

Strata Property Act

FORM Y

OWNER DEVELOPERS' NOTICE OF DIFFERENT BYLAWS

(Section 245(d); Regulations section 14.6(2))

Re: Strata Plan EPS2860, being a strata plan of

PID:

Legal Description: LOT A DISTRICT LOT 2450S SIMILKAMEEN DIVISION YALE DISTRICT PLAN
EPP51294

The following or attached bylaws differ from the Standard Bylaws to the *Strata Property Act*, permitted by section 120 of the *Act*:

Dated this ____ day of July, 2015.

REFLECTION POINT RESORT LTD. *per:*

Signature of Applicant – Robert Bontkes

R.A.B. PROPERTIES #2 LTD. *per:*

Signature of Applicant – Robert Barker

608960 B.C. LTD. *per:*

Signature of Applicant – Joanne Barker

DANIER HOMES INC. *per:*

Signature of Applicant – Kees van Rhee

Signature of Applicant - PETRA HENRIETTE BONTKES

Signature of Applicant - JEFFREY BONTKES

Signature of Applicant - ROBERT BONTKES

Signature of Applicant - TAKO VAN POPTA

Signature of Applicant - DALE ALEXANDER KIRKLAND

PART 1 – DUTIES OF OWNERS, TENANTS, OCCUPANTS AND VISITORS

1. Payment Of Strata Fees

- a. An owner must pay strata fees on the date and in the manner specified in the budget.
- b. If an owner is late in paying his or her strata fees, the owner must reimburse the strata corporation and any other owner for any loss or damage directly or indirectly caused by the lateness.

2. Repair And Maintenance Of Property By Owner

- a. An owner must repair and maintain the owner's strata lot, and the building or buildings that form the strata lot, including but not limited to the following:
 - i. the structure of a building including its foundations
 - ii. the exterior of a building including the roof and overhangs;
 - iii. chimneys, stairs, balconies and other things attached to the exterior of a building;
 - iv. doors, windows and skylights including casings, frames and sills; and
 - v. fences, railing and similar structures that enclose patios, balconies and yards.
- b. An owner who has the exclusive use of limited common property shall be solely responsible and liable for the repair, maintenance and upkeep of the limited common property and any structures or improvements built thereon, including but not limited to the following:

- i. the structure of a building, including its foundations;
- ii. the exterior of a building, including the roof and overhangs;
- iii. chimneys, stairs, balconies and other things attached to the exterior of a building;
- iv. doors, windows and skylights on a building, including casings, frames and sills;
- v. fences, railings and similar structures that enclose patios, balconies and yards; and
- vi. landscaping.

The Strata Corporation shall not be responsible for any of these costs.

- c. Despite any other provision of these bylaws, an owner must repair and maintain facilities for the passage or provision of water, sewage, drainage, gas, oil, electricity, telephone, radio, television, garbage, heating and cooling systems, or other similar services, if they benefit only that owner's strata lot or that owner's limited common property, regardless of their location.
- d. An owner shall promptly carry out all work that may be ordered by any competent public or local authority in respect of his or her strata lot other than work for the benefit of more than one strata lot or for the building generally, and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of the strata lot.

3. Use of Property

- a. An owner, tenant, occupant or visitor must not use a strata lot, the common property or common assets in any way that:
 - i. causes a nuisance or hazard to another person;
 - ii. causes unreasonable noise;
 - iii. unreasonably interferes with the rights of other persons to use and enjoy the common property, common assets or another strata lot; or
 - iv. is illegal.
- b. An owner, tenant, occupant or visitor must not cause damage, other than reasonable wear and tear, to the common property, common assets or those parts of the strata lot which the strata corporation must repair, maintain or insure under these bylaws or the *Act*.
- c. An owner may build or install structures and/or improvements on his/her limited common property without the consent of the Strata Corporation, for his/her exclusive use and benefit, subject to obtaining the necessary municipal approval.
- d. No owner shall park a recreational vehicle, including without limitation, a 5th wheel trailer, travel trailer, mobile home or any other transportable dwelling on a strata lot prior to receiving an occupancy permit for the permanent residence constructed on-site. After the occupancy permit is issued from the appropriate authority an owner may store a 5th wheel trailer, travel trailer, mobile home or other transportable dwelling on the owner's strata lot provided it is being stored within the side yard and is screened from view by an enclosure. Owners may park a recreational vehicle, 5th wheel or travel trailer on their driveway for no more than 7 calendar days in any calendar month. No mobile homes shall be permitted on site.

