

MINUTES

Beacon Hill Homeowners Association

Community Meeting via Go To Meeting
Regarding the Drafted Resolution on Rentals of Homes

Saturday, August 8, 2020

Call to Order - The Go To Meeting was called to order at 10:07 a.m. by David Sisney (President). (A community meeting was previously scheduled for March 28 but postponed due to COVID-19. It was decided to do a virtual meeting due to COVID-19 concerns to enable all members to "attend" the meeting online.)

Present - Board members David Sisney (President), Derrick Gallagher (Vice President), Paul Milakovich (Treasurer), Merry Quackenbush (Community Engagement), and Beth Bangor (Secretary); Lisa Stanley (Barnds Homes and Association Management), and 18 HOA members joined the virtual meeting.

A time line of short-term rentals was recounted by David Sisney:

- Initial discussions began mid-2019 about rentals by HOA members. The CCR 7.15 (Covenants, Codes & Restrictions) contain guidelines for home rentals but nothing specific to short-term rentals.
- Open discussion during the October 26 annual meeting was held to solicit feedback from the HOA membership. David reiterated that the volunteer Board aims to represent the wishes of the membership.
- A Position Statement was drafted based on that input and that of our attorney, Rod Hoffman, who specializes in HOA legal matters. The draft was sent to membership via mailing AND email in December 2019 for comments and feedback. Note: the draft was NOT an amendment to the CCR but a clarification about how short-term rentals would be handled in agreement with the CCR. The CCR was written in 2007, prior to the popularity of Airbnb and other short-term rental options.
- In December, a poll was sent out to the 71 homes in the HOA membership. (Later in the meeting Merry Quackenbush clarified that the Board received 46 responses to this poll.)
- An HOA community meeting was held January 11 at LaQuinta Hotel to share poll responses and continue dialog. Several members aired their thoughts/concerns about short-term rentals and the position statement. It was expressed that renters AND neighbors living next to rented homes were directly affected by the rules.
- The Board incorporated feedback from the Jan. 11 meeting into a drafted Resolution and distributed it to the HOA membership; the March meeting to vote upon it was delayed due to COVID-19.
- Today's meeting is for revisiting the drafted Resolution, getting more feedback from the membership and potentially vote upon it in at our Board meeting following this meeting.

A homeowner asked what financial resources have been allocated on short-term rental issues to date and who approved them. Paul responded that the HOA budget has a line item for legal fees up to \$1500. (Post-meeting clarification: Our full-year budget for legal fees in 2020 is actually \$2,000.) To date this issue has incurred between \$1500-\$2000 in legal fees, partly because one homeowner engaged legal services which required the Board to respond via an attorney.

David turned over the meeting to Derrick Gallagher.

Requirements to rent out your home in Beacon Hill were summarized in a presentation by Derrick
KEY POINTS:

- Kansas City has requirements for rentals, short- or long-term, which apply to HOA members: see <http://www.kcmo.gov/city-hall/departments/city-planning-development/short-term-rental-application-process>
- The CCR states that for any kind of lease the owner is responsible to provide information regarding the lease to the HOA Board prior to lessee taking occupancy; the owner is generally responsible for making sure lessee is aware of and in compliance with all neighborhood rules.

Paul then reviewed the Resolution, which was drafted by the Board in response to HOA member concerns. He stated that the purpose of the Resolution is to clarify existing CCR language so everyone is clear on what is expected in order to comply. He again explained that the CCR written in 2007 did not specifically address the short-term rental concerns we face in 2020. KEY POINTS:

- As per the CCR, anyone renting their home must be up-to-date in assessments and in compliance with by-laws and KC rental laws.
- The renter needs to provide a copy of the contract to the HOA ten days prior to lessee's arrival.
- A fee of \$200 will be assessed to each renter annually to cover administrative fees/legal work.
- In response to concerns shared by HOA members (noise, garbage, parking, etc.), a list of Tenant Rules was drafted by the Board and should be provided by owners to all renters. A list of Guidelines and Best Practices for property owners also addresses these concerns.
- As per the CCR, fines can be assessed for rule violation. (Not something the Board wants to do.)

