

September 12, 2016

Members
Calamar Homeowners Association, Inc.

Re: September 2016 Revisions to 2012 Community Standards

Dear Members:

The Board of Directors (“Board”) of the Calamar Homeowners Association, Inc. (“Association”) engaged this firm to determine which provisions of the 2012 Community Standards were legally enforceable and to revise the 2012 Community Standards to remove any provisions that were not legally enforceable. The purpose of this letter is to provide you with a copy of the revised 2012 Community Standards and to explain why the revisions were necessary.

The Declaration of Protective Covenants for Calamar is recorded at Deed Book 203, Pages 352-408 of the Forsyth County, Georgia land records (hereinafter the “Declaration”) and any Owner that purchases property within Calamar is deemed to have record notice of the covenants and restrictions binding their property. Calamar is a common law homeowners association and Georgia law provides that common law homeowners associations cannot put greater restrictions on an owner’s use of their property than existed when the owner purchased their property absent the owner’s consent. See O.C.G.A. Section 44-5-60.¹ Accordingly, the Board cannot adopt rules and regulations that put greater restrictions on an owner’s use of their property than existed when they purchased the property without following the necessary procedure. A vote of the members of the Calamar community in accordance with the amendment provision at Article XII, Section 4 of the Declaration and a properly recorded amendment would be necessary to place greater restrictions on an owner’s use of their property. This firm revised the 2012 Community Standards to remove any rules or restrictions that would require an amendment in order to be enforceable. See the revised 2012 Community Standards enclosed herewith.

The Board may; however, adopt rules and regulations and standards that clarify the intent of the use restrictions and/or which set forth the architectural standards to be used in connection with the Board and/or Architectural Control Committee’s (“ACC”) exercise of its architectural control authority. Because several of the initial use restrictions in the Declaration mandate that an Owner acquire approval of the Board and/or ACC prior to erecting any structure or making any modifications to existing structures and landscaping located on their Lot, the

¹ Please note, the Association could amend the Declaration for the purpose of submitting to the Georgia Property Owners Association Act (“Act”), which Act specifically provides that O.C.G.A. 44-5-60 is inapplicable. If the Association was bound by the Act, the Association could enforce greater restrictions on all Owners (even those that did not consent) if the requisite vote of the members is obtained and an amendment is recorded setting forth the new restriction.

Members
Calamar Homeowners Association, Inc.
September 12, 2016
Page Two

Board is within its authority to set forth standards that will be used in evaluating an Owner's request for approval. Therefore, any portions of the 2012 Community Standards which merely set forth rules and regulations or standards governing approval/disproval of exterior modifications to Lots are legally enforceable and were not removed from the original 2012 Community Standards.

The Board hopes that this letter clarifies the difference between rules, regulations and standards that may be adopted unilaterally by the Board and amendments that must be passed by the membership. Please review the revised 2012 Community Standards and feel free to contact the Board with any questions you may have.

Sincerely,



Erin Murray O'Connell

Enclosure

cc: Board of Directors