

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

THERESA J. LOWE, a single woman;
LOREN J. BOSSHARD and DONNA A.
BOSSHARD, husband and wife;
BURLEIGH M. CUBERT and CAROLYN
R. CUBERT, husband and wife,

Plaintiffs,

vs.

FOXHALL COMMUNITY
ASSOCIATION, a nonprofit corporation,

Defendants.

No. 17-2-00812-34

**DECLARATION OF DENISE
SOLVESON OPPOSING SUMMARY
JUDGMENT**

I, DENISE SOLVESON, do hereby declare:

1. I am over the age of eighteen, competent, and make these declarations based on my personal knowledge.

2. At all times relevant to this lawsuit, the Plaintiff was a member in good standing of the Foxhall Community Association, the homeowners association for the property owned by the Plaintiffs.

1 **A. Bert Lewis Declaration Response**

2 **3.** Pertaining to Paragraph 12 of Bert Lewis’s declaration, the liability insurance Mr.
3 Lewis refers to was purchased approximately two weeks before the second bylaw amendment
4 meeting. Our previous policy would not allow any commercial use of our trails and Bert would
5 not stop it even when the neighborhood was threatened with losing its coverage. Instead the
6 Board passed a resolution redefining the term “Guest” in order to allow commercials boarders to
7 use the trails.
8

9 **4.** Bert promised the Board that he would have the new agent provide a
10 Memorandum of Insurance (MOI) that would address commercial activities using our common
11 areas. No MOI was produced. The agent merely answered that "the use of the common area and
12 trails is intended for association members and their guests" and would not mention commercial
13 uses in writing. However, the Agent did say that businesses operating on the trails need to insure
14 Foxhall themselves. While the Agent went on to say that the policy covers the fact that the
15 HOA has trails but not the activity on the trails.
16

17 **5.** When I attempted to investigate whether the Johnstons had insurance, I
18 discovered that Johnstons have only modified their homeowners policy to add Foxhall
19 Community Association as an additional insured. This provided insurance coverage to
20 themselves, specifically Judy and Gary Johnstan, on Foxhall trails. However, I was threatened
21 with tortious interference if I attempted to get more information from the insurance agent.
22

23 **B. Andrew Kolibas Declaration Response**

24 **6.** While I acknowledge stopping by the Kolibas residence, he does not specifically
25 state what “facts” he later learned were opinions. However, I stand by any assertions I may have
26

1 made at that time as I believe that commercial and unaccompanied nonresidential use of our
2 trails and parks would increase liability and decrease privacy and safety for the residents of
3 Foxhall.

4
5 7. In mid-November, I stopped by the Kolibas residence again to ensure that I could
6 use the previously signed proxy form for the purposes of the rescheduled meeting. I never
7 attempted to coerce anyone at the Kolibas residence into signing the proxy form.

8 **C. Cynthia Coble Declaration Response**

9 8. When I visited Cynthia Coble, I asked her to attend the upcoming bylaw meeting.
10 Because she didn't think she would make it, she decided to give a proxy. She attended the
11 meeting and pulled her proxy at the time of voting, telling me the reason was because Bert Lewis
12 was her neighbor.

13
14 9. I reiterate that I believe commercial and unaccompanied nonresidential use of our
15 trails and parks would increase liability and decrease privacy and safety for the residents of
16 Foxhall. Horseback riding is an inherently high risk/high liability activity. The trails being
17 opened to more nonresident horse riders poses unnecessary risk to the Foxhall residents with no
18 benefit.

19 10. Furthermore, at the time I spoke to Ms. Coble, the then-Board Member F Paul
20 Carlson was advocating for a new trail use policy, door-to-door, which would allow additional
21 non-residents to use the Foxhall trails for a fee. The proposal that was given to the Board is
22 attached to the Declaration of Rose Eilts and allowed non-residents to purchase permits to use
23 Foxhall trails for horseback riding. The plan was \$100 a year for unlimited riding.
24
25
26

1
2 **D. Dennis Longnecker Declaration Response.**

3 11. Dennis Longnecker mentions a lady visited him, accompanied by Theresa Lowe. I
4 was that person. In his statement, he seems confused about what we were saying. He is referring
5 to other businesses use of Foxhall property and I am not quite sure what he means unless he is
6 talking about businesses on private lots in the neighborhood, which was not our focus. We were
7 trying to protect our association property from use by commercial boarding facilities.
8


9 12. Dennis was known to dislike intrusion from nonresidents in the past and that is
10 why we went to him to discuss the situation expecting his support and advice. This very short
11 meeting was in early October, not in mid November. In less than 2 minutes he became irate and
12 we left. Theresa sent an apology for upsetting him because she is his neighbor and didn't want to
13 ruin their relationship.
14

15 **E. Meeting Minutes for November 19, 2015 Special Meeting.**

16 13. Attached as Exhibit A hereto, excluding attachments, are the minutes for the
17 November 19, 2015 Special Meeting which were approved without amendment at the April 25,
18 2016 General Meeting of the Association.

