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7560-001

Mr. William Nightengale
Chair
Board of Directors
Bayshore Beach Club
william.d7bayshore@gmail.com

Re: *Voting allocation*

Dear Mr. William Nightengale,

You have asked whether each member attending in person at the annual meeting may vote, even in the situation where two or more members own a single lot. Members are owners of lots and many lots are owned by spouses or tenants in common. Regardless of any conflicting interpretation, your governing documents are clear that only one vote per lot may be cast, despite more than one member owning a lot.

Specifically, the recorded Declaration for each Division includes substantially the same language: Article III, Section 1 “Each member shall be entitled to one vote for each lot owned by or held under contract of sale to him, but no more than one vote per lot shall be cast regardless of the number of owners thereof.” Similarly, Article IV of the Articles of Incorporation state, “Members shall be entitled to cast one vote per lot, but no more than one vote shall be cast per lot regardless of the number of owners thereof.” Article III, Section 4 of the Bylaws similarly state “Section 4. Members shall be entitled to cast one vote per lot, tract, or parcel owned or being purchased by them, but no more than one vote shall be cast per lot, tract, or parcel regardless of the number of owners thereof. The vote for any lot, tract, or parcel owned by a single marital community may be cast by either spouse without presentation of authority from the other. The vote for any other lot, tract, or parcel held or being purchased by more than one person under some other form of joint or several ownership may be cast by any one of such persons upon presentation of written authority by proxy from them in their absence.”

In the absence of the language in your governing documents, the same one vote per lot rule applies pursuant to the Oregon Planned Community Act:

94.658 Voting or granting consent. (1) Unless the declaration provides otherwise, each lot of a planned community shall be entitled to one vote.

(2) Unless the declaration or bylaws provide otherwise:

(a) An attorney-in-fact, executor, administrator, guardian, conservator or trustee may vote or grant consent with respect to a lot owned or held in a fiduciary capacity if the fiduciary satisfies the secretary of the board of directors that the person is the attorney-in-fact, executor, administrator, guardian, conservator or trustee holding the lot in a fiduciary capacity.

(b) When a lot is owned by two or more persons jointly, according to the records of the association:

(A) Except as provided in this paragraph, the vote of the lot may be exercised by a co-owner in the absence of protest by another co-owner. If the co-owners cannot agree upon the vote, the vote of the lot shall be disregarded completely in determining the proportion of votes given with respect to such matter.

(B) A valid court order may establish the right of co-owners' authority to vote.

Please let me know if there are any other circumstances to consider or additional questions.

Sincerely,
VIAL FOTHERINGHAM LLP

s/ Thomas M. Johnson

Thomas M. Johnson
Attorney for Bayshore Beach Club

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