

April 8, 2014

Ms. Jessica Manley
7029 Windoga Lake Drive
Weidman, Michigan 48893

**Re: Proposed Amendments
Deed Restrictions
The Ojibwa Communities**

Dear Jessica:

A number of questions have arisen regarding the current proposed amendments (the "Amendments") to the existing building and use/deed restrictions/restrictive covenants for the Ojibwa development (the "Deed Restrictions"). I address each of those questions pursuant to this letter.

1. *Why do we have to go back to the original building and use restrictions?*

Answer: The original Deed Restrictions from the 1960s were valid and are still in effect. However, there were two different attempts later to amend the original Deed Restrictions, and those two amendments (in 1994 and 2011) were not properly adopted and are almost certainly null and void. Furthermore, due to the passage of time, the original Deed Restrictions themselves are outdated and in need of revision. It should always be kept in mind that good deed restrictions/restrictive covenants generally enhance the value of lake properties and protect property rights.

2. *Why are the various plats subject to different building and use restrictions when the overall development is a single development?*

Answer: As the various plats were developed over the years, the developer recorded a different set of deed restrictions/restrictive covenants for each subsequent plat. However, the deed restrictions/restrictive covenants were essentially the same. Accordingly, in order to amend all of them, the property owners in each plat will have to vote/consent to the Amendments plat by plat.

3. *What could happen if we don't change/amend the building and use restrictions?*

Answer: There are several potential negative consequences. First, the second (1994) and third (2011) amendments are null and void, but still remain a "cloud" on everyone's title until they are formally removed by the Amendments. Second, the original Deed Restrictions are

outdated and in need of modernizing. Finally, operating under invalid amendments could cause many unforeseen problems.

4. *What happens if a certain plat does not get the required signatures?*

Answer: Then the Amendments will not be effective as to that plat, the cloud on title will remain regarding the invalid second and third amendments as to that plat, and the original Deed Restrictions will still bind that plat (even though they are somewhat outdated).

5. *Who is going to or should verify the signatures?*

Answer: The greater the number of signatures over 50% that are obtained for a particular plat, the smaller the risk that some of them may be invalid. However, associations such as yours generally rely on the "honor system."

6. *When did the Board of Directors become aware of this and how?*

Answer: I am not certain. It is my understanding that various complaints were lodged over the years, including complaints made by you and me as your attorney. However, how and when this matter first came to light is less important than determining whether the Amendments should be adopted.

7. *When can the building and use restrictions be changed again and will we have to go through the same process?*

Answer: The Deed Restrictions can be amended at any time so long as the proper procedures are utilized (although the effective dates may occur later). Yes, in order to further amend the Deed Restrictions in the future, the same process as utilized for the Amendments now would have to be followed.

8. *What happens to all of the people who have not paid – can we still collect the full amount from them or only the \$24 per lot per year?*

Answer: The answer to that is unclear. There are many legal arguments on both sides of the equation.

9. *Some feel that lot owners have set a precedent with the current building and use restrictions and the amendments even though the amendments were not properly adopted. Do you believe that the court would side with the Association and the two subsequent amendments?*

Answer: We have dealt with deed restrictions (including court action) for decades. The adoption of deed restrictions and amendments thereto require very specific, rigid and formal procedures and requirements. It is highly unlikely that the Michigan courts would uphold the

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two (and defective) earlier amendment attempts that occurred after the original Deed Restrictions were adopted.

Please do not hesitate to contact me should any further questions arise.

Very truly yours,



Clifford H. Bloom