

Cacapon South Property Owners Association
Special Meeting on Covenant Amendment
October 29, 2022

Notice of a Special Meeting was sent to all lot owners of Cacapon South on September 19, 2022 by USPS letter and also by email. The meeting notice included a proxy form for those lot owners unable to attend in person.

The Special Meeting of the Cacapon South Property Owners Association was convened at 11:40 am on October 29, 2022 to consider the proposed Amendment to the Declaration of Covenants, Conditions and Restrictions.

The Board recommended an amendment to the Cacapon South Covenants to address short-term rentals (STRs)-rentals of 30 consecutive days or less.

Background on the issue was presented by Scott DuBoff. This past spring and summer a number of our owners were raising concerns regarding short-term rentals with the Board. There appears to have been an increase in the number of home purchases being made with the STR market as an objective. The amendment is intended to avoid losing the sense of community that we understand to have negatively impacted other nearby communities which have a large percentage of homes in the STR market.

The amendment will prohibit STRs going forward (but not rentals of more than 30 consecutive days) with a “grandfather” exception to all owners that are currently engaged in STRs or who alerted the Board by 10/28/22 of their intent to do so. The exception is temporary, it ends with the sale of the home or another type of change in the home’s legal or beneficial ownership.

Even if the amendment passes, the oversight of the ‘grandfathered’ properties will likely keep STRs on the ‘radar screen’ of the Board for the foreseeable future.

Proposed Amendment

Amend Article VII, Section 10 to include:

“In addition to the foregoing, and except as otherwise stated in this paragraph, no Owner is permitted to rent for a period of 30 consecutive days or less any building or lot (or any portion of either) to which this Declaration of Covenants applies (as used herein, the terms “Owner” and “ownership” refer to persons or entities having legal and/or beneficial ownership and the rentals this paragraph addresses are referred to herein by the term “short-term rental”); provided that if during the period January 1, 2021 through October 28, 2022 the Owner of such building or lot as of the latter date

- (i) has been using it for the purpose of short-term rental, or
- (ii) advised the Board of Directors of the Owner’s intention for future use thereof

the affected Owner may for the duration of its ownership of the affected building or lot engage in short-term rental thereof; provided further that the exceptions authorized by the preceding clauses (i) and (ii) terminate upon any change in ownership of the affected building or lot.”

Questions and Discussion was moderated by Scott DuBoff

A question was asked about potential lawsuit from a future owner. The Covenants of record are agreed to be followed upon purchase of property. If passed, the amendment will be filed with the Clerk of Morgan County and become part of the chain of title.

Aaron Lancaster shared two letters from active realtors suggesting that there is a risk of lost value without the capability to engage in short-term rentals. He expressed his opposition to the proposed amendment.

Kerstin Zink asked why we didn’t just manage owners who are a problem and not penalize all.

Nancy Brown shared that her direct complaints to Air BnB received a ‘reply’ from the owner of ‘it will happen’.

Board shared that the initiative to consider restrictions was a result of the perceived desire of the community from their shared concerns. In addition, the time and effort to manage is an increased unwelcome task to the volunteer Board of Directors.

Justin Cowles expressed concern that real estate is one of the good investments in these volatile times but without short term rental capabilities that investment would lose value.

There being no more questions or comments, Marialane Schultz moved for a vote on the proposed amendment. Ed Bender seconded the motion.

Proxy votes were recorded onto the roster and a roll call vote was conducted for those in attendance.

The Amendment was approved by a vote of 90 to 10, which included proxies. It was noted that one person who had been in attendance left the meeting prior to the roll call vote without leaving a proxy.

The meeting was adjourned at 12:23 pm.

Minutes respectfully submitted by Carol Wiles