

Rotonda West Association  
Deed Restriction Committee  
December 16, 2020

NOTE: Since a complete video recording of this meeting is available online at [Deed Restrictions Committee - YouTube](#), it is the intent of the Secretary to only capture highlights of the meeting.

1. ROLL CALL AND CALL TO ORDER

The meeting was called to order at 1:00 PM

Roll call: Bernie Schmelz (Chairman), Brian Armen, Allyson Eakin, Dale Jensen, Barry Kean

Member(s) present: Randy Keller, Les Goodman, Ken DeGraff, Debbie DeGraff

Members via ZOOM: Bob Bondeson, Diane Shaw, Andy Leonard, approximately 13 others not identified.

Interested Party: Robert Cattermole – Happy Hibiscus Property Management

Staff: Manager Hedges, Holly Carr

2. APPROVAL OF MINUTES

A motion was made and seconded to approve the minutes of the November 2020 meeting. Said motion was approved unanimously.

3. ADMINISTRATION MATTERS

A motion was made to appoint Mr. Kean as Vice Chair and Mr. Jensen as Secretary. Said motion was approved unanimously.

Mr. Schmelz discussed additions to the committee and invited interested members to indicate their interest in joining. Currently the committee has an application from Mr. Les Goodman.

4. CONTINUED DISCUSSION OF RENTAL RELATED ISSUES

Mr. Schmelz suggested that the committee should develop a set of questions and issues to raise with the RWA's attorney. An initial set of questions was circulated and comments regarding those questions and additional issues occurred.

Ms. Eakin suggested that the committee needs a clearer definition of commercial activity versus rental. She would also like to know if there are any rules/requirements/restrictions regarding rentals in HOA State Statute 720.

Mr. Kean suggested we get a ruling as to whether we could apply any new rules backward as well as forward so that they apply to rentals in existence currently.

Mr. Jensen expressed his opinion that the issue we are dealing with cannot be attributed solely to short-term rentals but rather has to do with the conduct of those individuals who are occupying houses. It is his opinion that a better approach would be to focus on rules/procedures that would require the owner of a rental to deal immediately and directly with any complaints and/or unruly renters.

Ms. Eakin and Mr. Schmelz agreed that there is no current mechanism for the Association to receive and adjudicate a complaint from a member regarding a nuisance caused by an unruly renter(s).

The only avenue members have currently is to call the sheriff and make a complaint.

Ms. Eakin volunteered to create a letter that describes the various levels of offense and a process whereby the Association can pursue fining an owner who is unwilling or unable to address complaints in a timely fashion.

Mr. Jensen suggested that the committee attempt to craft a framework and a set of preliminary rules that could serve as a discussion starter intended to facilitate a final set of guidelines. Ms. Eakin asked if Mr. Jensen would put together such an initial set of rules and Mr. Jensen agreed.

This discussion ended with an agreement that Mr. Schmelz would compile a list of questions that could be presented to the RWA attorney to help guide further discussion of what rules and regulations could be adopted.

Mr. Armen suggested that we do need to clarify the commercial restriction in the Deed Restrictions since, depending upon the interpretation, this clause may provide an immediately available enforcement method.

## 5. QUESTIONS FOR THE RWA ATTORNEY

Ms. Eakin would like to know what experience the attorney has with similar rental issues raised by other HOAs.

Mr. Kean said he agreed with the previously provided questions but would like some clarification as to whether any rules and regulations that may be adopted regarding nuisance issues with rentals be applied backward, i.e., applied to all property owners regardless of when they bought their property.

## 6. SIGN APPROVAL PROCESS AND GUIDELINES

Ms. Eakin recommended that the committee postpone further discussion on the sign approval process until after the new year when staff resources may be available. The committee agreed with that suggestion.

## 7. MEMBER INPUT

Mr. Goodman cited the Deed Restriction against rooming and boarding houses and asked that the Attorney provide some insight into whether this could apply to rental houses. He went on to cite the nuisance clause in the Deed Restrictions as support for any rules and regulations the committee may develop.

Robert Cattermole of Happy Hibiscus Property Management offered his assistance if the committee wanted any professional property management insight. He went on to suggest that sending a letter after the fact regarding a violation could well be an exercise in futility. He believes a methodology whereby a complaint could be presented to the rental house owner or their designated representative immediately would be a better approach. Mr. Cattermole pointed out that the nuisance causer (renter) doesn't care about a fine that may be levied against the rental house owner and the Association could encounter a "he said/she said" situation whereby the renters would deny causing a nuisance.

Mr. Ken DeGraff and Ms. Debbie DeGraff expressed concern over any possible rules and regulations that would require the homeowner to rent for a specified period. The DeGraffs mentioned that they have a conscious property manager and they fully support all efforts on the part of the property manager to ensure their renters are considerate. Ms. DeGraff mentioned that she had read a Facebook discussion where a poster suggested anyone wanting to rent their home must provide a monetary bond. She said that they (the DeGraffs) are responsible homeowners who rent and that any new rules and regulations must be tailored so as to not punish the responsible homeowners who rent. The DeGraffs also mentioned that prior to buying a home in Rotonda West, they had looked at other similar HOA communities. They decided on Rotonda West because the other communities had prohibitions against short-term rentals.

Mr. Leonard suggested it would be a good thing if there was some database available that identifies anyone who rents their house. He also suggested that one of the possible requirements the committee could suggest would be that any member who rents their house must be registered with the Association.

Mr. Amabile mentioned that any properties registered as LLC would be considered a business and in violation of the Deed Restrictions. He believes that fines should be applied. He also believes that any rules and regulations should not be grandfathered but apply equally to existing as well as new members. In addition, Mr. Amabile echoed the DeGraff's comments

about individuals choosing to buy in Rotonda West because other communities ban short-term rentals.

#### 8. CLOSING DISCUSSION

Mr. Jensen suggested that the committee should approach any development or rules and regulations with some discretion since we (the collective we) do not know how big this problem really is.

Mr. Kean agreed that caution is warranted but he does believe that a set of rules and regulations must be developed to address the concerns and complaints of the members.

#### 9. NEXT MEETING DATE AND FOCUS

The next meeting is scheduled for January 27, 2021 at 1:00 p.m. Discussion will continue vis-à-vis rental properties and associated problems.

Respectfully submitted.

Dale Jensen