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Of Counsel - Raymond L. Vaughn, Jr.

Cambridge Park Property Owners Association, Inc.
Via email: sanscwby1@aol.com

Re: HOA voting; Section 3 withdrawal

Dear Board:

This is to provide the Board an opinion on the questions posed to me in the attached email.

- 1. Restrictions and Limitations of Opinion.** The position expressed within this Opinion may be affected to the point of reversal or nullity by: changes in Federal, State, or local law, the correctness and accuracy of certain assumptions made based on the documents reviewed, un-filed amendments to the governing documents of the Association, inaccuracy or errors contained in the documents reviewed, positions or policies taken by the Association Board as may be, but not necessarily, reflected in minutes or resolutions, oral agreements, Bylaws or Articles not in my knowledge, facts not presented or before me at the time of the Opinion, res judicata or claim preclusion, and judicial or jury interpretation and judgment. This Opinion is written in and governed by the laws of the State of Oklahoma.

THIS OPINION IS OFFERED AND EXPRESSLY LIMITED ACCORDINGLY.

ISSUE FOR CONSIDERATION

This is to respond to your questions posed in the email attached to this Opinion. The Opinion responds in the order the questions appear in the email.

1. According to the Section 3 covenants, 2/3 of all the owners within Section 3 would have to affirmatively vote to amend/alter their covenants. The covenants automatically extend unless a vote directing otherwise is passed. The 2/3 is all the owners within Section 3. It does not matter if they show up to vote or whether they have paid dues. The only qualification for voting is whether a person owns a Lot within Section 3. Given your numbers, even if all the owners of Section 3 were at the December 16, 2008 meeting (which it seems they were not), then the vote did not pass given 11 against and 7 for.
2. To determine whether the timing of the vote is effective or not depends on whether the vote taken on December 16, 2008 was intended to go into effect on the date specified in

the covenants. If so, this is an appropriate and perfectly valid technique for a future effective date of a vote. If such technique wasn't communicated to the membership, then yes, one could argue it required 100% of all owners to affirmatively vote and vote to amend the covenants for there to be any effect.

3. Delinquent Owners. As noted above, voting to amend covenants is a right apart from payment of dues. This is analogous to a person being able to vote in municipal elections even while not paying their taxes.
4. Withdrawing from the HOA. I believe it is possible for an HOA to be "killed." However, it is much more complicated than simply taking one vote. It is exponentially more complicated if we are talking about one section among several. For example, Section 3 may be part of a Planned Unit Development, which means the drainage and engineering, traffic studies, etc, may all be dependent and calculated on the other sections. If so, Section 3 cant simply decide it no longer wants to be a part of the PUD without having new engineering, new drainage and traffic studies, etc conducted. So, the quick answer is "Yes," it is possible for land to be removed from an HOA regime, but it depends on the facts and in most cases it doesn't make economic sense for anyone, and in many cases it would simply be impossible to divorce the withdrawing land from its surroundings.

This concludes the opinion.

Sincerely,

VAUGHN, WINTON & CLARK



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