



## **Traverse Bay RV Park Condominium Association**

### **SPECIAL MEETING (Proxy Included)**

#### **Introduction and Background**

The Board of Directors is notifying the membership via both the US Postal Service and this e-mail that the Association is in receipt of another demand letter authored by the same Attorney, Mr. Kevin Hirzel, on behalf of Mr. Charles E. Phyle, Lot #84, Trustee of the Charles E. Phyle Restated Revocable Trust of December 6, 2016, threatening litigation over several of the same issues that were raised during last year's litigation and were then resolved with Mr. Irish in mediation. The following is a summary of the issues being demanded by Mr. Phyle:

- Issue #1: This issue alleges the First Amendment to the Master Deed in 2005 and the follow-on Amendments were improperly recorded in violation of the Michigan Condominium Act.
- Issue #2: This issue alleges the Association has adopted rules and regulations that improperly amends the Condominium Bylaws and the Association Bylaws.
- Issue #3: This issue alleges Mr. Scheppe and the Association cannot charge a separate assessment to maintain the recreational facilities. This allegation calls into question the usage fee approved in the Traverse Bay RV Park Condominium Association and Scheppe Investment Agreement of 2012 which put to rest the 2012 law suit regarding usage fees.
- Issue #4: This issue challenges the expenditure of the Association's reserve fund for the TenoNet Internet upgrade.

It is worth mentioning the legal costs to the Association in the case of Mr. Irish's complaint exceeded \$77,000. The increase in the 2017 annual assessment covers only the already expensed legal costs from the 2016 suit and mediation. This additional demand letter and pending litigation will require a special assessment be voted on during the Association Annual meeting scheduled for June 24, 2017. In the meantime and as an effort to stop these issues and allegations from being raised again and again, legal counsel has authored the enclosed changes to the Condominium Association documents.

#### **Call for Special Meeting**

Your vote during the Special Meeting, either in person or by proxy, will speak volumes for how our Park and Resort will be operated and maintained for future generations as well as help prevent additional legal costs from demand letters and litigation actions. Therefore, in accordance with the Association Bylaws, Article II, Section 3, and as the President of the Association, it is my duty to call a special meeting of the co-owners as was directed by resolution of the Board of Directors. This special meeting of the Association shall be held on Saturday, May 6, 2017, starting at 10:00 AM, in the Main Club House, lower level, specifically to vote on the following changes, as described on pages 2 through 6 below, to the Condominium Association documents.



## Traverse Bay RV Park Condominium Association Association Bylaws

1. Add a new section to the Association Bylaws, Article II, Section 6.

**Existing:** None.

**Proposed:** Pursuant to the provisions in MCL 450.2408, any action that can be taken at an Annual Meeting or Special Meeting, including the election of directors, may also be taken without a meeting if the Association provides a ballot to each member who is entitled to vote.

**NOTE:** This is consistent with how the Association has been conducting business since 2012.

2. Amend the Association Bylaws, Article III, Section 1.

**Existing:** The affairs of the corporation shall be governed by a board of three (3) directors, all of whom must be members of the corporation, except for the first Board of Directors designated in the Articles of Incorporation of the Association. Directors shall serve without compensation.

**Proposed:** The affairs of the corporation shall be governed by a board of three (3) directors, all of whom must be members of the corporation and be in compliance with qualifications as set forth in the current rules and regulations of the Park as adopted by the Board of Directors, except for the first Board of Directors designated in the Articles of Incorporation of the Association. Directors shall serve without compensation.

**NOTE:** This is consistent with how the Association has been conducting business since 2012.

3. Amend the Association Bylaws, Article III, Section 2.

**Existing:** The first Board of Directors designated in the Articles of Incorporation shall manage the affairs of the corporation until a successor Board of Directors is elected at the first meeting of members of the corporation convened at the time required by Article II, Section 2, of these Bylaws. The term of office (except for the Board of Directors elected prior to the First Annual Meeting of members) of each director shall be one (1) years. The director shall hold office until his successor has been elected and holds a meeting.

