

**VILLAGE WALK SOUTH OF VERO BEACH  
HOMEOWNERS ASSOCIATION, INC.**

**BOARD OF DIRECTORS MEETING**

**JANUARY 6, 2009**

**1. CALL TO ORDER:**

Robert McKinley, President, chaired the meeting. The meeting was called to order at 6:04 PM.

The following directors were in attendance:

Hank Schulte  
Barbara Conits  
Sandy Fontana  
Tom Collins  
Bob McKinley  
Steve Guest

Deb Coburn, Property Manager, was also in attendance.

Bob McKinley introduced himself and reviewed the agenda for the meeting. He advised the owners in attendance that they would have an opportunity to pose questions and make comments as the second order of business and would have other opportunities to make comments on the items being discussed by the Board, but this was primarily a Board meeting. He asked that people identify themselves and give their addresses when speaking.

**2. APPROVAL OF MINUTES:**

**Motion:** to approve the December 2, 2008 minutes – Sandy Fontana, seconded by Tom Collins

**Motion:** passed unanimously.

**3. OWNER'S COMMENTS AND QUESTIONS**

Bonnie Moore of 491 7<sup>th</sup> Street asked about the timing for release of the 2008 financial statements and what the fiscal year was. She was advised that the fiscal year is January 1 to December 31 and that the final financial statements for 2008 are not ready to be released. She also asked about the timing for bidding on the landscape contract and was advised that the contract is bid each October.

Nick Molczanow of 498 6<sup>th</sup> Street asked about the litigation assessment. Bob Mckinley answered by saying that this was the third time Mr. Molczanow had asked essentially the same question and that it had been answered at previous meetings. He reviewed the fact that the special assessment had been approved almost unanimously by the owners last April. He reiterated briefly why the assessment was imposed, that the amount was arrived at on advice from the Association's lawyers and engineers, that the litigation process has been started and has produced some tangible results already in the form of work on the pond.

Roz Schwartz of 489 7<sup>th</sup> Street asked about the new sod running from the mailboxes on 7<sup>th</sup> Street to the conservation area. The sod is in need of watering. Tom Collins responded that there are two different grasses involved. One grass has been planted in the area running from behind the Jensen's house to the westerly end of the conservation area. It is a type of grass that can be left to go dormant when there is no water. It recovers in the rainy season. The area between the mailboxes and the rear of the Jensen's house is planted with St. Augustine grass, which does require water. The problem is not that the area in question is not served by the sprinkler system. It is. But the sprinklers in that area are tied into the sprinkler look that serves all of 5<sup>th</sup> Avenue and repeated use of the sprinklers for the newly-sodded area will drown out the houses on 5<sup>th</sup> Avenue. An arrangement has been reached with the Jensens to use their water supply and a lawn sprinkler has been purchased to use in that specific area. The Jensens will be compensated by the HOA for their excess water usage.

Judy Bischoff of 673 5<sup>th</sup> Avenue asked when the black screening material running through the conservation area will be removed. Bob McKinley answered that the conservation area is not our property. It belongs to the St. Johns River Water management District and they will determine when the material can be removed. As far as Bob was aware, St. Johns had yet to carry out a final inspection of the work done on the pond and removal of the material was not going to happen until the final inspection was complete.

Bonnie Moore of 491 7<sup>th</sup> Street asked who the Association's attorneys are in relation to the litigation and at what hourly rate they are being paid. She was advised by Bob McKinley that the attorneys are Kirby Kenny of Vero Beach and Peter Velmos of Orlando. Their rates are \$300 per hour. Their retainers were approved by the Board and owners were made aware of them. She asked whether the community should have had a chance to seek it's own attorney. Bob Mckinley answered that the Board was elected to make those decisions.

#### 4. **PRESIDENT'S REPORT** – Bob McKinley

Bob McKinley noted that the litigation process is ongoing and that one of the other parties had recently turned the matter over to an insurance company but he was uncertain at this point whether the matter had proceeded to the point of active representation by the insurer or whether it was still at the stage of a reported claim. There would also be an *in camera* meeting of the Board after the regular meeting to discuss some aspects of the litigation which at this point must remain confidential. He reported that some progress is being made. Within the next few weeks the Board was hoping to be in receipt of a detailed estimate of the cost of the necessary repairs and would be in communication with the opposing parties regarding it.

Nick Molczanow of 498 6<sup>th</sup> Street interjected a comment regarding the payment coupon booklets that have been sent to the owners recently. He pointed out that there was an error in the interest penalty calculation. He was advised that the matter was to be discussed in the Property manager's report, which was the next item of business.

