

LEGAL CONTEXT TO OWNER'S LETTER OF SEPTEMBER 8, 2025

The September 8, 2025 letter from Attorney Vincent Verdiramo to the Cowpet Bay West Condominium Board must be considered within the context of the legal restrictions on use of Cowpet Bay West condos and the Board's obligation to insure the premises. Both are set forth in CBW's governing documents.

Restriction of Use of Units as Residence Only

Title 28 V.I.C. Section 910 of the Virgin Islands Condominium Act (the "Condominium Act") requires that the Condominium Declaration shall contain a "(7) Statement of the purposes for which the building and each of the apartments are intended and restricted as to use". The Declarations of Condominium (the "Declaration") of Phase 1 (1968) and Phase 2(1969) each comply with this statutory directive. Paragraph 7 of each Declaration provides as follows:

7. USE OF UNITS. Each of the units shall be used as a residence only.

Paragraph 19 of each Declaration attaches and annexes as Exhibit D a lengthy set of Bylaws. Article V of each set of Bylaws, titled "Operation of the Property", is relevant here. Article V, Section 11 of each provides:

Section 11. Restriction on Use of Apartment Units. In order to provide for congenial occupancy of the Property and to protect the value of the apartment units, the use of the Property shall be restricted to and shall be in accordance with the following restrictions:

- (a) The apartment units shall be used for residences only.**
- (b) The common areas and facilities, including the limited common areas and facilities, shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of apartment units.**

The Merriam-Webster Dictionary defines residence as "the place where one actually lives as distinguished from one's domicile or a place of temporary sojourn." In other words, a place where one resides.

Identical provisions specifying the restriction on use of the condominiums for residences only are contained in the Cowpet Bay West Bylaws of 1974, 1988 and 2012.

Insurance Requirements and Classification of Property For Coverage Cost

Article V, Section 2 of each Declaration's set of Bylaws sets forth more than two pages of what insurance the Board of Directors "shall be required to obtain and maintain". As with the restriction on use of the condominiums as residences, identical provisions specifying these insurance requirements are contained in the Cowpet Bay West Bylaws of 1974, 1988 and 2012.

The cost of CBW being categorized by insurers as commercial rather than residential, and where the tipping point is, are significant concerns.

All of the condominium use restrictions and insurance requirements are binding upon the Board and upon each condominium owner not only by virtue of what is consistently contained in the Bylaws. Paragraph 16 of both the Phase 1 Declaration and the Phase 2 Declaration provides: "The acceptance of a deed or conveyance or the entering into of a Lease or the entering into of occupancy of any unit shall constitute an agreement that the Declaration, the By-Laws, the Rules and Regulations as they may be amended from time to time are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof."

Similarly, the original By-Laws adopted in 1968 (Phase 1) and 1969 (Phase 2) which were attached to the Phase 1 and Phase 2 Declarations respectively, and the 1974, 1998 and 2012 By-Laws, all provide at Article I, Section 3 – Application that "The acceptance of a deed, mortgage or conveyance or entering into of a lease or the act of occupancy of an apartment shall constitute an agreement that these By-Laws, the Rules and Regulations and provisions of the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with."

Submitted by Richard Hunter, September 17, 2025