

Attorney response to structures used as dwellings on SMWOA property

May 30th, 2024

At the 2023 SMWOA annual meeting, members requested that the board contact our attorney for the purpose of obtaining clarification on appropriate use of structures placed upon association member's property.

Here, verbatim, is the attorney's response relative to the above:

There is nothing in your covenants that would prohibit two dwellings on the property. The bylaws do not restrict this either.

If one reviews the covenants and bylaws with regard to numbers of structures that are allowed on a given property and for what purpose those structures may be used for, covenant #1 simply states **“the lands shall be used for residential purposes only.”** This is in totality the extent to which the covenants themselves make a reference to property in a “residential” context. Any restrictions would seem governed by covenant #9. The implications are that the country would be the deciding body in matters concerning residential structures and related concerns around sanitation, number of wells, etc. For reference, covenant #9 reads as follows:

“All zoning and other laws including sanitary water and sewage disposal restrictions, rules and regulations of any government under whose jurisdiction said land lies are considered to be a part and enforceable hereunder and all owners of said lands shall be bound by such laws, rules and regulations.”

As for the bylaws, again, there is no specific language to limit numbers of structures on a property or the use thereof, other than restrictions called out under “Inappropriate use of property”¹. The bylaws do make reference to “single family dwellings”, **but this does not preclude an Airbnb.**

¹In the bylaws, refer to “Covenant #1” under the section entitled “RULES AND REGULATIONS”

[SMWOA Covenants and Bylaws are available at this link](#)
[Bylaws, Rules and Regulations are available at this link](#)

Please feel free to submit comments or follow-up questions to: smwoamail@gmail.com

Respectfully,

SMWOA Board of Directors