

Black Point Charter Revision Commission
Explanation of Proposed Changes to the Black Point Beach Association Charter

July, 2021

The Black Point Charter Revision Commission is recommending two revisions to the Black Point Beach Association Charter. The revisions that we are recommending have been approved by the Connecticut General Assembly for other beach associations. The recommended revisions are:

1. A clarification as to whom can be a member and therefore eligible to hold office in the Association. Currently, only homes owned by an individual or a group of individuals can be members and be eligible to hold office at Black Point. Our recommendation allows for residential properties that are held not only by individuals but *ALSO* by trusts, corporations, partnerships, life use arrangements and other legal entities to be considered members and therefore representatives of those legal entities are eligible to hold office and to participate in Association Boards and Committees. Specifically:
 - When the ownership of any property in the Association is in the name of one or more individuals, each co-owner is considered to be a member of the Association. *This is the same as the current Charter.*
 - When the ownership of any property is in the name of a corporation, trust, partnership, or limited liability company, that entity will designate a “member representative” for that property. That member representative is considered the member for that entity and is able to hold office in the Association.
 - Each member or member representative and his or her legal spouse shall be eligible for any office in said Association, provided that any Member is at least part-time residents of any property within the limits of the Association; and
 - Holders of a life use of any property are considered to be Members and able to hold office in the Association.

2. A recommendation that each property is entitled to one vote, regardless of a property’s form of ownership. This is consistent with other local Beach Associations and has been approved by the Connecticut General Assembly. This will ensure fairness in voting. Currently, a property that is held in multiple names can cast as many votes as there are names on the deed. This can create an unintended unfair advantage for properties that have multiple owners. Recently, a nearby beach association held a vote on a capital improvement project and properties that had multiple owners (in some cases six or seven owners) each cast a vote for that property, dramatically skewing the results. That Association now has changed its Charter to the “one property, one vote” rule.

Background:

At the present time, approximately 16.5% (and growing) properties at the Black Point Beach Club Association are held in: trusts, corporations, partnerships or in life-use arrangements. As our tax laws have become more complex, property owners are being advised to use these instruments for a variety of tax and/or estate planning reasons. However, when those properties are converted into a trust, corporation or other entity, that property, legal entity or a representative of that entity currently does not have the right to be a member, hold office or vote in Association business, despite the fact that they pay taxes to the Association. The proposed changes seek to remedy this issue.

The Board of Governors established this Charter Revision Commission to specifically address this issue.

Several beach associations near Black Point who have very similar charters to ours have changed their charters to accommodate this issue. Giants Neck amended their charter in 2015 and Crescent Beach amended theirs in 2017 with provisions identical to the revisions that we are recommending. Other associations have done the same. We have reviewed these other Charters and have modeled our language on the work that has been done by these other neighboring Beach Associations between 2015 and 2017.

What our Recommendations DO NOT DO: (Responding to Questions Raised through Public Comments)

- Our recommendations do not change nor require any type of property ownership. Whether a property is in an individual name or in a trust, etc. is up to each owner of their own property to determine its legal status.
- Our recommendations only affect the Black Point Beach. These recommendations do not affect voter rights with the respect to the Town of East Lyme.