

Kade,

We write to provide you with (free) recommendations that may prevent the Blue Valley Metro District from issuing fishing/access licenses to non-residents based on the limited information currently available to us. We obviously have not exhausted all the facts and legal issues, so please keep that in mind. But, here goes...

Per the Blue Valley Acres' Declaration of Restrictive and Protective Covenants ("Covenants" attached), the Architectural and Rules Committee "...shall control the development of the subdivision and make, amend, substitute or change the covenants and restrictions of the subdivision, **subject to approval of a majority of the lot owners.**" Covenants, at § XVI (emphasis added). Under the Rules of Architectural and Rule of Committee ("Rules" also attached), there are certain matters that must be voted on and approved by the lot owners. Rules, at § 13(a)-(d).

Neither the Covenants nor the Rules, however, define what matters must be voted on and approved by the lot owners. Nevertheless, the Blue Valley Metropolitan District ("BVMD") appears to be trying to avoid having the lot owners vote on whether to sell fishing licenses to non-residents per the recent meeting minutes (attached). At the April 10, 2023 special meeting, the BVMD Board claimed that after discussing the issue with its lawyer, the Board believes it is required to allow the general public access to any portion of the property that the owners are allowed to use. In the May 2, 2023, the Board claimed it had limited options regarding the fishing licenses due to legal requirements.

Neither of the meeting minutes identify the legal requirement at issue. We briefly researched the issue and could not find any law requiring a metro district to permit access to the general public. There is an ongoing case in Colorado where a man named Roger Hill sued a private land owner arguing that the Arkansas River is "navigable water" and, therefore, the public is entitled to fish that river (and others that qualify as navigable waters) even when private property abuts the river. But, that case is still ongoing.

We hope this is helpful and if you would like to discuss further, please let us know. I have copied my colleague, Dane, who claims to be a fisherman and helped with this research. Call either of us with any questions, next steps, or – preferably – an invitation to fish the Blue River.

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