

# Welcome

If you would like to speak during the comments session, please register at the speakers' table with our Sergeant-at-Arms, Bill Carkhuff.

# Agenda

- Opening remarks
- Short presentation
- Comments from the floor
- Adjourn (target 9:30 PM)

# **The Cranberry Lake Community Club (CLCC)**

**&**

**Chapter 106 (Ch. 106) of the  
Planned Real Estate Development  
Full Disclosure Act of 1993**

# Ch. 106 Timeline

July 2017

Ch. 106 (passed unanimously by both houses of NJ State Legislature) was signed into law on 7/13/17

Oct 1, 2017

Date after which covered organizations elections must comply with Ch. 106.

March 2018

Eileen Born, Esq., of Dolan & Dolan (CLCC attorney) advised CLCC Board of Governors that CLCC must comply with Ch. 106 before the August '18 elections

# Statement from our Attorney, Eileen Born

The Planned Real Estate Development Full Disclosure Act, N.J.S.A. 45:22A-45.1 was amended effective November 1, 2017 and made significant changes involving voluntary versus mandatory membership in associations in common interest communities. It established that “all unit owners are members of the association.” N.J.S.A. 45:22A-45.1(1)(g) The Act requires By-Laws be amended to be in compliance with the law. While certain provisions of the new law will likely be litigated before the courts, I have advised the Cranberry Lake Community Club that Cranberry Lake is subject to these changes to the law, and must comply with the new amendments.

# Timeline of Actions to Comply

- In order to be ready for the August elections, the CLCC bylaws must be amended and filed with Sussex County by June 30<sup>th</sup>
- Bylaw revision process undertaken in accord with provisions in Ch. 106
  - “except an executive board may amend the bylaws under the following circumstances: (a) to the extent necessary to render bylaws consistent with State, federal or local law;...”
- Counsel advised the Board of Governors that the references to “executive board” in Ch. 106 refer to the CLCC Board of Governors, not the CLCC Executive Board.

# Timeline of Actions to Comply

- The Board of Governors worked on amending the bylaws in March through May.
- In May, the Board of Governors asked counsel to review the proposed changes and to clarify a few items.
- Counsel offered to write required amendments for the Board.
- The Board of Governors adopted revised bylaws on May 25, 2018
- The amended bylaws were filed with Sussex County on June 25, 2018.

# Principal Impacts

- Membership
- Voting rights and nomination process
- Arbitration process
- Methods of dues collection



# Membership per Ch. 106

“(1) **Establish that all unit owners are members of the association** and provide basic election participation rights for certain residents of common interest communities , including the right of resident owners in good standing to nominate any unit owner in good standing as a candidate for any position on the executive board, run, appear on the ballot, and be elected to any executive board position, in every executive board election, and for those rights to apply regardless of the date of a community’s establishment: and ...”

--Page 1, 2<sup>nd</sup> Paragraph from the bottom of the page

# Membership per Ch. 106

“Good standing” means the status—solely with respect to eligibility to (1) vote in executive board elections, (2) vote to amend the bylaws, and (3) nominate or run for any membership position on the executive board—applicable to an association member who is current on the payment of common expenses, late fees, interest on unpaid assessments, legal fees, or other charges lawfully assessed...

--Page 3, second paragraph from the bottom of the page

# Membership

## Chapter 106

“Association member” means the owner of a unit within a planned real estate development...

## CLCC Bylaws

The Cranberry Lake community served by this Club is composed of the following areas as designated on the filed maps of the Cranberry Lake Development Company and recorded with Sussex County: Frenche’s Grove, Cabin Springs Park, Weaver House Cove, Weaver House Heights, Della Heights, Briar Heights, Strawberry Point, Whitney Point and Laurel Cove...(Article 1, Section 3)

# Voting rights and Nomination process

## Chapter 106

- A 30 day period of open nominations available to all members in good standing. A member in good standing may nominate him- or herself
- Names of nominees listed in alphabetical order by last name mailed to each member in good standing no fewer than 14 days prior to election.
- Inspectors of the votes, proxies, notification deadlines, paper ballots.

## CLCC bylaws

All are addressed in Article II, Sections 19 and 20 (pages 4,5 and 6)

# Arbitration

## **Chapter 106**

References the provision of a valid alternative to litigation...

