

Treasurer Report 10-20-18

Agenda

- Bank balances
- Dues/Fees collected
- Dues increases
- Bills paid
- Road expense (Mailbox)
- Legal fees
- Assessment collections/payment plans
- Insurance/Litigation Threat

Bank Balances

- Checking - \$6,324.67
- Mailbox Account (donations) \$1,458.69
- Reserves - \$4,945.30
- Total - \$12,728.66
- Emergency assessment account \$49,561.93 (\$76,587-\$27,025 legal)
- \$27,025.40 was transferred from Special Assessment to checking to pay legal bill
- Total Operations and Reserves- \$62,290.59
- Decrease of \$929.84
- Bond Account - \$61,561.93
- Increase of \$8.56

Dues collected

- Collected this month \$459.20
- Plus prepayment of \$60
- Collected to date - \$83,170.53
- Total outstanding dues \$15,681.47
- Fees collected- none this period
- Special emergency assessments collected to date \$76,587.33
- \$27,025 of this was already used in funding defense in addition to what was already paid out

Collections

- We have now sent 3 properties to collections (2 owners)
- Properties will be sent to collections, and liens placed if owners fail to bring account current
- If forced to file a lien, and additional \$533 of costs will be assessed **NOT INCLUDING** fees from collection agency

Dues increases

- Our reserve study done this year showed a shortfall of \$25,000 in reserve funding.
- This is based on current Dues structure as well as expenses
- The special assessment on road fund shortfall was levied to ensure we have proper funds as per our study
- The shortfall is not a one time event but rather the needed financial resources needed to fund roads based on our current financial model
- We will need to increase dues by 20% which is maximum amount allowed without a vote

Dues increases

- The 20% increase will net approximately \$19,000 which will result in another shortfall next year.
- This means dues will need to increase again the following year (2020) in order to hit the proper funding and make up for the shortfall from 2019 dues.
- This is under assumption that our expenses stay the same in 2019 and 2020
- Insurance will likely increase by the amount of the dues increase if not more, and will be explained further in presentation
- It is important all understand the financial situation we face as we move forward.

Bills paid

- Spaulding Law Firm- \$27,025.40- Defense of Lawsuit
- This was funded from special assessment
- Office depot \$334.20- (ink and copies)
- Frontier \$200.99- (office phones)
- Payroll taxes (quarterly) \$2,577.54
- Payroll-
- Total bills this period \$33,482.92

Road Expense

- Mailbox turnout requires rock
- This falls under Roads Budget
- To Date, this fiscal year we have spent \$2500 on Roads
- Budget is \$15,000
- Estimate is \$3500 to finish turn out for mailboxes
- Motion to approve expense
- Umland circle needs a minor repair. Can likely be repaired for minimal expense for materials
- Motion to approve purchase of road repair kit to fix, need volunteer to assist vs paying a contractor.
- Lee Drive in need of major repair on South end. Need to get repair estimates.

Legal Bills

- To date we have spent \$107,907.43 on legal defense on the McKay suite
- A portion of this was dedicated to special insurance counsel to get our insurers to cover our defense
- This is over the initial estimate of \$100,000 where we based our assessment
- **The good news** is we now have insurance to pay for the defense of the case **going forward.**
- **This means we have defense up to and including a jury trial**
- **We also may recover part of our legal fees from our insurance. Our coverage counsel is currently working with insurers and has sent a demand.**
- Unfortunately, this does NOT mean we have no more legal fees
- We have retained special insurance counsel to protect us and ensure the insurers continue to fund our defense and are currently working with them to make sure our current insurer will cover future claims against us.

Legal Bills continued

- We have been served with another claim
- Hannah Clayborn has sent through her attorney a cross complaint demanding the HOA defend and indemnify her for her part in the invasion and subsequent release of private email from the previous community manager who is currently suing us and other defendants including Ms. Clayborn
- We tendered to our insurance who has declined to offer any defense to her.

Assessment collections

- As stated, we have given 30 days due, late in 60, and delinquent in 90 days
- This was due to the emergency we are facing and must have funding to defend the association
- Some members are put at financial hardship
- Board to decide if we can work on plans for those who are currently unable to pay entire amount by due date.

Special assessment

- We have been approached by a few members that have financial difficulty in paying the entire assessment all at once.
- In our September meeting, we voted to review on a case by case basis members requests to spread out payments in event they cannot come up with entire sum at once
- In event a member has financial hardship, they may request a payment schedule that spreads out the payment over several months to ease the burden.
- The members must request in writing and agree to a schedule to avoid collections.

