

5000 BOARDWALK CONDOMINIUM ASSOCIATION  
UNIT OWNER'S MEETING  
July 26<sup>th</sup> 2015  
MINUTES

THOSE PRESENT:

Ron Cook	President
David Gold	Vice President
Stanley Merves	Treasurer
Philip B. Papier Jr.	Secretary
Ben Coren	Director
Susan Green	Director
Miriam Holzman	Director

Sandy Montano	General Manager
Dottie Bolinsky	Special Counsel

President Cook called the meeting to order at 11:20 A.M.

President Cook started the meeting with the approval of the June 28th meeting minutes. Vice President Gold made a motion to approve the minutes. Director Green seconded. All in favor; minutes approved.

Director Coren gave a brief Restaurant Committee report. He requested that all the residents participate and support the new restaurant. Director Miriam Holzman added a few things to the Restaurant Committee report. She stated that the restaurant will be opening for Early Bird Specials on Tuesday nights before the movie from 4 to 6pm. They will have fixed priced dinners which include drinks, entrée, salad, or soup. She explained that there will be comment cards at the front desk for any comments, questions, or concerns about the restaurant. She wanted to remind the residents that the Social Club has a few spots left for the luncheon on August 6th.

Director Holzman gave a short Website Committee Report. She reported that the website is working just fine. We are also investigating changes to be able to handle larger bodies of data and transmissions on the Website.

Director Green gave the Decorating Committee report. She said that they are looking into refurbishing the interior of the passenger elevator cabs. She also explained that there are other areas that need to be updated. They will get done little by little.

Treasurer Merves gave the Finance Report. There has been no change in the finances since the last meeting.

General Manager Montano issued the Manager's Report and the Physical Plant Report. She reported that the building has gone with a different company, one she was more familiar with, for the roof repairs. She brought up that the residents who park in the lot should be more aware and cautious of the direction the arrows are pointing. She explained that there have been a few close calls with cars going in the wrong direction and almost causing a head on collision. She expressed that there are still issues with visitors not using fobs and not following the building Rules and Regulations. She said that the Skyroom is being reviewed by the construction

official and all the necessary documents have been turned into the city. She continued stating we have just been through a second phase of the review and hopefully there will be good news at the next meeting. She explained that the flood insurance policy in 2013 went from \$60,000 to over \$200,000. The office just received the 2015 bill and it was going to be \$247,000. She met with a man who re-evaluates flood plain maps and was successful in getting a \$124,000 refund for last year from which they took a one-time fee of half the refund. In addition to the \$124,000 refund, they also got us a lower rate from \$247,000 a year to \$104,000 a year. FEMA doesn't reevaluate the flood plains for 8-10 years so the lowering of the rate could remain in tact until FEMA reevaluates.

President Cook turned the meeting over to Director Green for the review of the Master Deed Amendment. Director Green said that the Rental Policy Committee was formed to study and to provide a recommendation to the Board of Directors for a Rental Policy at the 5000 Boardwalk Condominium. The Board of Directors chose a variety of different Unit Owners from various backgrounds to serve on the Rental Policy Committee. Those Unit Owners were Steve Barnett, Marjorie Conti, David Meyer, Andy Purdy, Kenneth Rubin, and Stanley Sussman. Director Green was the chairperson and Vice President Gold was the advisor. The Committee spent a lot of time and work coming up with a reasonable Rental Policy. The purpose of the June 20<sup>th</sup> Rental Policy Committee meeting was to discuss various views of the members and to develop a survey to be mailed out to the Unit Owners. There was an overwhelming response by a majority of the Unit Owners that wanted the Board of Directors to continue on the path of restricting the rentals in the building. The Rental Policy Committee had the proposed Amendment sent out for review, questions, and comments at today's meeting. The Committee suggested putting in a new section which was a "no questions asked exception". This was strictly a one-time per Unit, to the Unit Owner during their Ownership. If a Unit is sold, then the new Owner would have an exception as well. When you receive the official Amendment, there will be a cover letter that will discuss the differences between the last proposal and this new proposal. Vice President Gold made a statement that the Committee was trying to accommodate all the Unit Owners in the building, from those who rent to those who live here all year. President Cook said that over 200 people returned the questionnaire. That's 80% in favor of a restriction to the rental policy. The key issue is to have all the Unit Owners respond. It is imperative for everyone to vote whether it's a yes vote or a no vote as long as everyone votes. There needs to be a 75% yes vote from the building for this Amendment to be passed.