P. 3, 2<sup>nd</sup> paragraph from the bottom

## **CLCC Bylaws**

Added Article XVI stating the CLCC will use Community Associations Institute of New Jersey (CAI) for dispute resolution

# Methods of dues collection

## Chapter 106

4. The bylaws of the association, which shall initially be recorded with the master deed shall include, in addition to any other lawful provisions, the following:

c. The manner of collecting from owners their respective shares of common expenses and the method of distribution to the owners of their respective shares of common surplus or such other application of common surplus as may be duly authorized by the bylaws.

## CLCC bylaws

Pages 10 and 11, Article V, Section 1 provides for the following:

- Liens for unpaid dues, assessment and fees...
- Referral of delinquent accounts for collection
- Recording of liens
- Foreclosure
- Judgments

# Full implementation in 2019

As the CLCC had already sent out 2018 dues notices prior to becoming versed in the implications of Ch. 106, counsel advised us that it would be acceptable to wait until 2019 to institute membership for all owners within the boundaries of the Cranberry Lake Development.

# Benefits of the CLCC

- Enhances the value of the entire community
  - For example, lake management and weed control
- Membership offers:
  - Facilities – Clubhouse, community docks, 2 beaches, private boat ramp
  - Full calendar of events and activities for all ages, but especially children
  - A voting say in how your community is managed



# Questions

I have been living at Cranberry Lake for 30 years.  
How come all of a sudden I have to join the  
CLCC?

Chapter 106 is a new addendum to a state law.  
CLCC has been told we must comply.

Are these “mandatory membership fees” retroactive to the time I bought my house?

**NO!**

Isn't this "mandatory membership" attempt the same as the legal action (& lawsuit) that the CLCC tried in the 1980s?

No. Chapter 106 is a new law and is in no way connected to the 1980s legal action.

I can see where the presence of the CLCC improves the surrounding area. Even so, there is nothing the CLCC offers that I'm interested in. Can't I just pay a portion of the membership fees that help enhance the property values?

No.

As a CLCC member, I am concerned about costly legal fees when local residents challenge the mandatory membership. Can you address those concerns?

Yes. As Chapter 106 was an action of the state of New Jersey and not the CLCC, it is our intent to ask to be reimbursed for court costs if taken to court, especially if Chapter 106 is upheld by the courts. When Chapter 106 became effective in November, the case of Ramapo Mountain Lakes vs. the Property Owners was already in court. The attorneys involved had to redraft their motions, and the judge told all involved that the new law hurt the property owners' case dramatically.

In the past you mentioned a Fair Share approach within the lake community. Is this that?

No. The Fair Share Assessment is a legal action taken by some associations to collect partial dues from all residents. The CLCC has taken no action towards a Fair Share Assessment.

Your letter to the Cranberry Lake residents said that beginning in 2019, the CLCC will ensure all residents are members in good standing. What will the CLCC do if the residents are not members in good standing?

After efforts to collect delinquent dues have failed, per the bylaws (Article V, Section 1, A., iii. on p. 10) the CLCC will place a lien on your property for the amount of the dues owed. This procedure is used by other area associations. In the case of Lake Shawnee, this procedure was appealed twice, and the courts still upheld the community's right to take such action.

I have 2 houses. Do I have to pay twice?

Yes, if both houses are within the boundaries of the Cranberry Lake Development Company maps.



I have a house in Cabin Springs and an undeveloped lot/property in Weaver House Cove? Do I have to pay twice?

I have been advised by counsel that the NJ Administrative code pertaining to Ch. 106 is currently being developed and this is one of the questions being addressed.

Are these membership fee really taxes, and if so, are they deductible on my income taxes?

No, they are not taxes, and as such, are not deductible.

I appreciate you sending out information on Chapter 106. When I read it, the law seems to revolve around a “common interest community association” such as a condominium, cooperative, or homeowners’ association. How does the CLCC fit into these categories?

The CLCC was organized by the Cranberry Lake Development Company in 1925 as a homeowners association to maintain Cranberry Lake, and thus, per counsel, the CLCC is considered a homeowners association subject to the provisions of Ch. 106.

Chapter 106 outlined various association and member provisions regarding boards, meetings, elections, member status, etc. Is the CLCC compliant with the provisions in Chapter 106?

Yes, as a result of the actions of the Board of Governors to amend the bylaws as outlined earlier in this presentation, the CLCC is in compliance with Chapter 106.

## Can my renter pay my dues?

A renter may pay an owner's dues, but the membership would be in the owner's name and not the renter's name as the dues are for the property not the current resident. The owner is responsible for all individuals using his membership.