

Woodbrook Townhouse Owners Association

Special Meeting to Review Proposed Changes to the Covenants and Rules and Regulations

January 16, 2018 at 7 PM

Pilgrim Congregational Church, Bozeman, MT

A special meeting was held by the Board in an effort to answer outstanding questions and concerns about the proposed changes to the Covenants and Rules and Regulation. In November 2017, months prior to this meeting, unit owners were sent drafts of both of these documents and invited to provide feedback. The Board compiled and reviewed the feedback and, in response, revised the draft documents. The purpose of this meeting was thus to discuss the proposed changes and address any remaining concerns.

President Donna Minton called the meeting to order and made a presentation. (Please see Donna's prepared slides to review her opening presentation) She explained the various governing documents and the motivation to revise and update these documents. Donna also said that the BOD had asked for volunteers from the Woodbrook community to assist with this project and no one volunteered. She then introduced the Board or Directors and our attorney Alanah Griffith.

Donna opened the meeting to Questions from the membership.

Rick Thompson said that there had not been enough time to look over the changes. He was unhappy that the Board of Directors (BOD) had distributed the proposed changes and asked for feedback during the busy holiday season. He was also upset that the final revisions were not sent to owners until the Saturday night before a Tuesday meeting. He requested that the BOD hold off the vote until the November 2018 Annual Meeting to allow everyone time to "digest" the changes.

Alanah replied that this was an informational meeting only with the purpose to answer questions and not to vote. She explained that she worked with many homeowners associations who have outdated covenants and that her expertise was in this area of law.

Thompson asked who was paying Alanah. There was concern about the \$3200 in fees which had accrued over the BOD's attempt to collect fines from the rental unit owned by Steven Rutherford. Alanah explained that the high cost of this enforcement was due to the unwieldy and ineffective enforcement language in our covenants. She commented that, if Woodbrook were to put off revising the covenants, we may face another case like Mr. Rutherford and again face a costly, time consuming enforcement process.

Linda Crane said that she did not get the email with the proposed revisions and would like more time to see how the changes affect her. She went on to say that she did not volunteer because the Board has been unfriendly in the past.

Tom Johnson (Board Vice President) said that he has been on other Boards and this Board needs the teeth to enforce our rules. He asked people to consider how they would feel if they had a problematic neighbor and the Board could not stop the offensive behavior. The Board simply cannot stop violations with the existing documents and if this continues it could lower our property value and quality of life. The Board is just trying to prevent things from getting worse.

Sharon Johns said that she had respect for the Board and appreciated the hours that the Board had spent on this. However she feels that the Board has ownership of these changes but the rest of us have not had time to understand the changes. She would like to have this Question and Answer meeting and then go home and have time to think. A month is not enough time and we may need more meetings.

Jean Murray said that she and her husband had come down from Great Falls for this meeting. They appreciate what the Board is doing but they received the email Sunday night and showed it to their attorney. Their concern is that these are legally binding documents and they would like more detail. The Murrays also would like to see the input received from other owners. They know the Board is trying to help but the Board is taking too many of their property rights.

Alanah asked what the specific issues were where the Board was taking too much power. The Board is trying to make the best of a 40-year-old document.

The Murrays turned to the Rules and Regulations section on Rulemaking and asked if homeowners get to vote on rules.

Alanah explained that the covenants supersede the rules and regulations; this is a rule of law. The covenants require approval of 2/3 of the membership to make a rule. We can add language to the rules and regulations to the effect that covenants supersede the rules.

The Murrays asked about the deductibles. Alanah explained that this ties back to the budget. Not all associations are as engaged as Woodbrook and there may not be a quorum at an association meeting and so nothing can get done. This is typical language to make sure the Board can act.

Mr. Murray asked about the Board's ability to put liens on a property that is in non-compliance. Alanah said that this new language will make it easier for the Board to place liens. The old language is so complex it requires the Board to have a hearing before it can place a lien. A hearing is costly and time consuming. Murray asked if this enforcement language will be effective, Alanah said yes.

Mr. Murray asked if the Board had collected on other liens that the Board has placed. The answer is that those liens were due to non-payment of assessments, not fees and we did collect on those liens.

Mr. Murray asked that the Board put the comments they received on the website and the Board agreed to do so.

