

Montreux Homeowners Association
Monthly Meeting Minutes
Wednesday, October 7, 2015
7 – 9 PM
Alice Chen's House

ATTENDEES

Present: Mark Potensky, Phil Saffel, Jay Willenberg, Leslie Inaba, Ryan Heiberg, Bob Wilburn, John Bryon, Bob Anderson, Jerry Lilly, Charles Hayden, Ali Tamblyn, Christina England, Alice Chen, Peter Roppo, Ken England

Guests: Bennett Taylor (Attorney from Leahy Fjelstad Peryea)

Meeting was convened at 7:02 pm

SPECIAL DISCUSSION: DELINQUENCY / FORECLOSURE POLICY

Jay provided Bennett a brief history on the association and background on the three properties in question.

- One is 7 years past due and is vacant. Property taxes are being paid, but not the homeowner dues. House is in distress.
- The other two are both occupied; both are past due approximately \$3,000-4,000. One has been in contact with the Board; the other has ignored all past due notices.

Bennett introduced himself and gave a background on his experience with homeowner associations and consumer bankruptcy. Bennett's recommendations to the Board were as follows:

- The Board should turn over delinquent accounts after two quarters to attorneys. Likelihood to recover past due amounts diminishes the longer accounts remain delinquent.
- Attorneys would then send a demand letter to the owner and the property, as well as record a "Notice of Claim of Lien" with the county. While the HOA does have an automatic lien position behind the first mortgagor as soon as the account becomes delinquent, recording the lien with the county would memorialize our position and have it picked up by a title company at time of sale (\$325 for demand letter + \$75 filing fee).
- Typically, a letter from an attorney gets homeowners to act. If the letter is ignored, next step is to proceed with a lawsuit. A judgment would then allow the Board to garnish bank accounts, wages, foreclose, etc.
- Bennett's experience is that about a third of such cases end in settlements. At a minimum, he typically recommends associations settle for all hard costs (dues and legal fees), but not late fees and interest.
- Statute of limitations is 6 years, so most likely we won't be able to pursue delinquent dues earlier than 2009 (which is the case in one instance).
- There is an advantage to taking legal action beyond the demand letter and recording a lien. Having a more aggressive position is typically more advantageous when nearing the statute of limitations.
- For vacant properties, the association has a few options:
 - Option 1: File lien. Obtain judgment. File for foreclosure.
 - Option 2: File lien. Obtain judgment. Obtain motion for custodial receivership. The HOA could then fix up the house then rent it out to recover its costs and unpaid dues.
- In the case of bankruptcy, the HOA still has a lien against the property (personal liability goes away). If the lien is not satisfied, the HOA can still enforce its lien against the property.
- When bank-owned, Bennett has never seen a bank *not* pay in full.

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- His recommendation for the vacant property: File a lien immediately and file a lawsuit to stop the statute of limitations.
- Brook did not believe corporations could file in small claims court. The HOA is a corporation.

The Board discussed time and dollar thresholds for when to turn delinquent accounts over to attorneys to handle collections. General timelines of 2 years and \$2,000 delinquent were discussed. However, no definitive conclusions were reached. Several Board members agreed that the Board should adopt a formal collections policy.

[THE BOARD DISCUSSED INDIVIDUAL HOMEOWNERS WITH SEVERELY DELINQUENT ACCOUNTS. THE FOLLOWING SECTION HAS BEEN REMOVED DUE TO THE CONFIDENTIAL NATURE OF THE DISCUSSION.]

GENERAL DISCUSSION AND COMMITTEE UPDATES

PRESIDENT

The Board discussed open vs closed meetings. Need to review the Bylaws to see if closed executive sessions are even allowed.

Ken England accepted the Electrical position.

TREASURER

Jay provided a brief financial update. He also announced that Rosemary is retiring at the end of the year. Jay will provide her job description and details. Please let Jay know if you have any recommendations for her replacement.

SECRETARY

The Board approved the September meeting minutes.

VICE PRESIDENT

No report

NGPE

[THE BOARD DISCUSSED INDIVIDUAL HOMEOWNERS WITH NGPE ISSUES. THE FOLLOWING SECTION HAS BEEN REMOVED DUE TO THE CONFIDENTIAL NATURE OF THE DISCUSSION.]

CC&Rs

[THE BOARD DISCUSSED INDIVIDUAL HOMEOWNERS WITH CC&R ISSUES. THE FOLLOWING SECTION HAS BEEN REMOVED DUE TO THE CONFIDENTIAL NATURE OF THE DISCUSSION.]

WEBSITE

No report

PONDS and WATERFALLS

Jerry has yet to receive a report / proposal from the rock contractor regarding Lake E, so there is no further update at this time. There are a few lights out in the ponds and he will get those replaced.

GOVERNMENT RELATIONS

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Alice will send Christina information about local Halloween activities, as well as emergency preparedness classes being put on by the City of Issaquah.

NEWSLETTER

Christina said the next newsletter will be going out soon and she is seeking additional information. Ali will send a blurb about the block party. Jerry will also provide a ponds and waterfalls update.

SOCIAL

Ali provided a follow-up to the block party and thanked everyone for their help.

LANDSCAPING

Bob A provided the following landscaping updates:

- Christmas lights: Bob will ask the company for ideas to add more lights.
- Fall color planting will happen in the next few weeks.
- Turf aeration happened.
- Arbiviteae will be topped once mowing stops. NLS has provided a proposal to replace 33 dead arbiviteae for \$9,600. Board agreed to spend the money. Replanting will most likely occur in November.
- NLS also provided a quote to replace 11 dead trees for \$11,000. Board agreed to replace all 11. Bob A will ask NLS how much more it would cost to replant with larger trees (and if it is possible).

ACC

No report

Meeting adjourned at 9:45pm.

NEXT MEETING

Wednesday, November 4th @ Union Bank