Vice President Gold made a motion to pass the Amendment subject to approval of 75% of the building. That no more than 30 units maybe leased on a long term basis and that no more than 25 units may be leased on short term basis. In addition, there may be 10 "exceptions" on a one year as needed short term basis. We also will have a two year period during which no new owner may rent their unit. We are also grandfathering existing leases, subject to approval of the community. Director Holzman seconded the motion.

Vice President Gold then opened the meeting up to the Unit Owners. President Cook asked the Unit Owners to limit their questions to the Amendment only at this time.

Debbie Brecher, unit 115, wanted to know why we had to make the change to limit the rentals for the current Unit Owners; instead we should limit the rentals for the new Unit Owners in the future. Attorney Bolinsky said that "there is a provision in the Master Deed that says upon a 75% yes vote, you can change the Master Deed. 75% means that a super majority of the people want the change. Comments, questions and discussions from the Unit Owners have been brought to the Board of Directors requesting them to revisit the Rental Policy. She stated that there are already some restrictions to the rental policy in the Master Deed and this would be an expansion. When you buy into a condo instead of a single family house, it's a shared property regime and there

is always going to be some give and take amongst people. When there is an Amendment provision, you agreed when you came in to this building that if 75% of the people vote in favor of a change, then the change is binding. Vice President Gold responded that the original documents were drawn up over 40 years ago and the conditions were different back then. Mrs. Brecher said that the other group could possibly take this matter to the Supreme Court of New Jersey. Vice President Gold replied that this Amendment is going to expand the rentals to about 21% of the building and that the building is already at 13% rentals. He explained that there is also an exception policy that was put in place for a one time, short term rental period. Director Green explained that there are 65 rental options in one year and that is a lot more than what is renting presently. This exception is for people, for whatever the reason, that need to rent their Unit out for a short term period.

Mario Maiese, unit 806, asked if the Board knew how much the increase in rentals would be if we just restricted speculators or if the Board restricted new buyers for 2 years before they could rent. President Cook replied that this is why the Rental Policy Committee met to discuss all the variables. There are about 41 units rented in the building as of now. The proposed Amendment allows up to 65 Units. With new people coming in and only having a 2 year restriction, it still doesn't address the 298 units left in the building that can rent. President Cook said that in the Plaza there was a person who bought 16 Units and the quality of life is down to nothing. The banks have already said to people in the building that there are too many rental units in the building and will not lend them the money.

Jim Kahn, unit 212, said that a few of the Unit Owners have requested representatives from the insurance company and bank come in to prove these facts. There was an issue in the last meeting where the bank supposedly wouldn't loan money because of the number of rentals, but it turned out to be because of the flood insurance. Director Green replied that she read the comments from the insurance agents and as far as they were concerned, the insurance cost, when the rentals reach a certain percentage, would rise significantly. Director Green read the letter from our insurance company. With regard to the Wells Fargo issue, the realtor told the gentleman one thing and the gentleman who actually purchased the Unit had a separate opinion. President Cook explained that a bank like Wells Fargo can dictate a policy which is called redlining. He went on to say that he can give the residents an article called "Can Condo Rentals be banned." an article about this very issue. He proceeded to read the article.

Steve Morse, unit 1003, stated that he bought his unit to come down to the shore and live in it. He is not interested in a lot of renters in the building. He agreed with the exception and also said that the building's renters are the people that don't use the ramp and walk through the lobby the way they're not supposed to. He doesn't want to rent his unit out, he wants to live in it. He asked two questions; first for the results of the survey, then if you think that the number should be lower, do you vote for the Amendment and try to change it? Or do you vote against the Amendment. The Board gave him the results on the questionnaire and told him to vote for the Amendment and then suggest a possible change. Director Green agreed that the number is high, but the Committee wanted to accommodate everyone.

Douglas Stanger, unit 1215, suggested to the Board to include "Trust" into the exemption category for the 2 year waiting period. Vice President Gold replied that it would be covered in the 1 year exception section. Director Green also explained that when the Committee was making the one-time exception rule they were thinking about the different inheritances. Mr. Stanger said "there is no two year waiting period for transfer between relatives. There is no two year waiting period if there is an inheritance. There would be a two year waiting period if there was a transfer to a Trust." Attorney Bolinsky replied that the transfer between relatives is

only between co-owners. There are two exemptions; one between co-owners and one with the linear descendants.