Larry Sterne asked about the change in leasing policy from 6 month to 1 year. He asked if any of the specific rental problems were due to people living at Woodbrook for only 6 months. Don Baide said yes, there are problems associated with people coming and going, that each time a unit changes renters there is more work for the Board educating the new residents about the rules.

Larry asked if each time your renter leaves you go to the bottom of the waiting list. Don replied that no, the owner has 90 days to find a new tenant. Once your unit is a rental you can continue to rent as long as you keep it rented.

Sterne explained that they spend 6 months in Maine and 6 months in Bozeman. They performed due diligence and spoke with the manager before they bought their unit. They were not aware that there was a plan to change the rental policy to 1 year, which takes away their ability to rent their unit. He

feels this is disadvantageous to the community. He would rent his unit furnished and be very careful who he chose. And if he did have a bad tenant that person would be gone sooner than someone living on a 1 year lease. Other associations do OK with a 6 month rental policy, is there another way?

Don Baide (Board Member) said that he owns two units and one is rented and the other is empty. He does this out of respect for the overall community; it is hard for neighbors to live with a revolving door. If you look at the benefit to the entire community, longer term renters tend to take better care of the unit.

Sterne replied that depends on the owner and the care they take in choosing a renter.

Helen Mulroney said that she has successfully rented her unit for 3 months while she travels. She agreed with Mr. Sterne that it all depends on the owner and the care they take in renting.

Matt Foley said that he used to rent his unit during the summer when he was not in Bozeman, but no longer does so. He said one of the things he liked about Woodbrook was returning in the fall and the same neighbors were around as when he left.

Rick Thompson asked how the Board can distinguish between good renters and bad renters? He owns a rental and has good tenants but they are on the Board's radar, and he feels they are being targeted. Don replied that this is cut and dry.

Don said that many people had said they did not get the information about these proposed revisions. He drew attention the large file of comments the Board had received. He read out some of the words used in these responses such as "gestapo, tyrannical and lining the Board's pockets". He told the membership that the Board listened to their comments and has made many changes. He asked for a dialogue.

Jean Murray asked if the vote could go line by line. Alanah said no, the ballot would be too long. However, we can vote article by article if that is what the membership wants.

Someone asked about Section 9: Enforcement and asked how fines would be assessed. The Board would issue fines when there is a written complaint by a neighbor. A written complaint from a neighbor means it is important to them.

Tom said when there is a bad renter, the Board relies on the unit owner to correct the situation. If the owner does nothing there is nothing the Board can do. Responsible landlords are not the problem. But the Board needs to have a remedy, a way to protect all of us and our property value for less responsible and responsive owners of rental units.

Brad Garnick said that he had served on the Woodbrook Board in the past and the enforcement language needs teeth and this proposed enforcement language gives the Board the teeth it needs.

Donna explained that the Board took the enforcement language from another HOA. Ours was too expensive to enforce. The Board structured the language to suit Woodbrook. We introduced the fine structure so we can enforce without incurring legal fees. The fees are for repeated violations. The Board is trying to find a balance. When there is a problem, the Board wants to meet with owners and find solutions. The Board deals with this every day.

Linda Crane asked if the 6 month rentals come under the rental cap, the answer is yes.

Jean Murray asked if we have 18 rentals and if there is an appeal process.

Alanah replied that the Board has the ability to override the cap under extraordinary circumstances. This is a reason to be careful who is elected to the Board.

Jean Murray asked why we can't just ban rentals to anyone under 25 years old. Alanah replied that this was a violation of the Fair Housing Act.

Jean Murray said that she loves Woodbrook but is concerned that rules about bicycles and garage doors impact everyone and that the rules are written because of some college kids. How does this impact us, she has two dogs she would like to bring to Woodbrook.

Donna said that if an owner has a specific issue they should contact the Board. She asked everyone to remember that the Board has to cover the good and the bad.

Don talked about another unit owner who has recently requested documents going back to 1999 which has led to hours of work. We have received requests from other owners for historical information which is leading to a concern that some of this is people looking for other weaknesses in our documents which could result in more legal actions.

Jean Murray said that she admired the Board, but Boards change. Right now we have a cooperative Board but we don't know who will be on the Board in the future. Why can't we just abide by the City ordinance regarding dogs in units?