5. **MANAGER'S REPORT** – Deb Coburn

The Property Manager, Debbie Coburn, indicated that there was an error in the interest penalty appearing in the payment coupon booklets, namely that it was calculated at 12% per month, rather than 12% per year. The printer had offered to reprint them but because of mailing costs a decision was taken to just leave the booklets as they are. She assured the owners that if someone should inadvertently pay the erroneous amount, she will credit them with the excess.

Deb Coburn advised that the insurance inspector will be at VWS at 5:15 PM on Thursday, January 8, 2009 to do a walk-through and to earmark any items that require special coverage. Tom Collins agreed to take part in the inspection process along with the Manager.

No units have been sold in the last month.

The roofing estimate has been received and copies were in the package of materials distributed to board members.

She advised that the special assessment revenue to date was \$58,175 + interest of \$156.69 for a total of \$58,331.69.

The financial statements are being given to the CPA and the statements will be available for the annual meeting of owners in March.

She asked that owners not combine the special assessment of \$500 with their other payments to the HOA and asked that separate checks be issued for each. Some tellers at the Bank were able to separate the combined deposits into the

two separate accounts and some were not and so it is easier if the payments can be kept separate.

## 6. **TREASURER'S REPORT AND 2009 BUDGET**

Barb Conits, Treasurer, presented the bank account balances:

Money Market Account:	\$43,815
Operating acct:	\$473 (This account is "topped up" as required from the Money market account).
Special Assessment MMA	\$36,814

## 7. **OTHER BUSINESS**

- A. Steve Guest distributed a 2009 calendar to board members and reviewed the proposed dates for the various meeting to take place. After some discussion concerning the addition of a board meeting on March 3, 2009, the dates for meetings were approved as follows: Board Meetings: February 3, March 3, April 7, May 5, Sept. 1, Nov. 3 and Dec. 1, 2009. Annual meeting of owners – March 17, 2009.
- B. Steve Guest stated that two of the board members will have their one-year terms expiring in March, 2009 (Schulte & Guest) and a nominating committee must be formed to solicit candidates. He indicated that Sue Jordan had agreed to be on the Nominating Committee, assisted by Maureen Collins. The matter was voted on and approved unanimously.
- C. Steve Guest stated that he had sent an e-mail to the owners to this effect but that a new mail box had been installed inside the Club House, beside the closet. The idea is to enable owners to put their payments in the box along with any other mail for the HOA. The box, which is locked, will be checked by Deb Coburn on a weekly basis when she comes to get the mail.
- D. Tom Collins discussed the matter of the painting contract for Phase 1 of the project. He said that estimates were received from 6 contractors based on certain original specifications approved by the Board. These estimates seemed very high. The list was then pared down to the lowest three bidders based on a revised specification (which eliminated the primer coat except where excessive sun exposure made that necessary.) Of the three bidders one was eliminated because he was \$1000 higher than the others. Mcleod Interiors was the lowest bidder, both as to the basic quote for painting the units and as to the extra amount he would charge individual owners for painting the interior of their lanais and their front doors. The other low bidder was United Painting. The principal of that firm owns a unit in VWS. Tom noted that the final figure is such that only 3 blocks of units (those on 6<sup>th</sup> Lane) can be covered in this year's allocation and that we

may have to do 2 blocks per year thereafter. He was still hoping to find a way to do 4 blocks this year.

Bob McKinley clarified that caulking is included as required. He also asked for clarification on whether the proposed arrangement with the painter gave the painter any rights to do the work on remaining buildings. Tom indicated that there is no exclusivity and that succeeding blocks could be bid again as necessary. He noted that the successful contractor would have an advantage, once he gained the experience of doing the first phase.

The timing will be about one block per week in succession.

Tom stressed that shrubs and vines that are located against any walls to be painted will have to be completely pruned down to facilitate the painting. Dale Bushong is to be instructed to begin the pruning. Tom reminded everyone that this is Florida and the shrubs would quickly grow back. He reiterated the fact the individual owners are responsible for their lanais and front doors. Garage doors are included in the main contract. The separate costs for lanais and front doors ranged between \$95 to \$175 for lanais and \$25 to \$30 for doors.

Sandy Fontana asked if the white trim is included. Tom answered that it is.

Hank Schulte asked if it was possible to do 4 blocks this year. Tom thought it was doubtful

Steve Guest asked if taxes were included. Tom said they were.

Bonnie Moore asked if she could get a sample of the paint so that she could match it. She was advised that the paint is available at Sherwin Williams under the name Village Walk South yellow. Tom added that there are two different yellow paints – one for the siding and one for the stucco.

