Diane’s notes on November 3, 2024 public meeting of VHA

CC&Rs

Kim Stanley Robinson – Introduction.

When Village Homes was created, they had to have CC&Rs before they could sell any lot. The CC&Rs they adopted were not written by VH. It was a template. It was from the mid 70s. (Emily said October 31, 1975). The CC&Rs were “sketchy”.

There was an effort to revise them about 2000. The effort failed because it needed a two-thirds vote to pass. The Board has hired a law firm to have on retainer. It’s expensive but worth it. The last time they hired Adam Stirling in the failed attempt to revise the CC&Rs. The name “Stirling” created confusion, but there’s no relationship between Adam Stirling and the [Davis Stirling Act](file:///%5C%5CJOHN-LAPTOP%5CShared%20Documents%5C2526%20Oakenshield%5CCC%26Rs%5CCC%26Rs%202024%5CNov%203%20Meeting%5CDavis%20Stirling%20Act) .

I (Stan) took an interest in the CC&Rs when I came on the Board. We’re on draft 13 now. The lawyer we were first assigned this time around kept sending the board irrelevant templates. He retired. The new lawyer, Melissa, has been more attentive and persuasive.

This is an iterative process. We will go to Melissa and come back.

Diane: The last time the CC&Rs came up for review, John and I did some research and decided to vote against them because they allowed foreclosure for not paying homeowner’s dues. Unless they include a statement to the effect that VHA does not authorize foreclosure we will be voting against them. The practice in VH as been not to foreclose on members and this is the time to codify that in our CC&Rs and expressly disallow it. Other than that, we have no objection.

Stan: Foreclosure is in our current CC&Rs. Melissa said we should have it, that if it’s needed, it’s needed. We are tightly populated and I know one member who is in fear of two neighbors. It’s an issue of fairness.

Bob Leland: The Board has a fiduciary responsibility to collect dues. We can’t have dues optional. More and more people would see that nothing is happening to them and decide not to pay their dues. It’s law. We need to be able to foreclose. For me it’s a line I won’t cross.

Amy: Is there any financial leverage other than foreclosure? A lien? If someone is afraid of their neighbors, we need a different remedy.

Bob: If we simply put a lien on and wait for the property to sell, then every other lot in VH must pay extra dues to offset that. If we take the homeowner to court, the other residents will essentially be paying the legal fees for that. The foreclosed homeowner receives the proceeds from the sale.

Diane: The property is sold at auction on the courthouse steps. By the time the legal fees have been paid and the HOA and all the other debts have been paid, the homeowner doesn’t get anything (or much).

The [Davis Stirling Act](file:///%5C%5CJOHN-LAPTOP%5CShared%20Documents%5C2526%20Oakenshield%5CCC%26Rs%5CCC%26Rs%202024%5CNov%203%20Meeting%5CDavis%20Stirling%20Act) does not require foreclosure. It has lesser penalties for HOAs that don’t authorize foreclosure, such as fines, garnishing wages, lawsuits and liens. Liens work. We had a fence dispute and put a lien on our neighbor’s property. It definitely moved the process along. The neighbor wanted the lien removed as soon as possible.

Bob: Foreclosed homes are not sold on the courthouse steps. (At least) those foreclosed on for not paying their dues are not sold on the courthouse steps. *(In the informational meeting it was Melissa who said foreclosed homes are sold by auction on the courthouse steps and that is consistent with everything we’ve read.)*

Stan: The (foreclosure) tool is useful in painful situations. The Board hasn’t used it, but some future board may need it.

Pat Bissell: We have to keep foreclosure as an option.

Yoni: Can we clarify what the guardrails are? *(The guardrail in the* [Davis Stirling Act](file:///%5C%5CJOHN-LAPTOP%5CShared%20Documents%5C2526%20Oakenshield%5CCC%26Rs%5CCC%26Rs%202024%5CNov%203%20Meeting%5CDavis%20Stirling%20Act) *is that $1800 needs to be owed.)* Is there anything that would make the non-supporters support the proposed CC&Rs?

Bob: You can’t foreclose due to fines, only non-payment of dues.

Diane: Maybe we would support it, if the home was required to be sold at fair market value.

I do not believe that people will not pay dues, if there isn’t a foreclosure penalty for it. Additionally, the homeowner gets essentially no profit from a foreclosure sale. I’ve never heard of an HOA collapsing because members didn’t pay their dues. I have heard of people’s lives being ruined by HOA foreclosure. It’s devastating. They can end up homeless. I would never not pay my dues because some other member didn’t. There’s late fees and interest.

Stan(?): In 1983 there was an uprising. The dues started at $14/month. The Board had to raise them and some homeowners revolted. About a third of homeowners weren’t paying their dues. The Board still did not foreclose, but they could have.

Pat Bissell: In 1978 many people weren’t paying dues. The Board handled it well and allowed more time and dealt with it well. Eliminating the foreclosure option would be a mistake.

Diane: So, the Board handled it with measures short of foreclosure.

Virginia, While the foreclosure clause may sound cruel, it would never be done in the spirit of meanness or keeping somebody down who is already down.

Diane The [Davis Stirling Act](file:///%5C%5CJOHN-LAPTOP%5CShared%20Documents%5C2526%20Oakenshield%5CCC%26Rs%5CCC%26Rs%202024%5CNov%203%20Meeting%5CDavis%20Stirling%20Act) does not require authorizing foreclosure and has other options (liens and suing). Dues non-payment can be dealt with differently, as has happened in the past. A foreclosure can leave somebody homeless. I feel strongly about this. It is too drastic a step.

Stan: We will go back to the lawyer with this feedback. Again, we have never gotten to this point, but it is a good idea to have this last option.

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*After discussion about other issues, one of which was about letting the VHA go into houses.*

Martin Hilbert: The worst has to be envisioned. Ten years ago I never would have dreamed that Trump would be running for president. ….Section 10. *(Probably referring to Chapter 10, Dispute Resolution and Enforcement in the*  [Davis Stirling Act](Davis%20Stirling%20Act)) We should update our CC&Rs to the minimum (penalty) of what is required by the Davis Stirling Act. We should explore conflict resolution. In LA I heard horror stories of HOAs spending a great deal of money defending itself against homeowners when a rightful claim had been made. We should resolve things without involving lawyers. We need a balance. We need to have internal dispute resolution formalized (in CC&Rs).

Stan: The Davis Mediation process can be used by us for conflict resolution.

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*After more discussion about other issues.*

Stan: We’ll send this back to the lawyer to see what she says.

Amy Medovoy: I would hope that you don’t leave it up to the lawyer. I hope you listen to us, the homeowners.

Virginia: We need to make the introductory language more explicit.

Stan: We have to get to two-thirds to pass.

Virginia: We will have a meeting of the VHA to discuss this as a board.

Yoni: We should look at where are the key points and where can we make things better.

Stan: We will send a letter of inquiry to the lawyer. This is not a fast process.