

Dear Owners,

Your Board of Directors, and some of you as members of the Association, continue to receive unsolicited emails from certain private individuals within our community. While it is certainly the right of all owner/members of our community to express their opinions openly, the use of a non-protected email distribution lists for transmittal of any information, potentially subjects all members on the distribution to scammers, spammers and the like. The Association email distributions always use the Bcc: utility for distribution of mass emails to our members.

There have been recent emails sent that have suggested that the Association is subject to the rules and regulations of the new WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT RCW 64.90 which was implemented in Washington state last year. This is simply not true. The following paragraphs from the RCW document the exclusion of Associations created under RCW 64.32 and 64.34 from the new act:

RCW 64.90.080

Common interest communities, preexisting.

(1) Except for a nonresidential common interest community described in RCW **64.90.100**, RCW **64.90.095**, **64.90.405**(1) (b) and (c), **64.90.525** and **64.90.545** apply, and any inconsistent provisions of chapter **58.19**, 64.32, 64.34, or **64.38** RCW do not apply, to a common interest community created in this state before July 1, 2018.

(2) Except to the extent provided in this subsection, the sections listed in subsection (1) of this section apply only to events and circumstances occurring on or after July 1, 2018, and do not invalidate existing provisions of the governing documents of those common interest communities. To protect the public interest, RCW **64.90.095** and **64.90.525** supersede existing provisions of the governing documents of all plat communities and miscellaneous communities previously subject to chapter **64.38** RCW.

RCW 64.90.090

Prior condominium statutes.

(1) Chapter **64.32** RCW does not apply to condominiums created on or after July 1, 1990, and except as otherwise provided in subsection (2) of this section, chapter **64.34** RCW **does not apply to condominiums created on or after July 1, 2018.**

These sections state that communities organized **after July 1, 2018** would come under the new Act. Our condominium was organized in February of 2003 as recorded in our Declaration.

There are provisions in the new Act for Condominium Associations like ours to amend

their Declarations for revision to be re-organized under the new Act, this has not happened in our circumstance. The new Act does require all Homeowner's Associations created under RCW 64.38 to come under the new Act. As stated in prior messages to owners, the Spokane RV Resort owners Association was and remains under the jurisdiction of RCW 64.34 – Condominium Act.

There have also been private emails challenging the current election and vote approval process used by the Association to distribute and collect vote information and ballot requests.

As previously answered in the August 10th Letter to owners, "There is no requirement in our Declaration of Bylaws or the RCW to require an independent vote custodian. In fact, and as many of our current owners know, prior annual meeting elections have been conducted in the annual meeting through a show of participant hands. That said, the Board will deliver all voting materials to our CPA firm in Deer Park for vote tally and certification purposes."

Additionally, there is no requirement for "secret ballots" in our Declaration, or for that matter, in the new Act that some people have suggested we are bound by, see below:

RCW 64.90.455

Unit owner voting.

(1) Unit owners may vote at a meeting in person, by absentee ballot pursuant to subsection (3)(d) of this section, or by a proxy pursuant to subsection (5) of this section.

(2) When a vote is conducted without a meeting, unit owners may vote by ballot pursuant to subsection (6) of this section.

(3) At a meeting of unit owners the following requirements apply:

(a) **Unit owners or their proxies who are present in person may vote by voice vote, show of hands, standing, written ballot, or any other method for determining the votes of unit owners, as designated by the person presiding at the meeting.**

It has also been suggested in unsolicited emails to our owners, that there is limited visibility of Association finances, thereby rendering the approval of the NE Corner Phase 1 Dog Park expansion ill-timed. Again, the annual budget of the Association and the balance sheet showing bank account balances in both the Reserve and Operations accounts have been available on the Association website since May of this year. To date, there have been no owner questions or challenges to the annual budget as presented. The current bank statement balances and year-to-date budget performance reports have been updated on the website through July month end. To summarize, the current financial position of the Association remains healthy and is basically unchanged since May of this year. The Reserve Account has no current liabilities or commitments, meaning that the full amount of \$65,585 may be used for potential improvements within our Association as recommended by your Board of Directors in the Phase 1 improvement proposal. Even after the proposed expansion of the dog park, the Reserve account would still have a balance of over \$50,000.

There have also been several comments from owners asking why the Amendment

approval package had all 8 proposed revisions up for a single vote approval. Once again, if each owner will read the information included with the Amendment proposal, they should note that the proposed language is limited in its application. The Board believes that approval of all the proposed changes collectively, will form a solid foundation for our Association to properly govern itself with into the future. As previously stated in letters to the owners, individual voting on each and every proposed paragraph could result in a long and drawn out approval and recording process with required legal support. The proposed changes are intended to be simple, easy to understand, and practical in our current community environment.

