

Why is Our Board So Special?

Over the last many months there have been numerous discussions about the legality of the Bylaw changes unilaterally made by the PIPOA Board in 2013. According to the then in-effect Bylaws, only the Homeowners could amend the Bylaws. But, according to the Board attorney, Texas state law required allowing a Board to amend the Bylaws.

The PIPOA Board attorney cites a statute that he says supports the Board position. While, several Homeowners who are also attorneys, as well as several attorneys paid for by a Homeowner, agree with the position that the Board overstepped their authority when they amended the Bylaws.

So, I decided to look around to see how other Homeowner Associations handle Bylaw amending. And, I decided to look in our own backyard.

Kings Crossing is a familiar Corpus Christi neighborhood with an HOA created in 1984, just a decade after us. Their original Bylaws limited amending to only the Homeowners. They amended their Bylaws in 2014 (likely because of the same state issues cited by our Board). However, when they amended, the Homeowners voted the changes and they retained amending right solely to the Homeowners.

Tropic Isles is the canal neighborhood in Flour Bluff. It and it's HOA were created in the late 1950s and they also amended their Bylaws in 2013. Their Bylaw amending rules are a little different. Amendments are voted on by the Board but only after presentation at three consecutive Board meetings and they do not take effect until a Homeowner vote to "deny, abridge or modify". The result being that Homeowners still have the final say.

I also looked at the City of San Antonio website. They have a set of sample Bylaws for newly developed HOA's to use. In their sample they list three amending options. All of the options limit amending solely to the Homeowners. None of them allow amendments by the Board.

I have found 8 other examples in the Port A and Rockport areas. All reserve Bylaw amending solely to the Homeowners.

Copies of these referenced Bylaws can be found at the Documents tab at www.PadreIslandArch.com

So, I reject the argument that the Board "must" be allowed to amend the Bylaws. Other local HOA Boards manage with allowing only the Homeowners to amend, so why is our Board so special? Other local HOA's (and their attorneys) do not seem to believe that their Boards have been granted a right by the State, so why is our Board so special?

Ultimately, short of litigation (which no one wants) this argument will not end. Which is why we are proposing an amendment to our Bylaws which returns amending rights solely to the Homeowners. You can read more about this amendment and request a ballot at www.PadreIslandArch.com

At this point it is up to us Homeowners to take back what was taken from us.

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