**Proposed:** The first Board of Directors designated in the Articles of Incorporation shall manage the affairs of the corporation until a successor Board of Directors is elected at the first meeting of members of the corporation convened at the time required by Article II, Section 2, of these Bylaws. Commencing with the 2017 election (except for the Board of Directors elected prior to the First Annual Meeting of members), the person receiving the highest number of votes shall fill a two-year term of office. Thereafter, the term of office of each director elected by the members shall be two years. Directors shall hold office until their successors have been elected and hold a meeting.



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**Ratification of Earlier Elections:** Upon approval of the above amendment, an additional vote is required to be taken to ratify the 2012 vote by the Association membership that changed the Board Member terms of office to staggered two-year terms in order to provide continuity of Board Members.

**NOTE:** This is consistent with how the Association has been conducting business since 2012 as was approved by the two-thirds (2/3) membership vote at the 2012 Annual Meeting but was never ratified.

### Condominium Bylaws

#### 4. Amend the Condominium Bylaws, Article VI, Section 11.

**Existing:** (a) Recreational areas and facilities, including, but not limited to, open space areas, bath and laundry facilities, a swimming pool and hot tub, a tennis court, a shuffle board court, and a horseshoe pit have been planned for areas which are currently owned by the Developer and adjacent to the project. Although the Developer is under no obligation to install any such amenities, such areas and facilities may be constructed by the Developer at its sole cost and expense. If installed, the Developer reserves the right to implement a shared use (membership) arrangement for the Co-Owners of this Project and those of any adjacent or proximate lots or projects; however, each Co-Owner will have the right, by virtue of ownership of a lot in the project, to utilize any such installed recreational facilities. The Developer, on behalf of itself and its successors or assigns, hereby reserves the right to charge a reasonable usage or other fee to cover the cost of maintenance and repair of any such amenities. The Developer has also reserved the right, through its reserved expansion rights, to add any such areas and/or facilities to the project as general common elements reserving the use of such amenities for the benefit of rental RV lots adjacent to the project. Any such amenities would be for limited pedestrian use (including hiking and biking) by the Co-Owners (and lot renters) and their guests and invitees only, subject to all reserved rights created herein. The use of the recreational areas shall be subject to the rules and regulations, including permitted hours of use (as posted), as may adopted and implemented by the Developer, or its successors or assigns, from time to time (or, if the features are added to the project, the Board of Directors) which shall be applied on a uniform basis to all users of the amenities.

**Proposed:** (a) Recreational areas and facilities, including, but not limited to, open space areas, bath and laundry facilities, a swimming pool and hot tub, a tennis court, a shuffle board court, and a horseshoe pit have been planned for areas which are currently owned by the Developer and adjacent to the project. Although the Developer is under no obligation to install any such amenities, such areas and facilities may be constructed by the Developer at its sole cost and expense. If installed, the Developer reserves the right to implement a shared use (membership) arrangement for the Co-Owners of this Project and those of any adjacent or proximate lots or projects; however, each Co-Owner will have the right, by virtue of ownership of a lot in the project, to utilize any such installed recreational facilities. **The Developer, on behalf of itself and**



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its successors or assigns, hereby reserves the right to charge a reasonable usage or other fee for any such amenities. Such fees are to be set and governed by an agreement between the Association and Developer. The Developer has also reserved the right, through its reserved expansion rights, to add any such areas and/or facilities to the project as general common elements reserving the use of such amenities for the benefit of rental RV lots adjacent to the project. Any such amenities would be for limited pedestrian use (including hiking and biking) by the Co-Owners (and lot renters) and their guests and invitees only, subject to all reserved rights created herein. The use of the recreational areas shall be subject to the rules and regulations, including permitted hours of use (as posted), as may adopted and implemented by the Developer, or its successors or assigns, from time to time (or, if the features are added to the project, the Board of Directors) which shall be applied on a uniform basis to all users of the amenities.

**Ratification of Existing Agreement:** Upon approval of the above amendment that provides the recreational facilities usage fees to be set by an agreement between the Board of Directors and the Developer, members shall vote to ratify the current agreement that is in place.

**NOTE:** This is consistent with how the Association has been conducting business since 2012 but the agreement was never ratified.

