

Received 8/30 by christine

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Sent via Regular and Certified Mail

McFarland Farm Property Owner's Association
P.O. Box 2141
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MFPOA Board:

This office represents RESIDENT. As you know, the RESIDENT own a home within the community. I write to address the new restriction you have imposed in your covenants:

5.15.4 Temporary Rentals. No owner can temporarily rent their home or other portion of their property such as for an Airbnb, vacation rental, etc. for less than 6 months. Property and home rentals 6 months or longer are permitted, as long as it is not a secondary dwelling.

You imposed this new restriction without a unanimous vote of the impacted property owners. Under Washington law, this new restriction is illegal.

The Washington Supreme Court's decision in *Wilkinson v. Chiwawa Cmty. Ass'n* guides this analysis. Under *Wilkinson*, the first question is whether the governing covenants grant you the power to adopt new restrictions or simply to make changes to existing restrictions.

If you only have the power to change existing restrictions, the second question is whether the restriction is related to an existing covenant.

If the answer to that question is no, then the third question is whether the new restriction was adopted with a unanimous vote of landowners.

While your governing covenants allow you to *amend* existing covenants by a majority vote, they do not authorize the adoption of a *new restriction*. As the *Wilkinson* Court explained:

"... when the general plan of development permits a majority to change the covenants but not create new ones, a simple majority cannot add new restrictive covenants that are inconsistent with the general plan of development or have no relation to existing covenants."

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Unless the restriction is a true "amendment"—relating to an existing covenant—it is invalid.

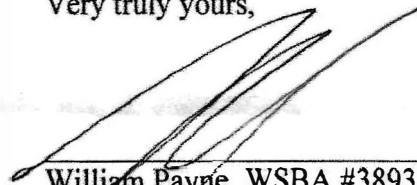
You have so far not provided any argument regarding what existing covenant you believe this new restriction relates to. Based on my review, there are no related, existing covenants. You might argue that 5.15.4 relates to 5.1, which requires lots to be used only for "residential purposes." But the *Wilkinson* Court rejected this argument, explaining that a vacation renter's use a home is consistent with "residential purposes."

This is a new restriction, not an amendment. Under *Wilkinson*, you need to obtain a unanimous vote of landowners to legally adopt a new restriction. This rule was put in place to "protect the reasonable, settled expectation of landowners by giving them the power to block 'new covenants which have no relation to existing ones' and deprive them of their property rights." By adopting this new restriction without a unanimous vote, you have deprived the RESIDENT (and everyone else in the community) of their property rights. RESIDENT has communicated these concerns to you repeatedly, but you have thus far ignored them. The RESIDENT hope to avoid litigation, but will proceed as necessary to protect their property rights.

You have already had a chance to consult with legal counsel regarding this issue. We nonetheless offer you two weeks to respond to this letter.

We hope that you will agree to withdraw 5.15.4 because it was not approved by a unanimous vote. But if you THE RESIDENT will proceed accordingly.

Very truly yours,



William Payne, WSBA #38933
Attorney for Corey and Rachel Meyer

look @ 5.8?

Legal Folder ✓
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