

Cowpet Bay West Condominium Association

Open Meeting Q&A

August, 9, 2022 at 7PM

In attendance: Bill Hanson, Alan Gordon, Judith Kromenhoek, Michael Harrell, Sherri Levin, Jennifer Planeta, Larissa Staszkiw

Goal to use an attorney to use VI CODE Law to comply with VI CODE and to get 100 % ownership approval.

VI CODE requires 100% owner approval. Our goal is to work with an attorney to get our documents ready to comply with VI LAW. Look at documents and then ask owners for approval. We need to get 100% owner approval. This will require votes from all owners.

MH asks if all the concern about the Merger Document not being legitimate is based on 2022 law stipulating that a merger of 2 condo associations must have 100% owner consent? CBW Stage 1 and 2 were two separate Associations with separate but fairly identical Declarations and By-Laws that merged with our 1974 Merger Document. I think we need research on what was the stipulation for merging condo associations at that time. We also need an investigation of how many of the owners actually voted for that merger in 1974. Was it just 2/3rd vote as the Merger suggested? If so, it would be hard to believe that no owners in that 1/3 minority would not have sued or at the very least fought against the merger. Do we have any documents registering the actual vote or indicating complaint or lack of compliance? We have been operating amenably for 48 years on the past precedent of our 1974 Merger Document with no complaints of threats of suits. Why now? And do we really need a lawyer to investigate these questions?

Larissa The law as it pertains in the VI CONDO ACT was in effect at that time. It has not changed since then. In 1974 they merged 2 phases into COWPET BAY West. In 1974 ownership percentages were not addressed. To update ownership percentage interest needed 100% of the owner's approval. In 1998 the BY LAWS were amended with 2/3% which agreed to the billing that we use today. No major event in the 1998 documents percentages were recorded in the recorder of deeds. All bills have been billed this way since 1998. Moving forward we do not want issues. Purpose is to update the declaration with 100% vote and move forward.

MH I realize the Merger Document did not specifically articulate each owner's percentage interest, but it did address – in prose form– owners' ratio percentage for voting, which according to all of our Declarations is exactly the same ratio percentage of ownership rights. That equal comparison of our voting rights and ownership percentage in ALL our governing documents,

something like “owner voting rights is the same percentages as all other assessments and measures.” Voting rights, ownership percentages and assessment percentages are exactly the same according to our documents. And while it is said in tortured language, the Merger Document says all the 2 bedrooms have the same percentage rights, whether Stage 1 or 2. All the 3 bedrooms have the same percentage rights, whether Stage 1 or 2. Because they basically have the same square footage, whether Stage 1 or 2. The language was something like “all 2br and 3br in Stage 1 will have the same ratio value as the 2 and 3 br in Stage 2 Declaration.” The other, different sized condos were not noted in this ratio comparison in the Merger since their valuation had already been determined in Stage 2 Declaration, the document the Merger Document was using for all condo valuations. Essentially, the 1974 Merger Document says all condos would be using the Stage 2 valuations, noted in the Stage 2 Declaration – although this is written in admittedly stiled language, confusing to some.

Why should we not accept the merger document just because the language is confusing? Are some people trying to separate the two condo associations? If so, what is the rationale?

Brad asks how the ratio percentages are decided now? Is it by bedroom space? Do the 2 bedrooms have the same square footage? Yes. Percent ratio based on sq footage not market value. Replacement of basic structure.

Problem was Stage 1 units originally were valued less than in Stage 2 because they were built earlier. But the ratio value between the 2 and 3 br remained the same.

Issue is that the particular owner made a point that if an earthquake happens, the attorney will go through documents and advocate for their individual client. It is unlikely that it will happen.

We want documents to be corrected moving forward.

Requires 100% of owners to vote so that the Association is compliant with the VI CODE.

Jan What are we paying in lawyer fees for this? Who is pursuing this path? As an owner, I have a right to know, who is suing? As an owner, I want to know the cost and who is bringing this up. I bought here several years ago, lately there have been lawsuits after lawsuits. It needs to stop. I want to know who is bringing this lawsuit up.

This seems inconsequential.

MH Holly Norton believes that she should pay less in fees than other owners who own a two bedroom in a different Phase. HN initiated this attack on the Merger Document as part of her “proof” that she has been overpaying her dues for years. The Board has had letters to this effect from her for as long as I was on the Board.

