court. If

33.3% of the mortgagees file objections, the amendment will not pass.

IV. ADJOURNMENT

A motion was made to adjourn at 11:11 a.m. The motion was seconded and carried.

Approved By: _____ Date:

Board Member Signature