

NEWS FROM THE CAREFREE BOARD OF DIRECTORS

Just a quick note, I had a whole different article theme planned this month, but the following threw a monkey wrench into my planned writing. Some may feel the following may be boring and I agree, but it is extremely important for all Shareholders to understand the seriousness of the following:

NOT SO HAPPY NEWS FROM THE BOARD THAT AFFECTS OUR GOVERNING DOCUMENTS:

APPROVAL OF THE APPELLATE DIVISION SUPERIOR COURT OF NEW JERSEY APPELLATE DIVISION DOCKET NO. A-1384-22 NEW JERSEY REALTORS, Plaintiff-Respondent, v. TOWNSHIP OF BERKELEY, Defendant-Appellant.

APPROVED FOR PUBLICATION July 31, 2024 APPELLATE DIVISION Argued November 8, 2023 – Decided July 31, 2024 Before Judges Haas, Gooden Brown, and Natali. On appeal from the Superior Court of New Jersey, Law Division, Ocean County, Docket No. L-0991-22.

As they say, “the other shoe has dropped” making it official that ownership of 55 and older homes cannot be restricted, but restricting occupancy of those under age 55 is permitted.

Judges Summary: *“This appeal requires us to determine the validity of a local ordinance restricting ownership at certain senior housing communities. Defendant Township of Berkeley (Township) appeals from the December 2, 2022, Law Division order granting summary judgment to plaintiff New Jersey Realtors (NJR). The order effectively invalidated Berkeley Township Ordinance No. 22-13-OA (the Ordinance), which amended certain land use provisions to limit property ownership in certain senior housing communities to persons aged fifty-five and older. NJR sued the Township after the Ordinance was enacted, arguing that such a restriction violated the Fair Housing Act (FHA), 42 U.S.C. § 3604(a), and the New Jersey Law Against Discrimination (NJLAD), N.J.S.A. 10:5-12(h), because both statutes prohibit discrimination based on familial status. According to NJR, by setting a minimum age for property ownership in retirement communities, the ordinance was discriminatory, and the restriction did not fall within the limited housing for older person’s exemption. Finding that the ordinance violated the FHA and the NJLAD, the judge invalidated the ordinance. We agree and affirm.”*

Moving forward all senior communities will **no longer be able to enforce the 55+ requirement for purchasing property in Berkeley Township**. Berkeley Township fought hard and passionately against the New Jersey Board of Realtors, which is reflective in their representation as our advocates against the New Jersey Board of Realtors for the protection of our senior communities. Depending on how this issue is presented, will determine how you may feel about this change. I will not use this article to state my feelings at length, but I will say that after serving on the Board and having a better understanding of how this will affect our community, I was not happy. As Board Secretary, it is my duty to ensure that all Shareholders are aware of this significant Appellant Court decision and understand how this decision will affect our community.

Any person under the age of 55 will now be allowed to purchase property in our community; however, they cannot live in the property unless there is a person 55+ with a permanent residence at that address living with them. This also means that the underage owner has the right to vote in our Board Director elections and they will have a voice regarding any of our governing document changes.

One of the major fears for all of us to seriously consider, is what is the motivation of these under age persons who are not permitted to live in our community purchase our properties? Rental homes? None of us want our community to become a rental community. We already have protection in our governing documents to help control this possibility, "For those who purchase a Living Unit (2) years of consecutive ownership and consecutive residency are mandatory prior to leasing such Living Unit..." but in order to enforce this bylaw it will require close scrutiny and active code enforcement by the Board of Directors and all Shareholders and Residents.

One of the biggest problems that will arise from this major ownership change as sated above will be enforcement. The Board has begged for volunteers to join our Code Enforcement Committee and our requests continue to fall on deaf ears. Maybe these new changes; will encourage you to join our Code Enforcement Committee. I repeat, all property within our senior communities are now available in the "open real estate market" with no age restrictions to purchase. Underage residency is a serious problem in all senior regulated communities and the only way we can act on these violations is when a concerned resident brings it to the Board of Directors attention for action. All complaints, whether they are underage violations or anything else, by law, must remain confidential. Not to sound redundant but I just want to be clear, **underage residency is the most serious violation that affects all senior communities and if not controlled will risk our future 55+ senior statuses.** Remember neighbors, people are very creative when they chose to deceive.

This court decision is a huge victory for the Board of Realtors and a defeat for all seniors. Think about it, what's next? Every senior residing in a 55+ senior community must be vigilant, stay informed and not rely on someone else to raise the sword and lead their fight. Sitting around complaining about these issues, posting on Facebook or Nextdoor without getting involved is just idle chatter and serves no constructive purpose. Get involved, seniors are the power horse of our community, we have fought in wars, worked hard, ran business, raised families, ensured better futures for our children and as long as there is life left in us we must continue to fight so our children and grandchildren will enjoy the same senior benefits as us. Activism will keep all of us young and strong, ensuring our future gives us purpose, so don't sit back, reach out to your congressmen, mayors, and especially the Governor, make your voices heard and ensure that your vote always counts.

We are, and must be, Carefree Strong.

Marie Persichilli, Secretary
Carefree Board of Directors