HN This has to do with VI CODE and our declaration. Bill H. said he will not make this change because it is not fair and wants to bill everyone correctly. I am not in favor of suing and want to be compliant with the VI CODE. Merger document says nothing about ownership interest. It needs unanimous consent.

MH Why do you want to do this?

HN Let's assume we have an earthquake. If we are devastated, insurance payout is treated as one pot of money.

BH We propose to get unanimous voting from the owners.

HN you have to adhere to the VI LAWS and the declaration.

HN Section in VI LAW says cannot change ownership percentage without unanimous consent if change ownership percentage.

Brad How is anyone "changing" percentage ownership if it is based on square footage? Our square footage determines what our dues are, what our voting rights and what our percent ownership is, right?

MH addresses HN: You have claimed that you have been overcharged for years, claiming to the board that you should not be paying .911 which is the same as all other 2-br units. That your 2 bedroom with the same sq footage as other 2 br should have lower fees. Now, with this attack on the 1974 Merger Document, you have included all other Stage 2 owners in your complaint. And the basis for your complaint is a faulty math algorithm you created saying that when 2 associations are merged, obviously your fees drop in half. You did not take into account that the 2 associations had different numbers of condos and different sized condos that now make up the whole that would be CBW in the Merger. Your initial threat was a lawsuit for being overcharged for paying what all 2 br condos are charged. Now the threat of a lawsuit over the claim that the Merger Document was never valid. Why exactly are you threatening these lawsuits? What is your agenda?

HN made an issue with BH regarding Stage 1 and Stage 2. If we are devastated and buildings crumble to the ground, Insurance money would not be divided evenly. Those in different stages would receive different amounts. The owners in Stage 1 would receive a greater amount of insurance money.

MH - Bottom line, disagrees with HN. MH admits there are some messy things in the old BY LAWS and says that rather than making a generic statement about ratio percentage values between bedrooms staying the same, the 1974 Merger Declaration should have specifically outlined each unit's value in a line-by-line list, as the Stage 1 and 2 Declarations previously had done. And does not believe that an insurance company paying our claims would pay more to Phase 1 2brs than to Stage 2 2brs. There is no reason to believe that would ever happen. It is that the Merger Document language may be misunderstood by the person threatening lawsuits. I would still like clarity about why a legal attempt to prove the 1974 Merger Document is invalid would benefit anyone?

Brad - Seems that the concern is to have a lawyer tell us how would the money get divided if there was a total loss /devastation.

We will not get 100% to vote on anything. If we don't get 100 what would happen next? Larissa wants to fix an error, get documentation correct so everyone is covered if there is a total devastation of the association.

Brad has concerns about what is happening at Cowpet. It is awful and disgusting. Below him there is a condo unit that is a business/ short term rental. Previously Cowpet Bay West was a classy place to live, 35 years ago. Underneath my unit there are 16 people coming in twice a week. I don't see these people. There are always 6 adults. COWPET is a budget hotel now. There are 6 people coming in and out. This happens all the time. It happened all through COVID. I can't believe how disrespectful it is. It was unbelievable. What I am experiencing is awful. Residential is where people live. It is awful what happens. This short term rentals has to stop. It is illegal and disrespectful.

Rosie Wells - Insurance issues - Has anyone spoken to the insurance representative to find out if there was a claustrophobic issue? To put the issue at ease.

Larissa Moving forward we need to get our documents updated.

Bill H. spoke to the insurance broker. They don't distribute funds, it goes to the association to make the payments. Funds received will 1st go to repair common property. In a complete disaster we would not rebuild. Association decision how to distribute funds to owners.

HN VICODE 925 disposition of property insurance considered one fund. Divide based as ownership percentages. Title 28 Chapter 33 Condo act How to manage the association. The ownership interest identified in the declaration. The Declaration formed our ownership.

Niel B . If we do this, do we have to record all the deeds to the association? Deeds restated?

HN If we were destroyed. His ownership percentage is in his deed.

MH If the association disseminates the money, we would presume that the people running the association are good people and would give owners their fair share based on 48 years of past precedent and the 1998 by-laws which specifically state that all 2 br – whether the old Stage 1 or 2 – are valued the same and should be treated the same.

Bill Brewer If there was a catastrophic loss, the insurance company will turn the money over to the court and will pay it out to pay the money into the court and let the court decide how the money should be divided.

HN - The court will be hard pressed to ignore the laws of the VI. The judge would rule with the law.

Board will discuss with the attorney to find out what our options are and keep up to date on the cost of doing this. We will have another open meeting. Will disclose billing to the attorney.