

Cowpet Bay West Condominium Association

Board Meeting

August 3, 2022 at 7PM

In attendance: Bill Hanson, Judith Kromenhoek, Larissa Staszkiw, Michael Harrell, Sherri Levin, Jennifer Planeta

Purpose of the meeting is to prepare for the issues to be discussed in the upcoming meeting scheduled for August 9, 2022.

Two main issues we want to clarify: the claim that some owners may have overpaid the association in reference to the merger documents and an owner with an account in arrears.

The current owner with an account in arrears started to become delinquent in 2017 after the hurricanes.

We discovered the account was in arrears in August 2021. The current board inherited the balance on the account in arrears. Holly had instructed Tanji that she was handling it. We discovered it in August 2021. We started working with other past due accounts in arrears. On August 23rd, Bill had a discussion with the owner to discuss payment plans. He started making payments at that point. We started charging late fees and penalties and made them retroactive to 2020. We received regular payments until 2022 and the balance was brought down because he was making payments regularly. Then the new board started and the owner failed to pay in Feb and March. In April 2022, we voted to put the first lien on the owner. In June we voted to apply a second lien and now the balance is up to 35,000. There is a history that has accumulated over 5 years. Now the board proposes a foreclosure.

Bill talked to one lawyer who argued against a foreclosure and only recommended it if the association had cash flow issues.

The question is do we want to proceed with foreclosure. Owner has made 8,500 payments in the last week. He applied and has been approved for hardship withdrawal from an account for payment of 18,000. We don't have evidence of it.

We have been active on it. Finance charges, penalties and late fees were applied in 2021. The liens are not much of an incentive. It appears that he has been paying it down.

Do we want to shut off utilities? No one has given us anything definitive to allow us to turn off utilities.

Larissa spoke to Matthew Duensing. She will get the retainer for the hourly rate amount and will ask for his opinion. To stay on top of the issue and see if we can turn off the utilities. We owe it to the owners to show that we are being serious.

Discussed - Hold off on foreclosure to see if the retirement/hardship withdrawal money comes in.

Due to issues with the merger documents an owner states that she has been overcharged over the years. We believe that she is computing the amounts wrong. Bill spoke with Mark Hodge and went through the Merger and Declaration documents. We must have  $\frac{3}{4}$  approval for the Declaration. Unless we are missing something then the merger document is not valid. There is not a simple solution. Mark H. says it can be serious. It involves all owners. Mark could write a letter to all owners. We understand what the problem is and we will need all owners to vote on it. Send a cover letter to the owner who is making the demand. The owner is not correct. The issue is we have to have a merger document. A letter will be sent to all owners explaining the issue and will be discussed at the August 9th meeting.

Mark Hodge is the attorney that represents the condo association.

Discussion which attorney should be retained for these issues.

A letter will be sent to all owners stating that we will need to retain a real estate attorney because an error was found. The error was brought to our attention by an owner. We are addressing the issue. The documents may be in error and we will start working on it to correct it. It may be that the merger document will have to be redone. We need to get a legal answer to get started. We will address billing issues as we investigate the merger documents. It will cost us to figure it all out. Retain legal counsel to start the process.

Motion made to write a letter to the owners. All agreed.

There was a  $\frac{2}{3}$  majority of the ownership which did not meet the requirements.

VI LAW states change in ownership percentages requires 100 % consent of all partnership owners. Amended declaration duly recorded. Requires 100% ownership interest. The owner computed new percentages and is using it at the basis of the claim. We will have to get consent from the owners and have a new merger declaration.

Ongoing issues:

An employee would like to withdraw from a retirement/severance account to purchase a vehicle. As of August 1st we no longer pay for his health insurance. It was recommended to withdraw from the severance account to pay for insurance and living expenses.

Ask the CPA how to deal with severance pay issues. Employees benefits have expired and he will be paying for his own insurance. Bill H. will clarify with CPA. We need to put it in writing and let him know how much is in the severance account. Inform the employee that insurance has ended and wait and see if the employee returns to work. We need to figure out how long we are required to hold the position for him.

Employee is not allowed to use the truck off site.

#### Spalling Issues.

There is a problem with spalling under Windward #1. The ceiling could cave in and could be a major problem. If it does cave in it would cause a problem with the RO plant. Richie will look at it with Matt. We will have to contact the engineer. We will have to evaluate and fix it. This spalling repair could also address steps to the yacht club while we are working on it.

Audit Report. Sherri available to explain the details of journal entries. We need to finalize the report. CPA and Auditor are working together and close to closing the audit. Sherri will send it to us.