

## MEMORANDUM

**TO:** Board of Directors of East Georgetown Shores Lake Association  
**CC:** Floyd Gates  
**FROM:** Gregory J. Gamalski  
**DATE:** August 10, 2017  
**SUBJECT:** Articles and Bylaw Amendments

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Enclosed with this memo are the following documents:

- Three proposed amendments to the Articles of Incorporation; and
- Proposed amendment to the Bylaws.

Generally, the overall plan was to correct an errant reference to the Condominium Act in the original Articles, provide for some guidelines related to electronic voting, take advantage of increased indemnity provisions under the Non Profit Corporations Act, and provide some controls over books and records inspections.

1. Amendments to the Articles. For ease of reference, I provided separate article amendments. I think when we actually go to file them, we will only file one amendment modifying or adding the several Articles. I thought this breakdown of the three concepts in the Articles would make for easier understanding. Ultimately, the intention is to record only one amendment incorporating all of the provisions.
  - (a) There are broader indemnification provisions allowed under the Act and the text for that amendment is basically a recitation of the amendment provisions found in the Non Profit Corporation Act. These provisions must be included in the Articles in order to take advantage of them. I added a sort of expansion clause that will capture any future amendments which might further enlarge those rights. That would probably capture any future changes without requiring amendment to the Articles in the future.
  - (b) In order to completely avail ourselves to the mechanisms for electronic voting and electronic participation, a reference to those rights should be included in the Articles.
  - (c) The final item was to eliminate the extraneous reference to the Michigan Condominium Act. Note that I also have made reference to certain recorded plats for the community. We will have to track down the recording information for the several plats. My research in the Michigan Plat Search website suggests that there are six total Georgetown Lake plats affected.

2. Bylaws. The two main items in the Bylaws were to codify, to some extent, the processes for electronic participation. Those fall into essentially three categories. First is providing for electronic participation at meetings. The next concept is to allow for electronic submission of proxies (the original Bylaws make no mention of proxies actually), and the balance of the provisions attempt to address voting processes. The key point is being able to identify qualified participants by name, address and unit number. I have also provided some alternatives so that electronic voting can be combined with other means of voting, such as having a polling place where people can drop their ballots in an actual ballot box. The Board has latitude to further define the processes given the individual circumstance involved. The Non Profit Corporation Act indicates that we can further regulate electronic participation by resolution.

The other issue in the Bylaws was to attempt to control books and records access. This may need a little more thought on the part of the Board. Generally speaking, the Non Profit Corporation Act now provides that if a Member demands access to books and records with some specificity, those records must be produced within five days, and if not, there is the potential of litigation in Circuit Court and the Association is exposed to attorneys' fees and costs. However, the Association can adopt procedures somewhat controlling the access. I don't think we want to get generally overly concerned about books and records access, but we also don't want an aggrieved co-owner to ambush the Board with a demand for books and records which can't be met timely. Thus, I have added a provision on that point.

3. You should note that the existing Bylaws are probably insufficient for the organization, having a few references to condominium concepts like "common elements" and probably lacking some typical provisions about elections, books and records, the necessity or not for fidelity bonds and other matters. If time and resources permitted a complete restatement of the Bylaws would be worthwhile. I have not attempted to make sure that the existing Bylaws dovetail completely with the Declaration of Restrictions because that didn't seem to be within the scope of urgent repairs contemplated in order to correct the Articles and address electronic participation.

Please review the documents I have enclosed and let me know if you have additional comments or revisions. We can also discuss, if necessary, how you will proceed with actual approval of these amendments. I suggest as a concept that perhaps each Article of the Articles of Incorporation and Bylaws Amendment be put to a separate vote. I have found that sometimes people raise questions or some consternation arises related to a particular provision. If it's an omnibus package, the whole proposal might fail because of one section that proved problematic to some members. Thus, it's probably sensible to at least think about allowing the members to vote on each individual Article amendment or addition to the Articles and Bylaws one by one so that at least some, if not all of the provisions can be adopted without having to resubmit the whole package if controversy arises.

4. Summary. Amendments to the Articles allow for broader indemnification and electronic participation and correct the reference to the Condominium Act. The Bylaws set forth proposed electronic voting procedures and electronic participation and impose some modest limits on access to books and records.