4. Inform Strata Corporation

- a. Within 2 weeks of becoming an owner, an owner must inform the strata corporation of the owner's name, strata lot number and mailing address outside of the strata plan, if any.
- b. On request by the strata corporation, a tenant must inform the strata corporation of his or her name.

PART 2 – POWERS AND DUTIES OF STRATA CORPORATION

5. Repair and Maintenance of Property

- a. The strata corporation must repair and maintain all common assets including the pump house, marina and other common services of the strata corporation and all common property (if any) that is not designated as limited common property.

PART 3 – COUNCIL

6. Council Size and Composition

- a. The council is made up of one representative for each strata lot.
- b. The following persons may be council members:
 - i. an owner;
 - ii. an individual representing a corporate owner;
 - iii. a tenant who has been assigned a landlord's right to sit on council under the *Act*;
 - iv. a spouse of an owner, whether or not legally married; and
 - v. a representative of an owner appointed by an owner in writing.
- c. Despite any other provision of these bylaws, no person may sit on council with respect to a strata lot if that strata lot is in arrears with respect to strata fees or special levies.

7. Calling Council Meetings

- a. Any council member may call a meeting by giving the other council members at least one week's written notice of the meeting, specifying the reason for calling this meeting.
- b. A council meeting may be held without notice if all council members consent to the meeting.

8. Quorum of Council

- a. A quorum of the council is:
 - i. one, if the council consist of one member;
 - ii. two, if the council consists of two or more members.
- b. Council members must be present in person at the council meeting to be counted in establishing quorum.

9. Council Meetings

- a. At the option of the council, council meetings may be held by electronic means, provided that all council members can communicate with each other;
- b. If a council meeting is held by electronic means, council members are deemed to be present in person.

10. Voting at Council Meetings

- a. At council meetings, decisions must be made by a majority of council members present at the meeting.

11. Delegation of Council's Powers and Duties

- a. The council may delegate some or all of its powers and duties to one or more council members or persons who are not members of the council, and may revoke the delegation.

12. Spending Restrictions

- a. A person may not spend the strata corporation's money unless the person has been delegated the power to do so in accordance with these bylaws.

13. Limitation on Liability of Council Member

- a. A council member who acts honestly and in good faith is not personally liable because of anything done or omitted in relation to any power or duty of the council, but is liable as an owner for a judgment against the strata corporation.

PART 4 – ENFORCEMENT OF BYLAWS AND RULES

14. Fines

- a. The strata corporation may fine an owner or tenant a maximum of:
 - i. \$200 for each contravention of a bylaw; and
 - ii. \$50 for each contravention of a rule.
- b. The strata corporation may impose a fine on any owner or tenant for a continuing contravention of a bylaw or rule every 7 days.

PART 5 – ANNUAL AND SPECIAL GENERAL MEETINGS

15. Person to Chair Meetings

- a. Annual and special general meetings must be chaired by the president of the council or a person elected by the eligible voters present at the meeting.

16. Participation by Other Than Eligible Voters

- a. Only eligible voters and persons authorized in writing by eligible voters to attend may attend annual or special general meetings.

17. Voting

- a. At an annual or special general meeting a vote is decided by roll call;
- b. The outcome of each vote must be announced by the chair and recorded in the minutes of the meeting;
- c. An owner who is otherwise an eligible voter may not exercise his or her vote for a strata lot, except on matters requiring a unanimous vote, if the strata corporation is entitled to register a lien against that strata lot under the *Act*.