Larry Moore asked if owners were free to paint their lanais a different color. There was no easy answer. The ARC has never involved itself in decisions regarding lanai interiors but the interiors are clearly visible from the outside. However, they are within the owners building. Pat Moore stated that she had no wish to change from the yellow, which she likes. The Moores were simply asking the question.

Dann Jacobus asked whether all the buildings were to be done. He was advised that it was just the 3 buildings on 6<sup>th</sup> lane.

Michelle Jacobus referred to the e-mail sent by Steve Guest concerning the air conditioning units. She wondered whether the HOA could look into

getting a group discount if a bunch of owners were to get together to carry out some preventative maintenance and repair. Steve Guest thought it was a good suggestion and would look into it.

Pat Moore offered a compliment to the Board and to the contractors serving VWS on how wonderful the project looks.

Tom Collins raised an important issue concerning the ability to get Fanny Mae and Freddy Mac mortgages in future. It seems that the two agencies are going to insist that for any mortgages involving condominiums and homeowners associations that the financial condition of the condominium or HOA be examined and that a 10% reserve fund allocation would be the minimum requirement. He asked that a bulletin from the Community Associations Institute be appended to the minutes dealing with this.

## **8. ADJOURNMENT**

The meeting adjourned at 7:00 PM.  
An *in camera* meeting followed.

**Community Associations Institute bulletin attached**

# New HOA Lending Rules

By Seth Emmer

Marcus, Errico, Emmer & Brooks, P.C.

An already difficult condominium market is likely to become more challenging for buyers, sellers and lenders as a result of new underwriting guidelines adopted recently by Fannie Mae and Freddie Mac (the entities that buy most home mortgage loans). The revised rules respond to the mounting loan delinquencies and defaults that have bruised the bottom lines of just about everyone involved in financing residential mortgages. While this article is based on Fannie Mae's new requirements, Freddie Mac's are essentially the same.

The new policies require lenders to assess the financial strength of homeowner associations as well as the credit of the borrowers purchasing units in them. In addition to tightening the qualifying standards for condominium buyers, lenders must review the HOA finances which will, as an indirect result, push HOAs to focus more intently on their budgets and reserve policies than in the past.

### Full Reviews Required.

For lenders, the most significant procedural change is the virtual elimination of the streamlined "spot" loan approval process through which Fannie Mae and Freddie Mac have provided automated reviews of condominium loans originated for sale to them.

Fannie Mae's new rules will require full project reviews for loans to individuals purchasing units for primary residences or second homes in new condominium developments and for loans to investors buying units in both new and established communities. Lenders financing multiple loans in existing communities (more than one loan in a given community within a year) will have to subject those loans to a full project review as well. Spot loans (single loans in existing communities) will be allowed only for borrowers making a minimum down payment of

10 percent, another significant change from the former policy, which allowed 100 percent financing for some condominium loans.

Clearly, Fannie Mae wants lenders to perform full-scale rather than limited reviews on the condominium loans that it buys. The company also wants HOAs to be primarily owner-occupied. Fannie Mae will not approve an investor loan unless at least 51 percent of the units are owned or, in a new development, under contract to owner-occupants or secondhome owners. Under the full project review now required for most condominium loans, lenders must verify and warrant to Fannie Mae that:

1. The homeowner association has an "adequate" budget.
2. The budget allocates at least 10% of annual revenues to reserves.
3. The HOA holds funds equaling the deductible under the master insurance policy.
4. No more than 15% of the common area fees are delinquent by more than one month.

All of these changes are significant for lenders, but the delinquency limit is likely to prove most problematic. Homeowner associations nationwide are already struggling with rising delinquencies and foreclosures, exacerbated by a weakening economy and restrictive lending policies that had already begun to tighten before Fannie Mae announced the new guidelines. Even with an aggressive collection policy in place, it takes time to collect delinquent payments or to foreclose on delinquent owners.

Lenders, struggling with delinquency overloads themselves and under pressure to work with struggling borrowers, are delaying foreclosure actions and (in turn) delaying the point at which they must assume responsibility for paying the fees for the units they acquire. Under these circumstances, it is likely that large numbers of HOAs are already tripping over the new 15% delinquency requirement, or will be soon. The full impact is unclear, but at a minimum, this policy seems to be at odds with federal and state efforts to stimulate the sagging housing market. The policy also seems inconsistent with another recent Fannie Mae announcement telling loan servicers that they can increase the forbearance period on delinquent loans from four to six months, to give borrowers more time to seek financing alternatives that will allow them to avoid foreclosure.