Lastly, emails from private owners have repeatedly challenged why the Association has not held an open in-person meeting for voting and communication purposes. Starting as early as June 15 of this year, the Board has notified owners of the restrictions on public gatherings mandated by the Governor and Spokane County under COVID Stage 2 proclamations.

The Governor also issued a series of proclamations specifically earmarked for applicability to community associations such as ours. Here is a link to the proclamation:

<https://www.governor.wa.gov/sites/default/files/proclamations/20.51.1COVID19CommunityAssoc.pdf>

Included in his proclamation is the following paragraph that applies to all non-profit corporations such as ours, see items in bold below:

2. RCW 24.03.085(3) – the following stricken provisions only:

- (3) ~~If specifically permitted by the articles of incorporation or bylaws, whenever proposals or directors or officers are to be elected by members, the vote may be taken by mail or by electronic transmission if the name of each candidate and the text of each proposal to be voted upon are set forth in a record accompanying or contained in the notice of meeting. If the bylaws provide, an~~ **election may be conducted by electronic transmission if the corporation has designated an address, location, or system to which the ballot may be electronically transmitted and the ballot is electronically transmitted to the designated address, location, or system, in an executed electronically transmitted record. Members voting by mail or electronic transmission are present for all purposes of quorum, count of votes, and percentages of total voting power present.**

Additionally his proclamation states: “**Violators of this of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5).**”

Also added for your information, is the response from the COVID-19 Business Response Center regarding public gatherings under Phase 2 restrictions and the notion of moving our in-person meeting to a different county:

“Thank you for your inquiry. On May 31st, Governor Inslee set forth specific COVID-19 Requirements for restarting low-risk business activities under the Safe Start Washington phased recovery plan (located [here](#)).

Specific to your question, this is indeed correct information that you received. You cannot move to a Phase 3 county from a Phase 2 county unless you held the meeting with no more than 5 people, as is allowed in your current county.

Whether indoors or outdoors, you must follow the gathering limitations of the county in which the meetings will take place.

Please know that our determination here could change in the future if the situation calls for additional restrictions. Please also be mindful that, to maintain this designation, you must follow the COVID-19 Requirements around social distancing and sanitation referenced in Proclamation 20-25.6 or any subsequent proclamation.

For your information, the following are links to Department of Health, Department of Labor & Industries and Governor’s Office phased re-opening COVID-19 Requirements:

Safe start plans and COVID-19 Requirements for reopening: <https://coronavirus.wa.gov/what-you-need-know/safe-start>

Department of Labor and Industries *COVID-19 Requirements*.

Department of Health guidance: <https://www.doh.wa.gov/Coronavirus/Workplace>

Thank you.

COVID-19 SEOC Business Response Center

Please do not respond to this email because the account is not monitored. The account is used by the Business Response Team with the Washington State Emergency Operations Center only to provide responses to inquiries regarding the intake form you completed. Please visit coronavirus.wa.gov for ongoing COVID-19 Requirements.

Disclaimer: *This response is intended only to provide guidance on Proclamation 20-25.6 and does not grant any other license, certification, or privilege.*

Email communications with state employees are public records and may be subject to disclosure, pursuant to Ch. 42.56 RCW. Any person wishing to request access to public records of the military department, should contact the Public Records Officer, email:public.records@mil.wa.gov.

Your Board of Directors has the fiduciary responsibility to follow our Declaration Covenants, Requirements and Restrictions as well as obeying state and local laws and proclamations. Hopefully all of our owners agree that violation of these restrictions could jeopardize our community to possible civil and criminal liabilities. Also, what if we did in

fact have an in-person meeting and one individual in that meeting inadvertently passed the virus to one or more members of our ownership group? The potential for a full scale quarantine of our community and prosecution under the Governor's order are risks your Board must not take.

In conclusion, your Board has spent considerable time and energy on all owner's behalf's, to ensure that the 2020 voting proposals and election of officers has been done openly and in concert with our Association governance requirements and the mandates that have been issued by Governor Inslee. We're doing the best we can during these tough times to communicate as openly and widely as possible. The Board hopes that all members will look at the voting package not as a threat, or challenge to their way of life, but as a look toward the future and an ever-improving Spokane RV Resort Owners Association experience.

Board of Directors
Spokane RV Resort Owners Association