

MINUTES OF THE 2/13/15 CASTLE COVE HOME OWNERS ASSOCIATION MEETING OF THE BOARD OF DIRECTORS

On Friday 2/13/15 the Castle Cove Home Owners Association Board of Directors held a preannounced ad hoc meeting to discuss and possibly adopt a change to the Rules of the Castle Cove Home Owners Association. The proposed rule was referred to by the short name, “Non-waiver clause” which had been posted on the Castle Cove web site for review by interested parties.

The substantive part of that proposed rule is included here:

RULES AND REGULATIONS for the ENFORCEMENT of the DECLARATION, STANDARDS OF CASTLE COVE—COMPLIANCE GUIDELINES and ARCHITECTURAL RULES AND REGULATIONS

In the event of a violation, or threatened violation, of any of the covenants and restrictions contained in the Declaration, the Standards of Castle Cove—Compliance Guidelines, or the adopted rules and regulations of the Association, the Association or any Owner has the right to enforce any provision of the Declaration, along with the Standards of Castle Cove—Compliance Guidelines and any adopted rules and regulations, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure or improvement that is not in compliance with the covenants, conditions, restrictions in the Declaration, the Standards of Castle Cove—Compliance Guidelines, or the adopted rules of the Association, and will be entitled to recover reasonable attorneys’ fees and the costs and expenses incurred as a result of taking enforcement action.

No delay or failure on the part of any aggrieved party to pursue any available remedy with respect to a violation of any one or more of the provisions of the Declaration, the Standards of Castle Cove—Compliance Guidelines, or the adopted rules and regulations of the Association, will be held to be a waiver by that party to assert any right available to him upon the occurrence, recurrence or continuation of such violation or violations of the Declaration, the Standards of Castle Cove—Compliance Guidelines, or any rules and regulations adopted by the Association.

Likewise, no delay or failure of any party to enforce any particular provision of the Declaration, the Standards of Castle Cove—Compliance Guidelines, or any rules and regulations adopted by the Association will be deemed a waiver of that party to enforce another provision of the Declaration, the Standards of Castle Cove—Compliance Guidelines, or any rules and regulations adopted by the Association.

[End of Rules & Regulations]

The meeting was called to order at 7:03 PM by Board President Marie Wright.

Other Board members present were:

Tom Johnson – Treasurer, Lana Jordan – Vice President,
Along with additional Board members Mike Barger, Bruce Amrhien, Scott Gallagher,
and Charlie Spyr.

Also in attendance were 16 Castle Cove homeowners including:

B. & N. Paul, J. Bobian, J. March, J. Walter, D. Newkirk, R. & J. Semro, A. Smith, D. Pels, J. & M.L. Bennett, K. Siefer, M. Barber, W. Runkel, D. Fust.

Board V.P. L. Jordan introduced the Non-Waiver clause, provided some background and led the discussion.

Concern expressed by several homeowners focused on the wording in the proposed rule that included the phrase, “*** or any Owner” from early in the first sentence of that part of the rule listed above. For clarity, that phrase has been bolded and underlined in the first sentence of the proposed rule as copied again below,

In the event of a violation, or threatened violation, of any of the covenants and restrictions contained in the Declaration, the Standards of Castle Cove—Compliance Guidelines, or the adopted rules and regulations of the Association, the Association **or any Owner** has the right to enforce any provision of the Declaration, along with the Standards of Castle Cove—Compliance Guidelines and any adopted rules and regulations, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure or improvement that is not in compliance with the covenants, conditions, restrictions in the Declaration, the Standards of Castle Cove—Compliance Guidelines, or the adopted rules of the Association, and will be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result of taking enforcement action.

Concern was expressed that such wording could lead to excessive litigation between homeowners.

At 7:50 PM the discussion of the proposed rules was concluded with the popular opinion being that the “or any Owner” phrase was undesirable on the part of the majority of the homeowners in attendance. At that point all non-Board member homeowners chose to leave the meeting and at 7:55 PM Board V.P. L. Jordan moved to vote on the adoption of the proposed rule in its amended form omitting the phrase, “or any Owner”. The move was seconded and a vote was taken.

The 7 Board members present voted 4 “yea” to adopt the rule in its amended form with 2 votes “nea” and 1 abstaining. The rule, in its amended form, was adopted.

After the vote there was discussion that there will be follow-up contact with the Association's counsel to understand the impact of this amendment to the originally proposed rule now that the “or any Owner” phrase has been removed.

Board President M. Wright adjourned the meeting at 8:38 PM.