The new guidelines will increase the paperwork and expand the potential liability for lenders, who must now warrant on each condominium loan sold to Fannie Mae that the HOA meets all of Fannie Mae's legal requirements. In a follow-up memorandum clarifying the policy, Fannie Mae explained that for new condominiums, lenders must submit a formal written opinion from an attorney verifying that the HOA's documents are in compliance, but for existing communities and smaller developments (2-4 units), Fannie Mae said the attorneys' review "need not rise to the level of a formal written legal opinion."

Fannie Mae seems to be suggesting that the review for existing communities will be less extensive. In practice, however, this will be a distinction without a difference. No lender is going to warrant compliance for a new or existing development without obtaining an attorney's written opinion on which to rely. And no attorney is going to provide that written opinion without performing the analysis necessary to offer an informed assessment. Whether they are dealing with a new development or an existing community, attorneys are going to have to review and analyze the association's documents, and they are going to charge lenders for that work.

Having the attorney who represents the HOA or who prepared the original governing documents perform the review may reduce the cost, but there will be legal fees involved and lenders will almost certainly pass those expenses along to borrowers, increasing the cost of condominium loans.

Homeowner associations will also feel the impact of the new condominium standards. They will have to respond to requests from lenders seeking to verify that they have an "adequate" budget, a 10% minimum reserve allocation and insurance deductible funding that the new rules require. It's not clear how lenders will determine that a budget is "adequate," but at a minimum, they will probably want copies of the budget and the most recent reserve study, plus some detailed background information [Continues on page 28.]

**CLASSIFIED SERVICES...from page 27.****ROOFING/SIDING**


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**FINANCIALLY SPEAKING...from page 8.**

sented to the board of directors:

- Treasurer's report.
- Balance sheet.
- Income statement with comparison to budget and explanations of significant variances.
- Aged accounts receivable report and status of accounts due past 60 days.
- Aged accounts payable report and status of accounts aged past 30 days and purchase discounts missed.
- Check register to allow a review.
- Analysis of investment activity.
- Analysis of reserve activity including contributions, appropriations and earnings.

With these financial systems in place the association must then look at areas that are always important but during potentially difficult economic times must take on additional emphasis.

The association must be particularly tight-fisted with both its accounts receivable management and cost management. This means that all budgets will have to perhaps increase the estimate of bad debts that may be incurred in the future and be ever vigilant regarding the age of its accounts receivable so opportunities to collect fees are not lost. As we all know, the impact of revenues that cannot be collected are bills that cannot be paid so setting realistic expenditure levels is very important as well.

The association must pay attention to its cash management policies too. Questions such as the following must be addressed: If the association has funds to invest where should they be invested? How much of the funds should be in any one financial institution? What are the risk factors in the instruments the money is invested in?

Although one of the reasons people move into units managed by a homeowner's association is to simplify their life style, it is still important to recognize that it is impossible to delegate responsibility to others when it comes to the financial management process of the association. This is especially true during any nationwide financial downturn. It is for this reason all boards must work diligently to achieve the results that will come from organizing their association's financial management in a planned approach to achieve the best possible results. ■

*Sam Tomasetti, CPA is a principal in the accounting firm of Tomasetti, Kulas & Co., P.C. Sam served on the CAI-CT Board of Directors as its Treasurer from 1999-2003. He is currently Chairperson of the Publications and Marketing Committees.*

**NEW HOA LENDING RULES...from page 18.**

explaining the reserve policies and reserve replacement history. Boards should anticipate these requests and develop policies for dealing with them. Owners should anticipate that boards will require them to pay for the reasonable cost of providing the information requested by lenders financing the units owners are trying to sell.

**Pushing for Reserves.**

The new Fannie Mae policies will require homeowner associations not just to provide information, but to adopt policies they don't currently have. The reserve requirement will likely prove most challenging. Most HOAs do not have adequate reserves, defined as existing savings and a funding policy matching the replacement recommendations of a qualified reserve study, which many also do not have. Many HOAs don't have any reserves at all. Few, if any, have line items in their budget specifying that at least 10 percent of their annual revenues will be allocated for the reserve account. But here's the critical bottom line: Lenders selling loans to Fannie Mae and Freddie Mac will not finance units in condominium communities that do not meet the 10 percent-of-budget reserve requirement.

Homeowner associations may be able to win a waiver if they can demonstrate that their reserve study supports a lower reserve to budget ratio. But Fannie Mae is serious about the reserve requirement and HOAs are going to have to be serious about it too. Arguably, the new underwriting standards for condominiums will require lenders and homeowner associations to do things they should have been doing all along. HOAs will become stronger financially, lenders will adopt more prudent policies, and everyone will eventually end up in a better place as a result. ■