19 I hereby declare, under penalty of perjury, that the above declarations are true and correct
20 to the best of my knowledge.
21

22 Dated this 29th day of June, 2017 at Olympia, WA.
23

24 
25 _____
26 Denise Solveson, Declarant

Foxhall Community Association Special Meeting of November 19, 2015

Minutes

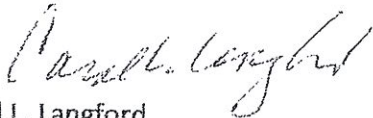
1. Special Meeting Called to Order by Denise Solveson at 7:30 pm. Special Meeting agenda provided to all present.(See Attachment A-Agenda)
2. Rose Eilts designated as Parliamentarian.
 - Reviewed Rules of Meeting including those printed on the Meeting Agenda
 - Referenced Minute Taker
 - Reviewed Special Meeting Process referencing the Foxhall Community Association Bylaws stating sufficient number of special meeting requests was collected to satisfy the requirements of both the Foxhall Community Association (FCA) Bylaws and the Revised Code of Washington.
 - Reviewed the process for amending the Bylaws as written in the FCA Bylaws.
 - Requested all present to sign the sign-in sheet.(See Attachment B
 - Requested a motion to discuss the proposed Bylaw.
3. Motion made and seconded to discuss the proposed Bylaw.
4. Motion made and seconded to amend the proposed Bylaw.
5. After a vigorous discussion a Ruling was made by Parliamentarian to continue the meeting by discussing the original, proposed Bylaw as written in the agenda thereby following the Rules of the Meeting
6. Statement in Favor of the Proposed Bylaw by D Solveson (10 Minutes)
7. Floor Opened for a 10 minute period of further comment.
8. Discussion and comments made in support and opposition of proposed Bylaw.
9. Ruling by Parliamentarian asking members to not speak about another person who is not here in attendance.
10. Ruling by Parliamentarian extending discussion period
11. Motion made and seconded to form a committee to discuss the situation and recommend a resolution. Discussion ensued.
12. Motion made and seconded to amend the motion on the floor, motion stated as "if a committee is formed they would be required to meet with a professional mediator or facilitator from an organization such as the Dispute Resolution Center and the mediator would be required to report to the board and the community." Discussion ensued. Vote taken. With a show of hands vote the Motion passed.
13. Motion on the floor restated as "To table the vote until a committee can be formed and discuss this further." Vote taken. Motion did not pass. Request for a recount made. Recount of show of hands vote was done. Motion did not pass.
14. Discussion continued regarding the original, proposed Bylaw.
15. Motion made and seconded to vote on the proposed, original Bylaw. Paper ballots distributed. (See Attachment C, Paper Ballot)

Note: The Proposed Bylaw as printed on the Bylaw Ballot reads as follows: Article VI; POWERS AND DUTIES OF THE DIRECTORS Sec 9. Foxhall Parks and Trails are for the exclusive use of residents, families and friends. Nonresident visitors must be accompanied by a resident when using Foxhall Parks and Trails. Foxhall Association members' businesses may not extend their business activities onto Foxhall

Parks and Trails. Members' business invitees, customers, or patrons, whether in trade or in barter, are prohibited from using Foxhall Parks and Trails, even when accompanied by a Foxhall member.

- 16 Point of Order regarding "what is on the different proxy forms?" Parliamentarian reported that after the last meeting of October 27, 2015 all the proxy forms were taken to an attorney who confirmed all the proxy forms were valid.
- 17 Paper ballots collected. Paper ballots and proxy votes counted twice.
- 18 Results of Vote Announced with 78 votes yes, for the proposed Bylaw and 18 votes no against the proposed Bylaw. The Motion to pass the proposed Bylaw passed. (See Attachment D, Summary of Voting Results)
- 19 Motion made and seconded to adjourn. By acclamation all were in favor of adjournment at 9:20 pm.

Respectfully submitted,



Carol L. Langford
01/11/2016

Addendum: As reported by D Solveson following a request from F. Paul Carlson, Foxhall Community Association Board of Directors Secretary copies of the sign-in sheet, ballot summary reporting sheet, paper ballots and proxy vote forms were submitted to him on December 2, 2015 at the close of the FCA Budget Meeting.

Carol Langford (CL)
01/11/2016

See Attachments:

- A – Foxhall Community Association Special Meeting November 19, 2015 Agenda
- B – Foxhall Sign-In Roster printed 11/18/2015
- C – Bylaw Ballot for 19 November 2015 Foxhall Community Association
- D – Summary of Ballots for 27 October Form 2015 dated 11-19-2015