Alanah said that the Woodbrook rule about dogs has been there forever, this has not been changed as part of this revision. She went on to say that there are new rules concerning therapy dogs, dogs trained to assist people with a variety of issues. This law is being abused, anyone can get a certificate online, but there is nothing anyone can do to prevent these dogs from moving in.

Donna said that the Board wanted to make the covenants as strong as we could because we don't know what the future holds. Tom added that there may be a Board that does nothing and what would the impacts of that be? We need to have clarity in our documents.

Gene Murray gave some historical insight. The Mission Statement of the 1970's envisioned that Woodbrook would be an open space community which was not intended for a transient population and that actions would benefit the community as a whole. Gene identified John Parker's vision and referred to the John P. Park memorial on the corner of Tracy and Mason.

He went on to say that many associations are working on rental policies and rental caps. The Board has a fiduciary responsibility to protect everyone's property value; renters are not being singled out. We are in this together as a community. We last looked at the covenants in 1999, they are not meant to be forever, this is an ongoing process. Rules evolve and change, we need to move forward. We can vote to change it all again next year.

Mr. B. Murray asked if the Board understood their concern that this is all moving too rapidly.

Alanah asked how long the members felt they needed?

Rachael Briggs (Board Member) brought up the fact that we need to amend our insurance language and that this is a non-negotiable date.

Donna explained that we do not know the exact language for the insurance policy yet; the Board is researching coverage and premiums. She asked if the membership would prefer to do all of the changes at the same time.

Kathy Thompson said that she has read the new version of the covenants and she has some concerns. The first concern is the approval of the budget, when would this be made and would the membership have a say? Donna said that the budget is approved at the Annual Meeting; we can add language clarifying this.

Her second concern is #16 of the covenants, she is concerned that in a case of non-compliance the Board would be able to file an eviction notice. Would this include caretakers and house sitters who are not actually renters? She was concerned that this enforcement would go on without the owner knowing.

Alanah answered that this would typically be a renter. In the case of a caretaker the Board would contact the owner. This rule has not been tested by the Montana Supreme court but it does give the Board the ability to enforce against owners who are not complying.

Kathy was concerned that the language seemed to apply to everyone but Alanah said that if the language did not include renters and owners the Board could be accused of discrimination.

Kathy said that she has an insurance renewal due before the April vote and would like to know which language we are under.

Alanah explained that the insurance language needs to change due to the fire and water damage claim. Brad Garnick said that there are significant costs to owners to cover their unit from the studs in; their personal insurance will go up.

Alanah answered that most Associations do all in because it is cost effective. Townhouses are not covered like a condo. But with two claims in one year our premium is going to go up if we can even get coverage.

Mr. B. Murray asked if given the discussion tonight would there be additional changes to the documents or are we voting on what was sent out and if there are changes will they be posted on the website. Donna said we can post the documents on the website and also email them. We will also post the meeting summary which the secretary will write up.

Kathy Thompson said it didn't make sense to vote twice. But Rachael explained that the insurance will take time and we need the enforcement language quickly to be able to deal with concerns. The Board also thought it might be mentally easier to break the two things up.

Alanah said that the current enforcement language is "awful". If we get another case like Mr. Rutherford, it will be just as expensive. She said that in her homeowner association practice she has seen an increase in legal cases. We are already looking at another potential legal case and the longer it takes to make the changes the greater the risk.

Pat Dunn said that she needs time to figure out the insurance premiums in order to get the bills out to owners in June so that she can pay the bill in July.

Donna asked the group what they see as the path forward. Would they like more meetings? How much time do we need between the insurance quote and the vote?

Jean Murray asked if the insurance quote would be for studs in and studs out and for each unit as built.

Gene Murray said that the water damage due to the faulty plumbing of a refrigerator cost Woodbrook \$30,000 and as an owner he would rather pay for his own faulty plumbing than someone else's.

Bob Nicholl asked how people would feel about two meetings two weeks apart or would they like to do it all in one night.

Don proposed the following schedule:

February 20th: Next meeting, informational meeting to talk about the covenants and to start the voting process with the ballots due March 20.

March 20: another meeting to publicly count the votes and to talk about the insurance language. Our agent will attend this meeting to answer questions.

Insurance vote will be due April 20.

This seemed to address many concerns and was adopted as the plan.

The Board will work hard to get everything discussed posted on the website and send an email link. The Board will also pursue the insurance coverage in order to get information out as soon as possible.

The meeting was adjourned.