18. Order of Business

- a. The order of business at annual and specific general meetings is as follows:

- i. certify proxies and corporate representatives;
- ii. determine that there is a quorum;
- iii. elect a person to chair the meeting, if necessary;
- iv. present to the meeting proof of notice of meeting or waiver of notice;
- v. approve the agenda;
- vi. approve minutes from the last annual or special general meeting;
- vii. deal with unfinished business;
- viii. receive reports of council activities and decisions since the previous annual or special general meeting;
- ix. ratify any new rules made by the strata corporation under section 125 of the *Act*;
- x. report on insurance coverage in accordance with section 154 of the *Act*, if the meeting is an annual general meeting;
- xi. approve the budget for the coming year in accordance with section 103 of the *Act*, if the meeting is an annual general meeting;
- xii. deal with new business, including any matters about which notice has been given under section 45 of the *Act*;
- xiii. terminate the meeting.

19. Electronic Attendance

- a. Persons attending an annual or special general meeting may attend by electronic means, provided that all persons participating in the meeting can communicate with each other.

PART 6 – MISCELLANEOUS MATTERS

20. Defined Terms

- a. All terms defined in the *Act* and used in these bylaws will have the meaning given to them in the *Act* unless otherwise defined in these bylaws or the context requires otherwise.

21. Seal

- a. The strata corporation will not have a common seal.

22. Severability

- a. If any provision of these bylaws is declared to be invalid by a Court, all other provisions will continue in force as if the invalid provision had never been included.

23. Insurance

- a. For the purposes of this section, each strata lot is a distinct type of strata lot;
- b. Despite any other provision of these bylaws or the *Act*, a contribution to the operating fund for the purpose of paying premiums for property insurance on a building containing all or part of a strata lot is deemed to relate to and benefit only that strata lot, and such contribution must be allocated only to the owner of that strata lot and not in accordance with the formula set out in the *Act*. In the case of any dispute in regards to this bylaw (23b), the determination as to the prorated costs of insurance shall be made by an accountant or insurance agent mutually agreeable to the owners.

24. If possible, the owners will use their best efforts to obtain independent non-commercial insurance.

25. Types of Strata Lots; Use of Marina

After deposit of the strata plan which creates Phase 2 of the development, the owners of Strata Lots 1 to 8 will not be entitled to use the marina located adjacent to the westerly part of the development, nor will they be entitled to share in the revenue from the marina. After deposit of the strata plan which creates Phase 2 of the development, the owners of Strata Lots 9 to 30 will be entitled to the exclusive use of the marina and any revenue therefrom, and will bear the entire cost of maintaining the marina facilities, and maintaining and renewing the water license.

PART 7 – LIABILITY AND INDEMNITY

26. No owner shall be liable or responsible in any way for any death or injury arising from or out of any occurrence in, upon or about the property, including, without limitation, the strata moorage/marina, nor for any loss or damage to property of any other owner or others located in, on or about the property, from any cause whatsoever nor, without limiting the generality of the foregoing:

- a. For any death, injury, loss or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, snow or leaks from any part of the property or from the street or subsurface of any floor or ceiling or from any other place or because of dampness or climatic conditions from any other cause of whatsoever nature;

- b. Nor for any death, injury, loss or damage whatsoever to persons or property caused by any other owner or their family, tenants, agents, employees, contractors, invitees or licensees in, on or about the property, or by an occupant of any adjacent property, or by a member of the public, or by virtue of any construction of any private, public or quasi-public work;
- c. Nor for loss or damage of or to any money, securities, negotiable instruments, papers or other valuables of or held in, on or about the property by any owner or their family, tenants, agents, employees, contractors, invitees or licensees;
- d. Nor for loss or damage of or to any property of any owner or their family, tenants, agents, employees, contractors, invitees or licensees, located in, on or about the property, which is entrusted to the care or control of such first-mentioned owner or his family, tenants, agents, employees, contractors, invitees or licensees;
- e. Nor for any loss or damage suffered by any owner or their family, tenants, agents, employees, contractors, invitees or licensees, to the houses and accessory buildings and improvements or to their contents by reason of such first-mentioned owner or his family, tenants, agents, employees or contractors entering in an emergency.

except such death, injury, loss or damage caused by the intentional conduct or negligence of such first-mentioned owner or his family, tenants, agents, employees, contractors, invitees or licensees.

