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November 14, 2011

Board of Trustees  
Lake Forest Park Civic Club  
By email only, to Ryan Francescutti  
ryan@windermere.com

Re: Beach Membership

To Whom it May Concern:

This letter is written at the request of, and is intended primarily for, the Board of Trustees. This letter may be shared with regular and associate members of the Club, as well as owners of what I call in this letter "Lots in Question". However, the interests of owners of "Deeded Lots" and "Lots in Question" (defined below -- see boldface) are adverse, and I do not represent the interests of owners of "Lots in Question".

I have been asked to give my legal opinion on a situation summarized as follows. Owners of lots within certain plats (which we will call "**Deeded Lots**") have the right by virtue of historic dedications and covenants to be "regular members" of the Club. Regular members have the vested right, upon payment of yearly dues, to use what I will call the "Beach Area" more formally known as Block 6 Water Front Addition to Lake Forest Park. Regular members pass that right on to their successors in interest such as buyers or heirs. Associate members do not own property having the benefit of the historic dedications and covenants but have been given the personal right to use the Beach Area upon payment of the yearly dues. Associate membership does not pass to successive owners of such member's property but must be approved on an individual basis. I note that under Article 3, Section (2) of the Club's Constitution, officers "must live in the deeded area". However, there is a provision in the Bylaws for some trustees to be "non-owners" who do not reside in the original deeded area.

The problem as I understand it is that for years, the Club has maintained incorrect maps and has been telling owners and prospective buyers and their agents that certain properties have associated with them the right of regular membership to the Beach Area when in fact they do not. I will call these properties the "**Lots in Question**". It is my opinion that it is very unlikely that owners of Lots in Question have any legal claim against the Club for these mistakes as I believe they would have great difficulty proving the several essential legal elements of a legal claim. Nevertheless, in the interest of acting with the highest ethics and avoiding hard feelings, the Board would like to provide some accommodation to people who bought Lots in Question

thinking that they thereby acquired vested rights to beach access. At the same time, the Board is mindful of the need to protect the legitimate expectations of the owners of Deeded Lots.

One approach would be to expand the boundaries of the "deeded area" to include the Lots in Question. From my initial review of the documents made available to me, I believe it is likely that a single objecting lot owner within the original deeded area would have the power to block such expansion. Each owner within the deeded area (i.e. Deeded Lots) took title to a lot that included the covenant right to belong to a restricted beach club. The presumption is that the restrictions cannot be loosened and "deeded area" expanded unless there is a provision in the chain of title for making such change, or unless all owners of Deeded Lots unanimously consent to the change -- otherwise, such owners are deprived of a legally vested property right, the right to access a beach for which only a certain limited number of other owners also have a vested right. In many covenanted neighborhoods, I have seen private covenants that include a provision for annexation of new areas into the governance of the covenants with a less than unanimous approval of constituent lot owners. However, I see no such annexation provisions here, except for the language in the 1926 Quit Claim Deed "and any other plat or addition to the grantor or its successors hereafter platted or laid out in Section nine (9) Township twenty six (26) North, Range four (4) East W.M. and being land now owned by the grantor." The 1945 lawyer opinion letter discusses this language and that lawyer seemed quite skeptical that any of the developments other than the six listed in page 3 of his letter were within what we call the "deeded area" that has automatic rights to the beach.

If the Club would like to pursue expanding the boundaries of the "deeded area", and if there is even one owner within the "deeded area" who is likely to object, I would need to spend several more hours looking at the historic documents, deeds of at least a sampling of owners, and legal precedent, to see whether, contrary to what I suspect, such expansion is possible without unanimous approval or acquiescence.

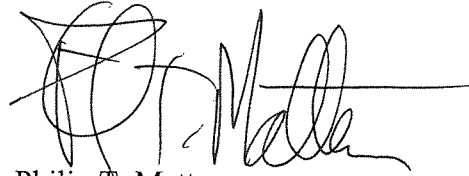
A second approach would be to adopt a Bylaw through the usual means that essentially guarantees that the owners of Lots in Question can always secure Associate Membership if they satisfy the threshold requirements stated in Article 10 of the Constitution ("good repute and standing the community" and "signified a willingness to advance the principles and purposes of the corporation") and pay their dues. In my opinion, this approach can be accomplished through the Bylaw amendment process set forth in Article 18.2 of the current Bylaws. The Lots in Question would then enjoy Beach Access rights on an Associate Member basis that can be passed on to future lot owners, subject only to the Club's right in theory to change the Bylaws again. It does not seem likely that the Bylaws would ever be changed back because any such change would risk discord. With this second approach, the owners of the Lots in Question would not have a deeded property right in the same sense as owners of Deeded Lots, and they would not have the right to serve as officers of the Club, but they and their successors (buyers, heirs, etc.) would have access to the Beach Area which is guaranteed by the Bylaws. Functionally, the owners of the Lots in Question would be in practically the same position as deeded owners, especially if there is some accommodation on dues amount for current owners, and I cannot

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imagine that there would be any measurable loss in value to their property compared to what they thought they were getting when they purchased.

Let me know if you want me to assist further with either of these options, or if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Mattern", with a long horizontal line extending to the right.

Philip T. Mattern  
*[pmattern@demcolaw.com](mailto:pmattern@demcolaw.com)*