

Siesta Shores
June 21, 2008

Presentation by: Calley Callahan, attorney from Knolle, Holcomb, Kothmann & Callahan to discuss procedure to enable section 2 to have voting rights and answer questions on issues.

At the meeting there were both sections in attendance about 50/50

Reasons for discussing this issue:

Currently section 2 has no “say so” in issues involving the park, even though they help pay for it & its upkeep from their dues.

The way the Declaration is written section 2 will never have a voting right

Section 2 currently doesn't have a HOA

The 2 groups have come together over the past couple of years

Potential to have a “stronger” HOA due to increase number of members, could be an advantage if, we have to deal w/ the county or developers on any issues.

If section 1 votes to add section 2 to HOA, both sections would gain an additional neighborhood park, b/c currently there is a lot in section 2 that is suppose to go to the HOA, but there is not a entity to deed it to at present. Currently the developer still owns it.

In 2010 – the nonprofit corporation act (is now the business organization act code Every organization is going to have to do this

Some people are doing an early adoption (she recommends this so we don't go and piece together amendments) get all changes and needs out on the table versus having to get votes every year

In order for section 2 to have voting rights, Section 1 would have to have a majority of lot owners vote in favor of amending the Declaration, believed to take 56 votes based on 110 lots.

Process:

1. Section 1 needs a majority of lot owners (56 votes based on 110 lots) to vote in favor of amending the Declaration for section 1, to include section 2 & 2A in the HOA giving them voting rights.

vote will need to read: this is what the declaration reads now (outline) and this is what we want it to say; if you are favor of this check here....

2. Then & or on the same ballot, section 1 must also vote to amend the By-laws & Articles of Incorporation.

3. should go ahead and get the bylaws cleaned...because they are still under the old name and in 2000 a name change had to take place because a town in south Texas took the name so now it is Lake Travis Siesta Shores PPO, Inc

Things to note: You can have different membership classes or voting levels for each section, to address some owners concern that they don't want section 2 voting on section 1 issues. But you would have one central governing body with different laws / rules applying to the different sections.

The Declaration doesn't specifically address on how to change the Declaration, Calley stated it would then refer back to state law since it is not specifically addressed.

Other Issues revolving around this issue:

Section 2 has been paying dues to section 1 for awhile now & this money is / was suppose to only go toward the parks, but the money has been co-mingled with section 1 dues and not been kept in a separate account for all these years. This means there is no way to track that money and therefore section 2 dues have been spent on section 1 projects and this could be a potential issue and violation.

Also Section 2 dues have gone towards paying the taxes on the parks; this could raise issues on ownership of the park since they have been contributing to the taxes of the park.

According the Calley (the lawyer) no one individual lot owner "owns" a portion of the park, ie: each lot owner from section 1 is not deeded 1/110% ownership of the park. The HOA "owns" the park, which lot owners of section 1 are members of.

There is no current deed on either of the parks; it is plotted to the HOA

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Presentation – Calley Callahan

Documents that control section 1

- to amend the declaration; it takes the majority vote of the owners of section 1 (roughly 110 owners = 56 votes to make an amendment to the declaration)

1 reason behind wanting to do this...is section 1 doesn't have their own association

The 2 groups have come together over the last few years

At the meeting there were both sections in attendance about 50/50

Doesn't have access to the park and some people think it would be good to be able to have at least a vote in the community stuff....

Declaration doesn't allow today to let them be 'owners' to the park, etc. community stuff

Potential to have someone say there is a 'violation'

1st step: the cleanest way to do this is to amend the declaration - you have to do this before anything else can happen

2nd step:

You can have membership levels

Can spend a lot of time and energy trying to amend the bylaws, etc. but you must have the whole package

One goal would be -

Body common: want to be able to have one association and still can have separate classes of memberships/communities for the different groups....

The way it is today is you aren't going to ever have the ability to have a voting say....

2010 – the nonprofit corporation act (is now the business organization act code)

Every organization is going to have to do this

Some people are doing an early adoption (she recommends this so we don't go and piece together amendments) get all changes and needs out on the table versus having to get votes every year

Section 2 there is still land out there but there isn't an entity to put the deed to....

1 acre of land

The developer still owns it
When the deed does get done....there will be taxes, etc.

There is still no deed of the park (she said we should do this)

Ownership – means it would be deeded; however doctrine of adverse association they still might be owners (been paying taxes,etc.)

‘license’ to use the park

Argument – the parks are worth a \$\$ amount; then our value goes down because they can’t sell their house for what it is ‘worth’

Nothing speaks in the deed that it can even be sold...

Permanent right of access – section 2 would argue this if there was ever a chance that the land would be sold

People rely in the deed restrictions...but there isn’t a deed

Taxes – paid from the annual dues from both sections

Question she raised – who has really been paying the taxes ; there could be in reality that there is already property ownership because they have been paying taxes and dues

Section 1 can be spent on anything

Section 2 can only be spent on park

Concern of potential ownership could be a moot point because there is no deed

Declaration today just says have to have majority – she isn’t a 100% sure if it can be a ballot or does it have to be in a meeting; she thinks it will be fine with a ballot

Process:

4. declaration for section 1 (protective...) must be amended and this will need a majority vote of the members
vote will need to read: this is what the declaration reads now (outline) and this is what we want it to say; if you are favor of this check here....

Section 2 will be a special membership...

5. then you have to get an amendment to amend the bylaws and articles of incorporation

6. should go ahead and get the bylaws cleaned...because they are still under the old name and in 2000 a name change had to take place because a town in south texas took the name so now it is Lake Travis Siesta Shores PPO, Inc

Each class of membership can have different voting rights if you want to do this

An association is the one that enforces the deed restrictions – the don't create them

People – would like to have the ability to have only section 2 make deed restriction changes to section 2 and so on

To deed it – you would want to get an owners policy title insurance and you would want the association to be clean

In tax records it might say the association so...it might say the lots are deeded – maybe not formal, could go and see the tax records

Section 13 – 'dedicated' to the use...

Even in the dedication it just says they have 'usage'

Put it in the vote – that there is now ownership and you won't lose value.....
There is nowhere in the info that says you are deeded to any of the park you just have usage

If someone ever wants to sell the park they are going to have to get a vote from anyone....this isn't going to happen

People are worried about the developments....can that land be bought or taken??
This is a separate issue

She won't speculate about this - you are going to need to get into the history of the land

Timeline you give the ballots – you need to give a deadline

Meeting without Callie:

You need to tell them – 'what's in it for me'
- having a bigger membership or association when dealing with the county, etc.

Section 1 members need to spread the word

CC71 – Advocate safety improvements on highway 71;

Thursday June 28

5-8pm

BeeCave Elementary School

Come out and look at their plans and there are some barriers in the bee creek valley to help with head-on collisions- some people have been upset and they would like to encourage everyone to look at this and come and give your comments to TXDot

Next steps – the board will convene to see if they want to move forward

August 16th is the party and we should have a ballot