

Good morning Renee,

Parking update 9/29/14

We probably should talk so I can get a better grasp of all of the issues and the Board's desires. Also, consistent with your instructions below, this is not intended as a full opinion on the relevant issues and does not vet each issue as a full opinion would. There are additional legal, practical and procedural issues that should be addressed before proceeding with any of the options I have provided below.

We do not believe that the Board can assign a common element parking space to each of the one garage Units. § 11-108(a) of the Maryland Condominium Act provides that, "except as provided in the declaration, the common elements shall be subject to mutual rights of ... access, use, and enjoyment by all unit owners..." This means that unless the Declaration provides otherwise, all Unit Owners have an equal use and right to the common elements. The Declaration does not authorize the Board to assign certain unit owners parking spaces.

However, if the Board desires to accommodate these one garage Unit Owner's' parking needs, there are a few options available. For example, 1) The Association could amend the parking rules to make the parking spaces in the relevant sections of the Condominium open resident parking, removing the visitor parking restrictions, and make the spaces resident only. These parking spaces would be open for parking on a first-come, first-serve basis to residents, subject to the two car per Unit maximum. An additional rule could be added to provide that only one vehicle per Unit can be parked in these spaces. We did want to point out that while we believe it was intended under the Declaration that parking of the two vehicles per Unit would be in the garage and driveway pad of each Unit, under a strict reading of Article X, Section (a)(xiii) of the Declaration, there is an argument that would allow a Unit Owner to "park" his/her vehicles on the Common Elements. Article X, Section (a)(xiii) of the Declaration provides that vehicles shall be "stored" in a garage and driveway pad, if insufficient space in the garage. Parking is arguably different than storage. Therefore, any amendments to the parking rules would need to clarify this point as well, providing that vehicle cannot be parked on the spaces for more than x hours, for example.

2) The Association could lease or license the common element parking spaces to unit owners desiring to park their second vehicle on the common elements, if the required Unit Owner approval was obtained. Article VII, (b) of the Declaration provides that the Association may lease or license the common elements provided that 66 2/3 percent of votes appurtenant to all Unit Owner and the Mortgagees, in any, approve the license. Practically, obtaining this approval is unlikely, but if the Board were interested in pursuing this option, we can provide further guidance. I would note that Section 11-125 of the Maryland Condominium Act provides that Unit Owner approval of leases is only required for leases in excess of one year. The cited Declaration provision does not have that temporal triggering requirement for Unit Owner approval.

There are probably additional creative options that we discuss once I have a better idea of what the Board would like to do.

Please call me to discuss and if you have any questions.

3 Bethesda Metro Center - Suite 460 - Bethesda, MD 20814
Tel: (301) 657-0157 Fax: (301) 347-1537 - jmtucker@lercheearly.com
Bio: www.lercheearly.com/team/jeremy-m-tucker
Vcard: www.lercheearly.com/team/jeremy-m-tucker-vcard

Please consider the environment before printing this message.

Attention: This message is sent from a law firm and may contain information that is privileged or confidential. If you received this communication in error, please notify the sender by reply e-mail and delete this message and any attachments. Thank you. www.lercheearly.com

From: handrparcover@comcast.net [mailto:handrparcover@comcast.net]

Sent: Sunday, September 28, 2014 6:03 PM

To: Tucker, Jeremy M.

Subject: Fwd: Parking

From: "Parcover, Renee" <handrparcover@comcast.net>

To: "jmtucker" <jmtucker@lercheearly.com>

Cc: "Casner, Paul" <pgcjr12@aol.com>, "Nulton, Lynn" <lnulton1@verizon.net>, "Rados, Bill" <wrados@verizon.net>, "moskowitz, jack" <jmoskowitz6@verizon.net>

Sent: Thursday, September 25, 2014 9:21:07 AM

Subject: Parking

Hi Jeremy,

Once again parking raises its contentious head. I think you said we could make a rule but can it be in opposition to our documents? People with one car garages want a parking space on the pads which we maintain is for visitor parking. The documents limit the number of cars to two with the ability to have a third one if the Board approves it. The Documents also say your cars must be parked in your garage or your own parking pad. People in the 12 inside smaller Villas have one car garages and room to park one car in the driveway. Although they paid less for the units they feel they should not have to juggle cars around to get in and out. Of course we have some in outside units with the ability to park (not permission) four cars and those in single family houses who also like to use the extra parking for their convenience. Can we give permission for one extra space on an assigned lot for just the 12 inside units? Can we enforce parking stickers on them and possibly all of the cars out here. If we choose to not enforce this part of our Documents will we have problems with claims of discriminatory behavior when holding the line on other rules in the documents and fining residents for these other violations. Would it make sense to rent these spaces to individuals or even just these 12 or will that cause problems we don't need.

We need your wisdom on this. I will let you know after seeing what you write and speaking to other Board members whether we need an official written ruling.