Jerry Kline, unit 1812, brought up that if the unit is transferred then the new occupants are not subject to the two year waiting period as long as they own the unit for two years. He asked why they are obligated to own it for two years. Attorney Bolinsky gave a scenario that if a husband and wife bought 6 months prior and then got divorced, if one wanted to transfer to the other, then they would still have a year and half waiting period to rent. The point of the exemption is for co-owners that owned the unit for 10 years and they transfer to each other. They shouldn't then have another two year waiting period, if they wanted to rent. The point is for people not to circumvent the two year rule for transfer between owners. Mr. Kline then spoke about the 10 unit exception. Why will the Board of Directors come up with a policy? Director Green said that the policy is specifically used to track what Unit Owners used their exception. Vice President Gold told Mr. Kline that it is limited to 10 of these exceptions. Now if two people apply as the 11<sup>th</sup> and 12<sup>th</sup> then the Board of Directors has to set up a system to see who is next to get an exception. Director Green gave a background on how the Rental Policy Committee came up with the idea of the exceptions.

Arlene Groch, unit 1103 and 1006, said that about 10 months ago she sent the Board and Ms. Bolinsky a copy of an opinion letter by a retired judge. He issued an opinion and in the letter he said "that under New Jersey law, citing statutes, it is unconstitutional to limit the rental rights of Owners who were in existence at the time the Amendment was passed, the same question that was asked originally." She said that she never received a response from that letter. She then asked Ms. Bolinsky if she prepared an opinion letter in which she analyzed and responded to the Judge's letter and if so, will that opinion letter be shared with others? Attorney Bolinsky replied that she did have an opportunity to review the letter. The key point to her was that it was presented, and he was undertaking a legal analysis rather than an opinion since he is a retired judge, before we were actually going through the Amendment process. So 90% of his analysis was tied to the procedural question as to whether or not the Board could make a change without an Amendment to the Master Deed. From the second she got retained by this Board, she has said she agreed with him. There is no way you could undertake such a big issue without going out to the membership and making sure 75% of the Unit Owners agreed. Ms. Bolinsky said that there was nothing she recalled that talks about constitutionality. She thought he was doing an analysis under the case law, but she thought he was advocating, just like any lawyer would advocate for a certain position, the scenario he had before him at the time and not looking at all the case law. That is why if we were to go to court there are two analyses'; his and what I thought was proper. She does think that we have a Master Deed that permits Amendment and if the Board has a 75% vote, this membership would be bound by the vote. Mrs. Groch explained that her question was, "have you issued a written analysis in which you reviewed the case law and gave a different opinion?" Ms. Bolinsky replied that it is up to the Board to determine what documents are to be released as far as legal advice. I have done an analysis and we would certainly not be trying to approve an Amendment if I did not think it was constitutional. She has communicated her written analysis to the Board. Treasurer Merves asked Ms. Bolinsky if anyone ordered her to give a written opinion. Ms. Bolinsky said no one ordered her. Ms. Bolinsky said that Mrs. Groch has threatened to sue the Board on multiple occasions and the communication between the Attorney and the Client has concern of confidentially attached to it. We don't have a duty to issue a written opinion unless we are in court doing a complete legal analysis. We have tried to be fair in this process, to come out with a procedure and result here that would not be burdensome on everyone and a change in a shared property regime impacts everyone. The fact being that you think this is either a good thing overall or a bad thing overall. She felt that a majority of the people expressed to the Board that they think it is a good idea to go forward with the Amendment.

Kenneth Rubin, unit 318, stated that he was on the Rental Policy Committee and has been living here for 15 years. He said that there are some people here who demand a legal opinion, and then criticize the Board for making expenditures for legal fees. He explained that this needs to stop because we are going to vote on this. The building has discussed this for over a year now and is going through a fair process.

Lois Abrams, unit 1201, thinks that the Board needs to limit the number of lawyers that are getting up and nitpicking about everything.

Michael Cohler, unit 803, asked about the legality of turning back to a vote that has already rendered a decision 7 months ago. Ms. Bolinsky said that there are some changes to the Amendment. The Owners coming back from the winter break wanted to revisit this topic and this Amendment is different than the one before. She goes on to say that if this Amendment passes, she doesn't think that there is a risk that it is the second go around because it is substantially different and someone coming in the future wouldn't have legal standing.

Amy Lieb, unit 502, asked about the process and the only way this gets passed is if 75% of the people say yes. Would we consider reaching out to people by phone? President Cook replied yes. We were accused of looking at the votes in the previous Amendment. They said that we were opening them and then making phone calls which never happened. Ballots will come back in with the unit numbers on the back. We will see who has and has not responded, and then the people that volunteer will make phone calls to encourage a vote.