### 5. Amend the Condominium Bylaws, Article VI, Section 14.

**Existing:** (a) A Co-owner, including the Developer, desiring to rent or lease a Condominium lot, shall disclose that fact in writing to the Association at least ten (10) days before presenting a lease form or otherwise agreeing to grant possession of a Condominium lot to a potential lessee and at the same time shall supply the Association with a copy of the exact lease form for its review for compliance with the Condominium documents and the names and permanent addresses of the renters for registration purposes; if no lease form is to be used, then the Co-Owner or Developer shall supply the Association with the name and address of the potential lessee along with the rental amount and due dates under the proposed agreement No portion of a lot, other than the entire lot, may be rented at any time.

**Proposed:** (a) A Co-owner, including the Developer, desiring to rent or lease a Condominium lot, shall comply with the rules and regulations as established by the Board of Directors governing lot leasing and rentals.

**NOTE:** This is consistent with how the Association has been conducting business since 2011.

### 6. Amend the Condominium Bylaws, Article VI, Section 15.

**Existing:** Reasonable regulations consistent with the Act, the Master Deed and these Bylaws, concerning the use of the common elements may be made and amended from time to time by any Board of Directors, including the First Board of Directors (or its successors elected by the



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Developer) prior to the First Annual Meeting of the entire Association held as provided in Article I, Section 8, of these Bylaws. Copies of all such regulations and amendments thereto shall be furnished to all Co-owners and shall become effective thirty (30) days after mailing or delivery thereof to the designated voting representative of each Co-owner. Any such regulation or amendment may be revoked at any time by the affirmative vote of more than fifty (50%) percent of all Co-owners in number except that the Co-owners may not revoke any regulation or amendment prior to said First Annual Meeting of the entire Association.

**Proposed:** Reasonable regulations consistent with the Act, the Master Deed and these Bylaws ~~concerning the use of the common elements~~ may be made and amended from time to time by any Board of Directors, including the First Board of Directors (or its successors elected by the Developer) prior to the First Annual Meeting of the entire Association held as provided in Article I, Section 8, of these Bylaws. Copies of all such regulations and amendments thereto shall be furnished to all Co-owners and shall become effective thirty (30) days after mailing or delivery thereof to the designated voting representative of each Co-owner. Any such regulation or amendment may be revoked at any time by the affirmative vote of more than fifty (50%) percent of all Co-owners in number except that the Co-owners may not revoke any regulation or amendment prior to said First Annual Meeting of the entire Association.

**NOTE:** This is consistent with how the Association has been conducting business since 2011.

### 7. Amend the Condominium Bylaws, Article VIII, Section 5.

**Existing:** Any amendment to these Bylaws (but not the Association Bylaws) shall become effective upon the recording of such amendment in the Office of the Register of Deeds in the county where the Condominium is located.

**Proposed:** Any amendment to these Bylaws (but not the Association Bylaws) shall become effective upon the recording of such amendment in the Office of the Register of Deeds in the county where the Condominium is located. ~~Upon a vote to amend the Bylaws, the Members may simultaneously vote to ratify any prior actions by the Board of Directors or the Developer that would be in compliance with the then amended Bylaws.~~

## Third Amendment to Master Deed

### 8. Amend the Third Amendment to Master Deed, Section 1, (c).

**Existing:** No fans will be allowed.

**Proposed:** ~~No fans will be allowed.~~ (Delete the sentence)



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### Master Deed

#### 9. Amend the Master Deed, Section IV, Part A.1.

**Existing:** The land described in Article II hereof, including open space areas and recreational pathways, if any, the storm water retention areas and landscape ponds located within the commons area, the Project signage, the joint well and water distribution and irrigation systems and the community septic system throughout the project and all roadways, out lots, if any, and access easements, excepting the space within each boundary as shown on Exhibit "B" attached hereto.

**Proposed:** The land described in Article II hereof, including open space areas and recreational pathways, if any, the storm water retention areas and landscape ponds located within the commons area, the Project signage, the joint well and water distribution and irrigation systems, the community septic system, and the joint well and water distribution and irrigation systems, the community septic system, and **the wireless internet infrastructure, which equipment may be placed within or out of the Park in order to provide optimum wireless internet service to the Park,** throughout the project and all roadways, out lots, if any, and access easements, excepting the space within each boundary as shown on Exhibit "B" attached hereto.