Thanks,
Renee Parcover

Vehicles and/or by common usage and practice; provided, however that pickup trucks of three-quarter (3/4) tons of capacity or less and used solely for non-commercial purposes are permitted), trailers, recreational vehicles, house trailers, boats or other water apparatus, boat trailers, or the like shall be kept upon any of the Common Elements. The Condominium Association may, in the discretion of the Architectural Committee (or Condominium Board, if applicable); provide and maintain a suitable area designated for the parking of such vehicles or the like. The Architectural Committee or Condominium Board, as the case may be, may establish supplemental rules regarding parking and traffic control on the Condominium Land.

(xv) No structure of a temporary character, trailer, tent, shack, barn or other outbuilding shall be maintained upon any Common Elements at any time. Outdoor clothes dryers or clotheslines shall not be maintained upon any Common Elements at any time. No clothing, laundry or the like shall be hung from any part of any Unit or upon any of the Common Elements or from or upon any patio, terrace, deck, balcony, or porch.

(xvi) Other than fences installed by Condominium Developer, or as may be installed in connection with development of the Condominium Land and/or construction of the Units, no other type of fence shall be allowed.

(xvii) Except when being used for entrance and exit, garage doors shall be maintained in a closed position at all times.

(xviii) Except as otherwise provided in this Declaration, no sign of any kind shall be displayed to the public view on any Unit, on its appurtenant Yard Limited Common Elements or elsewhere on the Common Elements except (a) one (1) sign of not more than five (5) square feet advertising a Unit for sale or rent, (b) signs used by the Condominium Developer to advertise the Condominium during the development, construction and sales period, or (c) signs erected or owned by or on behalf of the Condominium Association on the General Common Elements which identify the Condominium.

(xix) No drying or airing of any clothing or bedding shall be permitted outdoors on any Unit, Limited Common Element or General Common Element, nor shall any outdoor clothes-hanging devices such as lines, reels, poles or frames of any nature be erected, installed or maintained on any Unit, Limited Common Element or General Common Element.

(xx) No noxious or offensive activities shall be carried on in any Unit or upon any Limited Common Element or General Common Element, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Condominium.

(xxi) No type of pool shall be permitted on any Limited Common Element; provided, however, that the foregoing shall not apply to children's portable pools which are stored in a non-visible area when not in use or spas or Jacuzzis which have been approved in advance by the Condominium Board in its sole and absolute discretion.



class: notword

Attorneys at Law

3 Bethesda Metro Center, Suite 460
Bethesda, MD 20814
www.lerchearly.com

Jeremy M. Tucker

Tel. (301) 657-0157

Fax (301) 347-1537

jmtucker@lerchearly.com

May 15, 2014

VIA ELECTRONIC MAIL

Renee Parcover
President – Villas at Cattail Creek
Condominium Association
15207 Callaway Court
Glenwood, Maryland 21738

Re: *Parking and Displaying a United States Flag*

Dear Renee,

We are writing to address your questions addressing parking and displaying a United States flag within the Villas at Cattail Creek Condominium.

PARKING

You are correct, the Board cannot pass a rule that conflicts with the Declaration. However, we do not believe permitting residents to park in the spaces the Board has labeled "visitor" violates Article X, Section 1(xiii) of the Declaration.

Article X, Section 1(xiii) of the Declaration addresses vehicles and parking and provides in relevant part, "*In addition, a maximum of two (2) vehicles shall be permitted for each Unit, unless otherwise approved by the Architectural Committee or the Condominium Board, if applicable. Vehicles shall be stored in any garage serve a Unit and (to the extent there is not sufficient space in the garage) on the driveway pad, if any for such Unit.*" Since we understand that each Unit only has a one car garage and a parking pad that can fit one vehicle, there is no physical way to park more than two cars at each Unit. Therefore, if the Board is going to allow another vehicle for a Unit, which it is empowered to do, that the additional vehicle will be allowed to park in one of the "visitor parking spaces." Any other reading would make meaningless the Board's ability to allow for more than two vehicles per Unit.

When interpreting contracts, courts will seek to interpret potentially ambiguous or conflict terms so that no part of it is rendered nugatory or superfluous. Thus, based on the facts and our interpretation of Article X, Section 1(xiii) of the Declaration, there is no conflict if the Board decides to allow an additional vehicle to park in the "visitor parking space". We

Renee Parcover
Villas at Cattail Creek
Condominium Association
May 15, 2014
Page 2

acknowledge that our conclusion is based on an interpretation of the language of Article X, Section 1(xiii) of the Declaration, which means that the language could be susceptible to interpretations. But, for the reasons stated above, we believe that based on Maryland law our interpretation is the correct one.

Another potential issue is that the language of Article X, Section 1(xiii) does not specify if the expansion of parking space allotments can be done on an individual basis or if it needs to be uniform to all Unit Owners. However, given the limited parking spaces in the community, allotting three parking spaces to each Unit is impractical, if not impossible. Therefore, we believe that correct interpretation allows the Board to grant certain Unit Owners an exception to the two parking space per Unit requirement. However, as we mentioned in our prior correspondence, we are concerned about the potential political impact of the Board granting exceptions without establishing criteria and limitations, which is why we recommend adopting rules setting forth how a request may be made and possible conditions if the Board were to grant such a request. Notwithstanding, the Board of Directors is not required to grant an exception to the two parking space per Unit requirement and can deny the requests accordingly.