

Bears Den HOA
Special Meeting of the Homeowners
Monday March 12, 2012

Meeting Minutes

A Special Meeting of the Bears Den HOA was held on March 12, 2012 at the Rocky Mountain Bible Church meeting room in Frisco, Colorado. The purpose of the meeting was to discuss and to vote on the repeal of the Four Amendments to the Bears Den Declaration, as requested in a petition signed by six Bear's Den HOA members.

Those Board members present were Jim Steinberger, Doug Stein and Robert Hughey.

Other homeowners present were:

Chuck and Wendy Boyd
Teresa Silcox
Eric Mahlowitz
Ryan Banker
Miles Porter

Others present were:

Mike Magliocchetti of Key To The Rockies
Scott Albertson Esq, counsel for Mr. Tusio
Ron Carlson Esq.
Noah Klug, Esq, counsel for Bear's Den HOA
Eric Fisher, Esq.

- I. The meeting was called to order at 6:00 PM by Mr. Steinberger who initiated introductions and made a few opening comments concerning the single agenda item of repealing the amendments as being invalid. Following this, Mr. Steinberger reviewed the proxies from those owners who could not attend the meeting and determined that all 21 units were represented therefore a quorum was achieved to hold the meeting.
- II. Mr. Boyd was given the floor and explained the reason for initiating the petition and request to hold this meeting. He went on to say that this action was based on the opinion the petitioning group received from Mr. Ron Carlson concerning the Amendments in a letter he drafted dated November 22, 2011. Mr. Steinberger indicated that the board obtained a second opinion from Noah Klug that agreed with Mr. Carlsons findings.
- III. A motion was made at this time by Mr. Boyd to repeal the amendments as being invalid, this motion was seconded by Ms. Silcox. The floor was then open to discussion on the motion.

IV. Mr. Albertson was the first to speak on Mr. Tusso's behalf and made the following points.

He stated to clarify a point of order that this petition required a vote of 67% of the membership as provided for in the Declaration.

He went on to say that Amendment #1 was recorded before any units were sold and conveyed and further believes that the recordation was valid.

With regard to the 2nd Amendment, this was done to correct technical errors recognizing that square footage be used as the more acceptable methodology to determine the Allocated Interest and believes that this action was also valid.

Mr. Albertson opined that if this amendment is overturned it will equalize the unit assessments regardless of the size of the individual properties and for this reason feels it would be inequitable. Mr. Steinberger distributed a handout he prepared which illustrated the difference in the dues structure if the Amendment 2 were repealed.

The 3rd and 4th Amendments deals with the maps of the parking areas. Mr. Albertson distributed drawings showing the original layout and revised layouts according to subsequent amendments. Mr. Albertson noted that if the amendments were overturned the parking would revert to the original layout, which did not show actual as-built conditions in the garage.

Ms. Silcox pointed out that there are several inconsistencies with the original plat regarding the designated LCE parking. In retrospect it would have been better to submit separate petitions for each amendment so that a vote can be taken on them individually. As the petition was submitted the group would have to vote to repeal all four amendments.

Mr. Steinberger noted that he felt there were changes needed to be adopted for the garage parking layout to reflect actual as-built conditions, and that in the interest of fairness, if all unit owners would be paying equal dues available garage spaces should be shared as well. The Board offered a proposal that would assign one additional space to each of the two one-bedroom residential units and assign remaining available spaces to the commercial units.

Mr. Steinberger noted that there were then two options: to go ahead and vote on the repeal of the amendments, or to withdraw the motion and reconvene later to vote to repeal the amendments and adopt a new parking layout simultaneously.

After some discussion on the merits and shortcomings of taking the vote it was decided to move ahead and vote on the original petition, but with the agreement by all residential owners present that a parking amendment, adopting the idea of assigning an additional space to each one-bedroom unit and the remaining spaces to the commercial units would be fast-tracked in order to resolve the parking and hopefully keep the pending commercial sales on track. A secret ballot was cast and the votes were submitted to Mr. Magliocchetti for the tally.

The results of the vote were as follows:

16 out of the 21, or 76.2% of the votes cast, voted in favor of the repeal therefore the measure passed. The dues structure will revert to the original allocation in the Declaration and this will commence with the 2nd quarter dues beginning on April 1st.

Following the vote, the group had a lengthy discussion on how to redesign the garage and onsite parking plan to better accommodate the residential and commercial spaces. After some discussion the group came up with a proposed plan they felt would meet everyone's needs. Mr. Albertson would not make a commitment on Mr. Tusso's behalf but agreed to present the plan to him for his approval. It was agreed that the Board would complete the layout, submit it to Mr. Tusso for review, and then submit an approved layout to the entire HOA for review and approval. Adoption of the new layout would require unanimous approval or another minimum 10-day notice, special meeting, and minimum 67% HOA vote to adopt the amendment.

There being no further business to discuss, the meeting was adjourned at 7:35PM.

Respectfully submitted,

Michael Magliocchetti