

July 11, 2017

**VIA ELECTRONIC MAIL**

Board of Directors of Lakewood Prairie Homeowners Association  
c/o Holly Marek  
[Hmarek@fosterpremier.com](mailto:Hmarek@fosterpremier.com)

RE: Opinion Regarding Storage of Garbage Cans for Lakewood Prairie  
Homeowners Association

Our File No.: 7886-4

Dear Board:

You have asked for our opinion regarding the storage of garbage containers outside of Units. It is my understanding that Unit Owners have disputed the validity of the Association's Declaration as it relates to the storage of garbage containers, contending that it conflicts with the ordinances of the City of Joliet, which they argue prevail. Please allow the following to serve as our legal opinion regarding same.

It is my understanding that the City of Joliet permits Owners of residential Units to store their garbage, recycling, and yard waste containers in the garage, on the side of a home, or at the back of the home. The City does not allow containers to be stored anywhere in front of the home. The Association's Declaration, however, states at Article 6.4 that "All rubbish, trash, and garbage shall be stored in the Unit's garage, shall be regularly removed from the Property, and shall not be allowed to accumulate thereon."

Article 16.9 of the Declaration addresses City ordinances in connection with provisions of the Declaration and provides as follows:

**16.9 City Ordinances Prevail**

None of the covenants, conditions, restrictions or provisions of the Declaration are intended to supersede or prevail over the ordinances of general or specific applicability of the City as they currently exist or as the event of any conflict, the applicable ordinances of the City shall supersede and prevail over the covenants, conditions, restrictions and provisions of this Declaration. Notwithstanding any other provision in this Declaration, any amendments to this Section shall require the prior written approval of the City.

In reviewing the City of Joliet ordinance regarding the storage of garbage in connection with Article 6.4 of the Declaration, it does not appear that there is a conflict between the Declaration and the City ordinance. Provisions of an Association's declaration can be more restrictive than City ordinances, but not the other way around. For example, the provisions of the Declaration would be in conflict with the City ordinance if the provisions of the Declaration

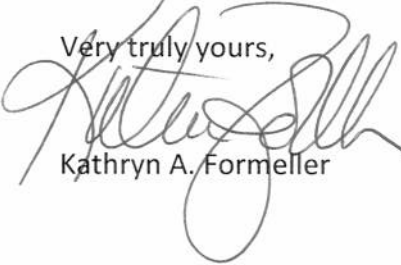
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stated that garbage containers could be placed outside while the ordinance of the City provided that they could not be stored outside. In this case, the opposite is true. Thus, Article 6.4 of the Declaration prevails over the City of Joliet ordinance. Pursuant to Article 6.4 of the Declaration, all garbage containers must be stored in the Unit's garage, except for on trash pickup days. Owners therefore may not store their garbage containers outside of their Unit.

You may reach me at (630) 343-5191 or by email at [kformeller@tresslerllp.com](mailto:kformeller@tresslerllp.com) with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathryn A. Formeller', is written over the typed name.

Kathryn A. Formeller

KAF/#181672