



## Timber Cove Homes Association

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To our Membership,

We believe that most of you are aware of the perilous state our HOA currently faces with our financial situation, even after the special assessments that were implemented in 2018.

TCHA is now faced with the need to increase our annual dues, which we will explain in this message.

The Board has already voted in our meeting on January 19, 2019 to raise the annual dues by 20%, from \$459.20 to \$551.04, which is the maximum annual increase allowed without a vote of the membership. This will NOT be sufficient to effectively run the HOA.

For those of you who have been attending Board meetings and/or reviewing minutes and treasurer reports, the situation should be painfully clear.

This past August, the Board was forced to levy an emergency assessment in order to fund urgent legal defense costs incurred by our Association in defending a lawsuit brought by Carmen McKay, the former community manager of TCHA, which alleges invasion without consent, and subsequent distribution, of private emails of the former community manager by prior members of the Board. To date, TCHA has incurred over \$120,000 in legal defense costs and has approximately \$30,000 that is yet to be incurred while our expert coverage counsel pursues contribution for prior defense expenditures from our previous insurers who are now defending us on a go-forward basis.

Part of the special assessment was applied to restore funds to the Road Reserve account which were borrowed early in 2018 to cover current operating expenses. However, our shortfall in funds has required us to again borrow from the Reserves.

You should also be advised that in October 2018 TCHA was served with a cross complaint from Hannah Clayborn related to claims made against her in the McKay lawsuit for her alleged wrongful acts in the unconsented access and subsequent distribution of Ms. McKay's private email. Ms. Clayborn was a volunteer heading up the trails committee for prior board. She contends any acts McKay claims against her were performed at the specific instructions of Sue Ellen McCann, who Clayborn calls "Manager of the Association".

*Ms. Clayborn is demanding that TCHA indemnify her from any judgment that may be entered against her in the McKay lawsuit, and pay attorneys' fees required to defend Ms. McKay's claims against her.*

**The Board has rejected Ms. Clayborn's demand for indemnity and our insurers have also rejected her claim to be indemnified.**

Fortunately, thanks to the efforts of our insurance coverage counsel, one of our insurers has agreed to defend the Association against Ms. Clayborn's new indemnity suit, in addition to defending TCHA on a go forward basis the McKay lawsuit.

Unfortunately, this has all come at a high price, even beyond the cost of obtaining legal assistance.

Our prior insurer refused to renew our expiring policy in December 2018 citing the litigation threats we have received as well as the lawsuit we are currently defending. This caused us to once again search for a new insurer for TCHA, at a substantially higher cost.

The premiums for TCHA's new liability and Directors and Officers insurance exceed \$28,000 and when adding in workers compensation insurance TCHA is required to carry, TCHA's insurance costs are approximately \$30,000 a year.

We will need to budget \$35,000 for next year for insurance due to what appears to be *“the new normal”*.

In addition, we will need to budget no less than \$25,000 for legal costs to ensure that in the event the current threats we have received from certain members ripen into actual suits, we have funds to pay our coverage counsel to demand defense from our insurers, in case they repeat the resistance we recently had to overcome in obtaining coverage for the McKay lawsuit.

Historical costs for both insurance as well as legal were traditionally closer to \$5,000 each, and we are now faced with approximately \$60,000, 6 times the historical costs, just to ensure TCHA is not faced with judgments and our members are not faced with larger assessments.

Our current dues structure will not support these cost increases. Our current dues total approximately \$95,000 a year. In the past, this was more than sufficient and would allow for approximately \$35,000 annually for road maintenance and repairs.

You will see from the attached spreadsheet what is now realistically required in costs to maintain the HOA at its current level, fund roads and labor.

Even with the recent annual dues increase to \$551.04, we will face a funding shortfall of approximately \$51,000 per year, and to reach adequate funding, we would need to follow up with annual 20% increases for the next two to three years as well. To overcome this shortfall in our funding will require an additional annual dues increase of \$258.96 for total annual dues of \$810.

An additional annual dues increase of \$258.96 during this year will require the affirmative vote of the membership. Unlike the prior special emergency assessment, which required immediate action by the Board to address urgent litigation defense costs, the ongoing budgetary shortfall is a more general business decision that is part of annual planning and budget functions for the Association. The problems, and potential consequences, are serious, but they do not represent immediate emergencies. It is for the membership to determine how they wish to address the ongoing shortfall of operating funds.

In the event the membership does not approve a sufficient due increase, the consequences would be that once again TCHA would lack the necessary funds to effectively maintain our roads and would also need to significantly reduce the administrative labor resulting in delayed responses to membership inquiries and escrow demands. This is a decision for all Association members; we will all bear the resulting costs or consequences.

Please take the time to carefully review the attached spreadsheet of expected expenses. We also encourage you to review the past Board meeting minutes and treasurer reports (available online at <http://timbercovehomes.weebly.com>) that provide further detail on TCHA's costs and how they came about.

We will soon mail out ballots for the membership to vote on increasing the regular annual dues beyond \$551.04 to \$810.

Please feel free to contact us with questions and/or suggestions.

Respectfully,

The TCHA Board of Directors