**Ratification of Existing Wireless Internet Infrastructure:** Upon approval of the above amendment expressly identifying the wireless internet infrastructure as part of the common elements of the Park, a vote by the members shall be taken to ratify the existing wireless internet infrastructure as being part of the common elements of the Park.

**NOTE:** This is consistent with how the Association has been conducting business since 2007 and the Reserve Study completed in 2011, as posted on the Owners Only web page.



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### TBRV Park Condominium Association Special Meeting Notice

This is your notice that a Special Meeting of the Association Members will be held on Saturday May 6, 2017, starting at 10:00AM in the Main Clubhouse, lower level, TBRV Resort, Williamsburg, MI specifically for the membership to vote on the changes, as described on pages 2 through 6 above, to the Condominium Association Documents.

**Sign and return this Proxy no later than May 5, 2017 -- regardless of whether you may or may not attend this Special Meeting in person. This will ensure a quorum is met and your vote is counted.**

**NOTE: *This proxy shall be returned to the co-owner if that co-owner is able to attend the Special Meeting in person.***

**Proxy for Attendance and Voting at this Special Meeting only**

The Special Meeting is to be held May 6, 2017, starting at 10:00 AM

I, (print your name): \_\_\_\_\_, the undersigned co-owner of Lot# \_\_\_\_\_ being a member in good standing am entitled to vote at any Special or Annual meeting of the Traverse Bay RV Park Condominium Association.

The undersigned designate(s) and appoints(s):

\_\_\_\_\_ **President of the Board: Leonard Stenzel of Lot #31** (the "Proxy") as the Proxy for this co-owner.

Or:

\_\_\_\_\_ (please print): \_\_\_\_\_ of Lot # \_\_\_\_\_ (the "Proxy") as the Proxy for this co-owner.

By this designation of proxy, the "Proxy" may attend and represent the co-owner with the full power to vote and act for the co-owner in the same manner, to the extent and with the same effect as if the co-owner were personally present.

Attendance for quorum and voting will not be counted if the designated proxy fails to attend the Special Meeting. This designation revokes any prior designation of proxy that the co-owner may have given previously with respect to the co-owner's ownership interest in the Traverse Bay RV Park Condominium Association. This designation of proxy shall be effective only for the Special Meeting of May 6, 2017 as stated in notice above.

Date of signing: \_\_\_\_\_

Lot# (include all lots you own): \_\_\_\_\_

Co-owner Signature: \_\_\_\_\_



## Traverse Bay RV Park Condominium Association

If at all possible, we **recommend you e-mail or fax** the proxy to L.E. Williams, CPA:

[Jim@LEWilliamsCPA.com](mailto:Jim@LEWilliamsCPA.com) or Fax # 231-922-8612

If you cannot e-mail or fax, please print out the proxy, complete, sign, and return to L. E. Williams, CPA post marked no later than April 28, 2017, using the following address: **L. E. Williams, CPA, 996 Garfield Woods Drive, Suite A, Traverse City, MI 49686**

All US Postal Service mailed proxies must be received by L. E. Williams & Co., P.C. (Association CPA) with a **postmark dated no later than April 28, 2017** and shall mailed directly from the Owner.

For your convenience, co-owners may also e-mail or Fax directly to L. E. Williams **no later than May 5, 2017** using the e-mail address or fax number located at the bottom of the above proxy statement.

- Only votes from members qualified per Article VIII of the Articles of Incorporation and in good standing shall be counted.
- The presence, in person or by proxy, of three-fifths (3/5) of the co-owners in number and in value shall constitute a quorum for holding a meeting of the members of the Association, except for voting on questions specifically required to require a greater quorum.
- Article VIII, Section 3, of the Condominium Bylaws states: These Bylaws may be amended by the association at any regular annual meeting or a special meeting called for such purpose, by an affirmative vote of not less than two-thirds (2/3) of all co-owners in number.