

Testimony in support of House Bill 5591, by Ken Lashuay,
General Manager of Lakes of the North Association.

Overview of Lakes of the North Association:

The Association and its Restrictive Covenants, or deed restrictions, are nearly 50 years old. We have 8,028 lots owned by over 4,700 members and 3,000 acres of common ground. We are located on 15 square miles between Gaylord and Mancelona, and offer an 18 hole golf course, 160 site year round campground, an indoor pool and banquet/meeting facility, two beachhouses on private lakes, an airport, fire department, restaurant, horse riding stables, a winter sports facility, and more.

Why we can't change our deed restrictions:

The original developer who is no longer in business wrote the Covenants to facilitate selling lots, not to protect and enhance property values, and structured them so they are virtually impossible to change. They are automatically extended every ten years; a change can only be attempted once every 10 years and can't be effective until 3 years later. Initiating a change requires physical signatures to be gathered within one year from 2/3 of the lot owners who live throughout the country. This has proved to be an impossible task, hence our desire to collect signatures electronically. The next steps for change as outlined by the Covenants are ambiguous and require a state

court declaratory judgment. We need to collect the necessary 2/3 signatures in order to get before a Judge to rule on the ambiguities. Previous legislation would have allowed us to make changes by altering the wording of the Michigan Condominium Act; it passed the Senate unanimously but while in the House it was deemed by the Legislative Service Bureau to be an impairment to a contract so the legislation died.

Why we want to change our deed restrictions:

Here are just a few examples:

- 600 square foot homes are allowed adjacent to 2,000+ square foot homes on the golf course;
- asbestos siding is allowed on homes, but not vinyl;
- there are no enforcement provisions for member rule infractions on issues such as blight, storage, running businesses, etc.;
- the maximum late fee on assessments can only be \$2 regardless of the amount owed.

ABOVE ALL, WHY CHANGES ARE DESIRED:

Our voting procedures are arcane. Setting assessment amounts for operations requires an initial quorum of 60% of lot owners (4,800 lots) represented at a special meeting. If a quorum is not met, a second meeting must be noticed 30 days in advance, with quorum requirements cut in half to 2,400. If no quorum, a third meeting is noticed 30 days in advance, and the quorum is

reduced to 1,200. Historically, actual voting is done by less than 2,000 members. At least three meetings are necessary, a very expensive process.

Proxy voting is a huge problem. Ballot voting can only be done in person. Therefore, about 90% of votes historically are cast by proxy. These proxies cannot be voted as a simple yes or no. Members simply assign their voting privilege to the Board of Directors President or another member who can vote them (in person) as they wish. This causes member resentment and a feeling of disenfranchisement by not being allowed the right to actually vote. And for a vote to pass, it requires a supermajority of 2/3. With most members being absentee owners, it is very difficult to achieve successful voting when it's required to be physically present to vote.

For these reasons and many others it is highly desirable to modernize and democratize our Restrictive Covenants. The first step is to be able to electronically collect the signatures necessary to begin the process. I would be happy to answer any questions; thank you for your time and consideration.