

Board Appointment and Governance Analysis

Prepared for: Barrington Hills Community Homeowners Association (HOA)

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1. Appointment of Board Members

According to Article V, Section 4 of the Barrington Hills Condominium Association Bylaws, vacancies on the Board of Directors, excluding those resulting from removal by membership vote, may be filled by a majority vote of the remaining Directors, even if less than a quorum is present. The appointed Director serves for the remainder of the unexpired term. This authority lies solely with the remaining Board members—not the property management company or general membership.

Under Article V, Part E (“Declarant Control”), the Declarant originally had the right to appoint and remove all Directors during the Control Period. This period expired either when 75% of the units were conveyed to homeowners or seven years after recording the Declaration. Therefore, all current Board appointments must now be made through elections conducted by the membership or through vacancy appointments by the Board.

2. Term of Office

Article V, Section 2 establishes that Directors serve staggered two-year terms. No more than three Directors’ terms expire in any given year. Directors continue to hold office until successors are elected and have attended their first meeting. This ensures continuity of governance in the absence of elections.

3. Elections and Nominations

Per Article V, Sections 6 and 7, nominations are made by a Nominating Committee or from the floor during the annual meeting. Elections require a majority vote by members in attendance, provided quorum is met.

4. Quorum and Election Validity

Under Article IV, Section 5, quorum for member meetings is defined as one-third (1/3) of total voting members. If quorum is not met, a subsequent meeting may be held within sixty (60) days, where quorum is reduced to one-half of the prior requirement (approximately one-sixth of all votes). No elections or other binding business may occur without quorum being achieved at one of these meetings.

Therefore, if the Association fails to achieve quorum during scheduled elections, any appointments or assumed authority by the existing Board or management company to fill Board seats would be procedurally invalid.

5. Role of the Property Management Company

Article V, Section 14, specifies that the Board may employ a professional management company to carry out administrative duties. However, the Bylaws prohibit delegation of

certain powers, including the preparation of budgets, the levying of assessments, and enforcement of governing documents. Importantly, management has no authority to appoint or remove Board members, conduct elections, or make governance decisions on behalf of the Association.

Any such actions undertaken by the management company would be considered ultra vires (beyond the scope of authority) and without legal effect.

6. Legitimacy and Need for Special Election

In accordance with Article IV, Section 2, members representing at least one-fourth (1/4) of the total votes may petition to call a Special Meeting. Proper notice of at least twenty-one (21) days must be provided to all members. This mechanism allows the community to hold a special election to establish a legitimate Board of Directors if the current Board lacks validity due to improper appointments or failure to meet quorum requirements.

7. Summary of Findings

Scenario	Appointing Authority	Term of Service	Notes
Declarant Control	Developer	Until 75% of units sold or 7 years	Control Period now expired
Regular Election	Membership	2 years (staggered)	Requires quorum and majority vote
Vacancy (non-removal)	Remaining Board	Remainder of term	Appointed by majority vote of remaining Directors
Vacancy (removal)	Membership	New 2-year term	Must be elected by members
No Quorum	—	—	No valid election may occur; must reschedule within 60 days
Property Management	None	—	Acts only as agent; cannot appoint or remove Directors

8. Conclusion

Based on the Barrington Hills Bylaws, any Board members appointed outside of these procedures—particularly by the property management company or without membership quorum—would lack legitimate authority. A Special Meeting and properly conducted election should be held to reconstitute the Board in accordance with the Bylaws and Georgia Condominium Act (O.C.G.A. §44-3-70 et seq.).