A 10 minute presentation was then given by Anthony and Andrea Sealey who asked that their document be circulated to the HOA. (Anthony was previously a Board vice president. The Sealeys now live in Florida and rent out their Forest Avenue home.) KEY POINTS ABOUT SHORT-TERM RENTALS:

- Anthony stated that the purpose of a resolution is to provide additional clarity, establish a process, and create rules. The use of a Resolution to clarify short-term rentals is fair. Care should be taken to understand how that impacts all homeowners.
- The Sealeys stated that as renters of their home, they have always complied with all covenants and ordinances, sought to make neighbors feel comfortable and will continue to do so.
- They would like to see feedback incorporated into the Resolution from those who will be most affected by it, i.e., those renting out their homes--recently 2 HOA members out of 71. They asserted that the drafted Resolution represents the voices of a small group of homeowners; they encouraged the Board to reach out and be more inclusive of the opinions of others in the Beacon Hill community.
- The Sealeys expressed that they were unfairly singled out by a group of homeowners opposed to short-term rentals via a letter not shared with them, and felt the Board has been sympathetic to those homeowners. They believed certain tactics had created a level of coercion; false narratives had been divisive.
- In respecting the process and at the Board's suggestion, they provided significant input on the rules and best practices portion of the drafted Resolution, but were not given the chance to review the edits before they were published.
- The Sealeys directed the group's attention to page 7 of their presentation. It included four points, based on their experience with short-term rentals, that they would like the Board to consider incorporating as the process moves forward.

An HOA member (Member A) then voiced opposition to how the Resolution developed.

- He stated that the process has not been transparent and inclusive. He expressed frustration that the Board had not reached out to him, a former Board member, to ask advice on procedure. He stated that the drafted Resolution represented a minority group of HOA members acting behind the scenes.
- He raised concerns about managing and funding the Resolution long-term, saying funding is not mentioned in the Resolution which will potentially expose members to additional costs in legal fees.
- He further asserted that the drafted Resolution will “red line” existing members of the community. He warned that members need to beware of unintended consequences. He said that you cannot change rules without a 2/3 majority vote.

Paul responded to the charge that “the Resolution is selective enforcement” by pointing out that it is NOT selective because it applies to every member; it does not “red line” since it applies to all current 71 HOA properties (and all future HOA properties).

Paul also reminded the group that while Amendments to the CCR require 2/3 membership vote, resolutions to clarify rules do not (section 11.5 of CCR).

Derrick asked for suggestions on how to move forward.

- Member A said the Board should make the process more proactive and inclusive using additional/multiple means of communication.
- Anthony reiterated the four points in his presentation: 1) Reduction of administrative burden by allowing for public real-time or near real-time access to all reservation data to be provided by the property owner; 2) Acceptance of Rules & Best Practices as compliance; 3) Address any language that could be a conflict of local ordinances and state laws; 4) Adherence to privacy as relates to all renters (long-term and short-term) within the boundary.
- Paul characterized a prior conversation with Anthony and Derrick regarding the Sealey’s four points as being very productive. Based on that conversation, Paul will propose to the Board changes regarding Airbnb rental notice times and marijuana/illegal-substance-use language.

Merry directed the group’s attention to the poll. (Merry compiled the poll results.) Anthony’s presentation highlighted that only 13% of HOA members were unconditionally opposed to short-term rentals. Merry clarified that the 13% represented homeowners who unconditionally approved short-term rentals and that 45% of HOA members opposed short-term rentals. So it was really 32 homeowners who pushed the Board to look in more detail at short-term rentals. Post-meeting clarification: The poll results were that 9 homeowners (13%) unconditionally approved of short-term rentals, 5 (7%) homeowners conditionally approved of short-term rentals, 32 (45%) homeowners disapproved of short-term rentals. Twenty-five homeowners (35%) did not respond to the poll. Of the 46 homeowners who DID respond to the poll, 30% supported and 70% opposed short-term rentals.

Paul reminded the group that he had reported in the January 11 meeting at LaQuinta that poll results clearly showed there was not a 2/3 majority needed to pass an amendment about short-term rentals. Instead, the Board would address the conflict by clarification and enforcement of the existing covenant (HOA CCR 7.15) using a Resolution.

