

FLAGPOLE

With respect to the United States flag issue, this is addressed by Maryland law, specifically Section 14-128 of the Maryland Real Property Article. This section provides in relevant part:

(c) Terms of contract may not prohibit display of flag. -- The terms of any contract, deed, covenant, restriction, instrument, declaration, rule, bylaw, lease agreement, rental agreement, or any other document concerning the display of flags or decorations by a homeowner or tenant on residential property may not prohibit or unduly restrict the right of a homeowner or tenant to display on the premises of the property in which the homeowner or tenant is entitled to reside one portable, removable flag of the United States in a respectful manner, consistent with 4 U.S.C. §§ 4 through 10, as amended, and subject to reasonable rules and regulations adopted under subsection (d) of this section.

(d) Rules and regulations. --

(1) Subject to paragraph (2) of this subsection, the board of directors of a condominium, homeowners association, or housing cooperative, or a landlord may adopt reasonable rules and regulations regarding the placement and manner of display of the flag of the United States and a flagpole used to display the flag

1737532.1

87870.001



Renee Parcover
Villas at Cattail Creek
Condominium Association
May 15, 2014
Page 3

of the United States on the premises of the property in which the homeowner or tenant is entitled to reside.

(2) Before adopting any rules or regulations under paragraph (1) of this subsection, the board of directors of the condominium, homeowners association, or housing cooperative, or the landlord shall:

(i) Hold an open meeting on the proposed rules and regulations for the purpose of providing affected homeowners and tenants an opportunity to be heard; and

(ii) Provide advance notice of the time and place of the open meeting by publishing the notice in a community newsletter, on a community bulletin board, by means provided in the documents governing the condominium, homeowners association, or housing cooperative, or in the lease, or by other means reasonably calculated to inform the affected homeowners and tenants.

The key is that the Association is only required to permit one portable, removable flag. Flagpoles are not addressed under State law. Therefore, the Association can restrict where the flag is placed and is not required to permit flagpoles. Generally, we recommend that the Board permit flags to be attached to the home.

We understand that a couple of Unit Owners have installed flagpoles without approval. This is a violation of Article XIII, Section 3(a) of the Bylaws, which prohibits any structural addition to the Limited Common Elements without the Architectural Committee or the Board's approval. The Association should send these Unit Owners a notice informing them of the violation and requesting the removal of the flagpoles. Given the sensitivity of the issue, the letter should also inform the Unit Owners where the installation of the flag will be approved. We are happy to assist in reviewing or drafting the letter or the rules.

Do not hesitate to contact me if you have any questions.

Very truly yours,

Jeremy M. Tucker

Jeremy M. Tucker