Mr. Groch, unit 1006 and 1103, said that the Board is depleting the short term rentals and long term rentals. As per the insurance letter, long term rentals, if they have a lease, background checks, and so forth are not considered as part of a hotel or an apartment house. Director Green replied that the letter does not say this and reread a part of the insurance letter. Mr. Groch said that the Board is abusing the number 65. President Cook replied that the issue with most of the people in the building is the quality of life at the 5000.

Marjorie Conti, unit 1218, stated that the problem is investors that are running businesses in our home. For the people that live near a rental unit, the experience is not always pleasant.

Mel Shuster, unit 1011, wanted to commend the Board and the Committee on the way they handled this Amendment the second time. He asked if there was a provision in this Amendment for somebody to get around these restrictions by assigning a lease and what is the procedure in circulating the final draft and what time will be allotted to make the vote. Ms. Bolinsky replied that the Board was really interested in grandfathering only for the existing Landlord/Tenant relationship. Once that relationship is terminated then all of the other restrictions apply. There will be some leeway in the Rules and Regulations as far as how it's implemented. There will be some rules to make sure that it will be implemented fairly. She asked Mr. Shuster if he was talking about if a tenant would assign his lease. Mr. Shuster replied yes. Ms. Bolinsky said that would be a different tenant then and wouldn't be the same tenant. Mr. Shuster explained what he meant when he said assign a lease. Ms. Bolinsky said that would be handled in the Rules and Regulations.

Al Carpey, unit 907, is concerned about the reputation of the building with all that is being said about the controversy of the Amendment.

Director Green stated that the Board is going to take into consideration what was said here today and plan on finalizing the cover letter and getting the Amendment out early this week. We also hope you will send it back

quickly. The cutoff date will be the first couple of days in September. We want to announce results while a lot of the people are still in the building.

Andy Purdy, unit 1106, wanted to have a meeting before the big meeting in order to nitpick certain issues. He expressed his views on the Amendment and his recommended changes to the Amendment. Director Green replied that the Committee voted on the changes. Mr. Purdy also mentioned to the Board that there should be a provision about only renting one time in one year.

Howard Levy, unit 1815 and 1412, was concerned about the Amendment restricting the ability to rent.

Vice President Gold stated that there was a point brought up earlier that the Board should consider before voting. Doug Stanger brought up including Trust to the two year exemption. Secretary Papier wants to amend Section h; ii, which has to do with the two year exemption through inheritance. He wanted to include owners and heirs through inheritance, gift, or trust. Attorney Bolinsky recapped the motion. She said that Vice President Gold made a motion to approve the Amendment as recommended by the subcommittee and Secretary Papier wanted to make a motion to expand the definition in Section h; ii, which is an exemption to the two year waiting period to include heirs and beneficiaries through inheritance, gift or trust. Director Coren seconded that motion with the change as recommended by Secretary Papier. Attorney Bolinsky said that the Board should discuss it and then open it up to a vote amongst the Board. Director Green replied that this will open up the entire rental policy to include more Owners and will include more rentals in the exemptions. Attorney Bolinsky said that the Board is voting on the entire Master Deed Amendment subject to Secretary Papier's change. Vice President Gold said there has to be a vote on the change before the vote on the entire Amendment. The Board called a vote to the change with a 4-3 in favor of Secretary Papier's change. Vice President Gold made a motion for a vote on the Amendment to the Master Deed subject to the change that was just passed. He called for a vote, Secretary Papier seconded the motion. All in favor; the vote passed unanimously.

President Cook asked if there were any other questions concerning other matters.

Mitchell Corson, unit 1117, asked if there have been any arrangements made to change our bank. Treasurer Merves replied no.

Attorney Bolinsky clarified what changes took place to the Master Deed Amendment. Paragraph h; ii, will include Owners heirs through inheritance, gift or trust.

Ellen Kahn, unit 212, wanted to know what the assessment was for that was due at the end of the month. President Cook responded that the Association asked for two payments this year to cover expenses. One was for the excess cost of utilities last year of \$100,000 and a \$147,000 in insurance budgeting, both for 2014. The second assessment was for a predicted overage in utilities for 2015 and the same insurance increase was anticipated in 2015. Mrs. Kahn asked if the insurance is going to go down, will there be a special assessment next year? President Cook said that the money coming in is going to go into the general funds. We received a refund for the flood insurance netting \$62,000 and \$150,000 for the boiler lawsuit. We have a savings of \$143,000 in insurance as well this year that just occurred. We have the expense for the fire alarm system which is \$147,000 and we also have a bill coming up to cover the Skyroom which is about \$140,000. President Cook said that the Board is not seeing a need to make another special assessment for next year.

President Cook called to adjourn the meeting. All in favor, the meeting was adjourned.