27. All property kept or stored anywhere in, on or about the property by or through any owner shall be so kept or stored at the risk of such owner only, and such owner shall indemnify the other owner(s) for any claims arising out of any loss or damage to such property, including any subrogation claim by the owner's insurers.
28. Each owner shall indemnify and save harmless each other owner from and against any and all loss, claims, actions, damages, liabilities and expenses in connection with loss of life, personal injury, or damage to or loss of property:
- a. arising from:
 - i. any occurrence on or about the property involving; or
 - ii. the occupancy, use or enjoyment of:
 - a) the existing houses;
 - b) the associated accessory buildings, structures and improvements including, without limitation, the strata moorage/marina, the sanitary pump station or pump house/kiosk, fire flow control kiosk, entry gates or any parts thereof,
- by such owner, his family, guests, tenants, agents, employees, contractors, invitees, licensees or anyone permitted or suffered by such owner to occupy, use or be on or in any part of the property;
or
- b. resulting from any act or omission of such owner, his family, guests, tenants, agents, contractors, employees, invitees, licensees or by anyone permitted or suffered by such owner to occupy, use or be on or in any part of the property.

29. Without limiting the generality of the provisions of this by-law, if any owner shall, without fault on his part, be made a party to any litigation commenced by or against any other owner, or any litigation regarding any matter for which the first-mentioned owner is entitled to indemnity by another owner under this by-law, then such other owner shall protect and hold harmless the first-mentioned owner and shall pay all costs, expenses and reasonable legal fees incurred or paid by such first-mentioned owner in connection with such litigation.

Marketing Activities by Owner Developer

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- (1) An Owner Developer who has an unsold strata lot may carry on sales functions that relate to its sale, including the posting of signs.
 - (2) An Owner Developer may use a strata lot that the Owner Developer owns or rents, as a display lot for the sale of other strata lots in the strata plan.
 - (3) Without limiting the generality of the foregoing the Owner Developer shall have the right, so long as it owns any unsold strata lots, to maintain and use its unsold strata lots and the common property amenity area as display units and sales offices and to carry out such sales functions as the Owner Developer deems necessary or desirable to enable the sale and marketing of all strata lots in the development and at other developments of the Owner Developer or related entities within the south Okanagan area of British Columbia, including:
 - (i) erecting and placing directional, location and advertising signage on the strata lots owned by he Owner Developer and on the common property;
 - (ii) encouraging and allowing perspective purchasers to view the strata lots owned by the Owner Developer, the common property and all common facilities; and
 - (iii) erecting and maintaining a sales trailer, placards, flags and other like items for marketing, sales and advertising on the common property of the development which shall be removed at the Owner Developer's expense once all strata lots have been sold by the Owner Developer.
 - (4) In order to allow the Owner Developer of the strata lots to market and sell any strata lots owned by the Owner Developer, the Owner Developer may, until the last strata lot has been sold by the Owner Developer:
 - (i) allow any project or security gate to remain open during regular business hours including weekends so as to allow prospective purchasers reasonable and unimpeded access to any strata lot owned by the Owner Developer and access to the common property and facilities of the development; and
 - (ii) have unimpeded access for the Owner Developer, its sales staff, agents and prospective purchasers to the common property and common facilities of the development.
 - (5) A strata lot owner may display on the Common Property a form of signage designed to attract pedestrians and passersby and which signage relates directly or indirectly to the sale or lease of a strata lot, however, until such time as the Owner Developer is no longer the first owner of any strata lot, the Owner Developer shall be entitled to stipulate, within reason, the location and maximum size of any owner's signage on the Common Property.
 - (6) Except as provided for in these Bylaws and subject to the restrictions contained in Bylaw 29(3) and 29(4) above, no advertising for the re-sale of a strata lot shall be permitted except on a directory board to be provided by the strata corporation for such purpose.