QUESTIONS FOR ATTORNEYS PERLSTEIN AND SANDLER

1. You have said that the COIA is statutory in nature and therefore precedent does not apply, yet section 47-211 of the COIA says “every contract or duty governed by this chapter imposes an obligation of good faith in its performance or enforcement.”. Does this good faith requirement bring certain actions of the Board into question when only non Woodmoor Board members will potentially change Woodmoor’s property interests and/or financial and Council obligations without its consent? This may very well apply to Pond Bridge as well.
2. At the recent meeting, you were asked about retaining walls in the Village stating that these walls were Council expenses attributable to the Village Council. In reviewing the survey, the retaining walls are past the tree line. It appears from the survey that these will now be designated as Conservancy; can you clarify?
3. If these walls are now placed into the Conservancy by virtue of the survey how does the Declaration at section 2.6 (d) apply which says “costs and expenses imposed by the Association, benefitting fewer than all the Units shall be assessed exclusively against those Units benefitted….” Please explain?
4. You stated at the session with the Board that Limited Common Elements were not necessarily a cost allocation, rather they are a use allocation. If you combine the limited common element and section 2.6(d) together don’t they create a direct cost for the designated user of the limited common element? Can you explain?
5. Along Walden Meadow Rd. at the Village and Pond Bridge the councils go all the way to the curb. Why don’t all counsels go to the curb. We understand that the Dec says that the principal entrance road is part of the conservancy. While we are changing the Dec can we change that to define principal entrance road ending at Haskins Road?
6. Are retaining walls limited common elements under the declaration’s definitions such as 6.1(k) and the general intent expressed by those sections? If they’re not should they be?
7. The “agreement” addressed who is responsible for paying for the sidewalk all along the Village, On the Green, and Walden Meadow. You recommended that the Board change that designation as Village and move it into the Conservancy because the Declaration says the main entrance road is to be maintained by the Conservancy. Can’t we just change the declaration to define the main entrance road as Walden Meadow Road until it meets Haskins Road? That, too, would be a viable solution, would it not?
8. Because the map along Scarlet Lane is incorrect, does it require a correction of the map to show that the large retaining wall separating the councils is not in a Conservancy area (the map shows the Wall as being in the treed area when in fact the “trees” (many of which are sumac and weeds not something that was planted) end then the Wall is adjacent) or can the fact that this retaining wall is council responsibility merely be reflected in a line item noted in the proposed Declaration Amendment?
9. If the parking spaces on Jacobi near the garden are Townhome council spaces, why are the sidewalks surrounding them, designated as Conservancy? They can be reallocated, correct?
10. If the goal is to place items that are within and/or surrounded by councils such as Thoreau Cir and the walkway on Pierce to Thoreau into the Conservancy, why is it that the trees surrounding Walden Pond which is surrounded by the Duplex and Townhome councils are not in their council? The pond is no different from the Walkway except that one (Thoreau Pierce Walkway) is on Public land for all to use and the Pond is on Private land for use of Unit owners exclusively.
11. The maps show that the treeline on Marble Faun and Walden Meadow on the pond side is conservancy not the council. Directly across the street is a treeline that abuts 144 Pierce. If the councils end where the treeline begins, why is this entire area now placed into the Woodmoor Council?
12. The map is missing the vortechnic units and who is responsible for them. We understand that the Town is responsible for one of them: which one? Where are they and who pays for them?
13. Since the goal of this proposed Declaration amendment is to clarify and make financial responsibilities more equitable, and since the Vortechnic Units and amphibian tunnel were a requirement of the Town Wetlands commission as conditions precedent to granting the builder permission to build the Units in the Duplex and Townhome Councils; their units are exclusively using them or exclusively required their construction, (Prior to building on Parcel C, these items were not required) Why would the cost of those items be assessed against everyone given the Declaration’s intent to assess costs against the units which require the items in this instance the Parcel C units? See section 2 of the Declaration.
14. The homeowners, despite numerous requests starting before the vote in September of 2012, have not been provided for estimated costs associated with these boundary changes relating to each council and for the conservancy. Until these numbers are distributed and explained in some detail, is it appropriate to delay the vote on any proposed Declaration Amendment?
15. Are the Conservancy or Councils who have been responsible in the past for maintenence going to clean up the areas that are being assigned to new areas BEFORE they are assigned to the Councils, or Conservancy, since many of the areas in question are in pretty bad shape?
16. Is Woodmoor going to get credit for money paid into the Conservancy over the years toward maintenance of Common areas that have not been cared for?
17. How is it that other Councils can force Woodmoor to have a budget when our Declaration specifically says Woodmoor shall not have a budget?
18. Even though you have told us the Conservancy can do this using the Declaration’s mechanism for amendment, is it bad faith to force the Woodmoor homeowners to create and maintain a budget against their wishes?
19. Will the Conservancy be vulnerable to a detrimental reliance complaint from Homeowners?
20. Though the Declaration allows the Board to amend as it sees fit as you have advised, should this agreement fail / end up in Court, is it true that the Court would look at past practices to evaluate and craft a solution to any disagreement?

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