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From: [REDACTED]
Date: Tue, Jun 14, 2011 at 10:22 AM
Subject: RE: No Rush on Waymarker LOI After All
To: Donna Scott <d.scott@hotmail.ca>

Thanks Donna.

I have looked at it and I think there are a number of issues and things to be aware of in the context of re-doing the bylaws and setting your operations up on a firmer footing.

The issue of exclusivity in particular is a tricky one. You cannot restrict rental under the bylaws so it is very difficult to make a promise that one or another manager will be the only manager at the project. Certainly, it would make sense to have one manager but it is very difficult (if not impossible) prevent an owner from renting outside the rental pool. In my view, the incentives have to be economic. The one method that might work apart from the purely economic incentive is registration of a restrictive covenant on the unit titles but that requires every owner to sign (ie. unanimity) and even then such covenants are of questionable validity due to the law generally not enforcing restraints on trade.

I am working on this today (my apologies, I had promised Bill I would have something yesterday) and will address the whole picture when I report to you.

Feel free to contact me with any questions or concerns.

Regards,

[REDACTED]