



108 N. 11th Ave., Unit
#1
Bozeman, MT, 59715

October 12, 2016

To the Glastonbury Landowners Board of Directors

Sent via email

Dear Board:

You have asked me for a formal legal opinion regarding whether members/shareholders of an organized company (such as a corporation, LLC, trust, etc.) are “landowners” according to the Covenants. It is my understanding that you recently were questioned about a shareholder of a corporation sitting on the Board of Directors. You were also questioned regarding a Trustee of a trust sitting on the Board. It is my understanding that the corporation owns land in the Subdivision. The Trust does as well. It is also my understanding that the shareholders of the corporation have appointed this person to represent the corporation’s interest in your Landowner’s Association. It is my understanding that with regards to the Trust, the person sitting on the Board is the actual Trustee of the Trust. If any of those understandings is incorrect, please contact me immediately as it can change this opinion.

It is my understanding that the members who questioned you were referring to the definition of “Landowner” in you Covenants. This is found at 3.16. It states that a Landowner is “The record owner(s) of a parcel or condominium in the Community, including any purchaser(s) of record under a contract for deed or similar agreement. The term shall include the record owner(s) of a life estate or an estate for years for an original term of at least fifty-five (55) years in a parcel. Insofar as any ownership, voting or membership rights, privileges, duties and responsibilities provided for in this Declaration are concerned, the term shall not include the Association or the owner(s) of an unvested reversionary or remainder interest(s).”

Your email suggested that there was a question raised as to the legitimacy of a shareholder/trustee sitting on the Board on behalf of the owner Corporation/Trust. To be blunt, I really do not understand why there is an objection. It is common practice for shareholders/trustees to represent their corporation/trust in all matters but the practice of law. Therefore, a shareholder/trustee could vote, pay dues and even serve of the board of directors since they would be representing the Owner in all matters. The corporation or trust could even appoint a non-shareholder/non-trustee agent to do the same. Once again, this is common practice rooted in Montana’s Code, which would include the Montana’s Business Corporation Act, Montana’s Limited Liability Company Act, Montana’s Agency laws, and Montana’s Uniform Trust Code.

Perhaps you could ask the objecting member what, specifically, they believe is the issue, then I could address it with particularity. Suffice it to say that agency law is an entire course in law school. I could spend hours of the history pertaining to each type of entity, how they came to being and how their agents are appointed and what powers they have. They certainly have the power, pursuant to your covenants, to act on behalf of the entity owner in all matters except for the practice of law.

Please let me know if you need more from me.

Sincerely,

Alanah Griffith