Member A asked how the Resolution could be passed fairly if only 46 of 71 people voiced their opinion via the poll. Paul pointed out that some HOA members don’t wish to participate in governance; Derrick said we cannot force people to vote. The poll ballot had been sent out twice by mail and once by email. Paul pointed out that lack of participation can be interpreted in many ways.

A lively discussion then ensued between HOA members with opposing opinions.

One member (Member B) stated that there have always been regulations in place regarding rentals. Unless a majority votes otherwise, the original regulations should stand. The drafted Resolution adheres to the original (CCR) regulation and we support it.

Member A stated that a letter opposing short-term rentals, signed by several homeowners, unfairly influenced the drafting of the Resolution. Paul clarified that he wrote the drafted Resolution; he had not seen the letter and would swear to not using any language from the letter.

Anthony said he felt it was coercive that some Board members had signed the letter and thus it was perceived as a Board document. (It was pointed out that none of the 5 Board members signed the letter; two ARC members signed the letter but the ARC is not involved in the Resolution.) Anthony asserted that the Board should have made better attempts to get their (the Sealey's) experienced perspective.

Paul responded that the Board received a letter from the Sealey's attorney in January raising questions about the position statement. Based on that exchange, the HOA's attorney suggested the Board move forward with a Resolution to clarify the rules around short-term rentals. The Sealey's attorney also stated that the Board was no longer allowed to talk to the Sealeys directly; all future communication was to go through attorneys. Anthony replied that had not been the intent of the letter.

Anthony and Andrea Sealey left the meeting thanking the group and stating they felt they had communicated their position. Derrick thanked them for their contribution and said the Board would consider their input.

Member A asked how the Board will pay for the legal action he will take if the Board moves forward with the Resolution. Paul responded that if the HOA as a corporate entity is sued it will have to incur expenses which will potentially increase costs to members.

Member B said he was deeply insulted by Member A's accusation that the Resolution was racially motivated.

Member A reminded everyone that Beacon Hill was founded on creating a diverse community but a [Kansas City Star](#) article about the neighborhood (published 3 years ago) revealed gentrification and socioeconomic issues in Beacon Hill.

Merry responded that if the [Kansas City Star](#) came today and interviewed stalwart neighbors and newcomers, they would have a very different view. For the last 3 years the Board and neighbors have connected through various projects. What you describe does not reflect where we are today.

Member C expressed deep pride of the neighborhood. She recounted that many people came to this neighborhood BECAUSE of the CCR: people want quality building, well-tended homes. They like walking around and talking to neighbors they know. The Resolution is merely to clarify the rental aspect of our covenants.

Member A stated he is also proud of the neighborhood but objects to changing the rules with a Resolution.

Derrick asked if Member A would be willing to join a committee for further discussion since his suggestions for moving forward were still unclear.

Derrick said that he will suggest to the Board that a committee be formed for further discussion.

Member A asked when he might throw his hat in the ring to join the Board, challenging that President David Sisney was serving on the Board beyond term limits. Paul responded that the next opening is October 2021. (Post-meeting clarification: The Beacon Hill Bylaws do not specify any term limit restrictions. Board members are elected for 3-year terms and can be re-elected for additional terms. The board terms expire October 2021 for Paul, Merry and Beth; the board terms expire October 2022 for David and Derrick.)

A new member (Member D) requested that the Board respond to questions/comments written in the Chat portion of Go To Meeting before adjourning. Derrick expressed appreciation for pointing out the Chat comments and Paul responded:

- Airbnb is considered a short-term rental.
- A ten-day notification for an Airbnb rental may be difficult, especially for a Superhost, so the Board will consider a shorter time frame.
- The Board will consider the suggestion of using Facebook for future polls.
- The drafted Resolution does NOT apply to a resident renting out a room in a house they live in.
- The Board is elected by the HOA members. Who occupies which office is then determined by those five elected members; each board member has one equal vote.

Derrick thanked everyone for attending/contributing to the meeting and invited them to join the Board meeting at noon.

The Go To Meeting Adjourned at 11:46 a.m.