Special Assessment (Emergency)

- As stated in previous reports, we will have a special assessment of approximately \$336 to bring reserve fund for roads to minimum funding requirement
- This comes from a shortfall of \$25,000 per our reserve study, and borrowing of an additional \$45,000 to pay our bills, leaving a total of \$70,000 shortfall in road reserve fund required
- We had been advised to expect \$100,000 in fees this year to defend the lawsuit by our current attorney. Our legal budget this year is \$7,500
- We have already exceeded the entire amount of expected cost of our defense.
- Additional legal fees paid and expected to be paid bring our current funding shortfall to \$162,500 (not including any adverse judgement against HOA)
- The fees amount to an assessment of \$444.71 per property (additional \$92,500 over budget)

Special Assessment (Emergency)

- \$444.71 plus \$336.53 came to a total assessment of \$781.25
- This unfortunately does not cover any judgement that could be assessed against us in a trial or if we are ordered by the State to pay on the labor claim
- Members will be kept informed as we learn more. Your Board is working to defend our membership and intend to hold those responsible accountable
- Due in 30 days, late in 60 days, and subject to late fees and interest
- Collections in 90 days

Special Assessment (Emergency)

- Some individuals are sending out protests and encouraging members not to pay
- While we understand their concern, this is ill advised as properties who refuse payment will be sent to collections and this will result in higher fees to owners
- We have been successful in obtaining defense through our coverage counsel and the cost of our defense on this case is covered going forward, and we will attempt to recoup some of our expenses incurred to date

Special/ emergency assessment

- Assessments were sent on August 14, 2018
- Due on September 14, 2017
- They are now considered late
- Payments must be made now or risk additional penalties, collections

Insurance

- I have been asked by our Insurance Broker Kevin Sullivan to relay the following advice to the membership
- Threats of litigation only increase the cost of our insurance as well our insurability
- He asked me to caution the membership on making these threats as the insurers have no choice but to take it seriously
- He also stated that we as insured are obligated by the terms of our policy to report these threats and notices of circumstance in a timely fashion to ensure we are indeed covered in the event of an actual lawsuit

INSURANCE/ Litigation Threat

- We were notified by our current insurer that they would not renew us on December 27th this year
- The reason they gave was claims history
- The McKay Claim was disclosed on our application and was excluded from coverage, so that is not the issue but does impact our insurability
- A new threat of litigation caused the underwriter to believe we were a bad risk and not renew our policy
- A member threatened to “ SUE US BACK TO THE STONE AGE”.

Insurance/ Litigation Threat

- We sent the threat to our attorney who advised us to tender to the insurance in the event he followed through on his threat
- Our Insurance Broker agreed and tendered the event
- The claims adjuster also agreed it was required under our policy
- In the event we are sued in future on this, we understand we will indeed be covered under the terms of the policy
- So it's a double edged sword. We will have legal defense even if the suit comes after expiration of the policy but we are now having to seek new insurance which will likely be significantly more if we can even secure insurance.

TRAVELERS

One Tower Square
Hartford, CT 06183

September 14, 2018

TIMBER COVE HOME ASSOCIATION

**22098 LYONS COURT
JENNER, CA 95450**

RE: Notice of Non-Renewal

Policy Number: 106863162

Policy Type: Wrap+ Community Association Management Liability Coverage

Underwriting Company: Travelers Casualty and Surety Company of America

We wish to inform you that your policy will not be renewed. Your insurance coverage will cease on the policy expiration date of **December 27, 2018**

The reason for nonrenewal is:

Due to the severity of claim(s) on this policy, we are nonrenewing your policy. Attached is a loss run report which details the claim activity.

If you have any questions, please contact your agent or broker.

Sincerely,

that no claim has been reported. If you have questions regarding this report, please

Agent: CRC

00

Insured	Cov Eff Date	Cov Exp Date	Notice Date	Claim #	Claimant Name	Loss Paid	Expense Paid	Incurred
VE HOME ON	12/27/2017	12/27/2018		X1812323	Giacinto, Tom	\$0.00	\$0.00	Not Available
			4/2/2018	T1804922	McKay, Carmen	\$0.00	\$0.00	Not Available



You lying bunch of

Special Assessment

Dear Members,

As many of you are aware, we are faced with special assessment due to major funding shortfalls. We have detailed the reasons over the past several months at our monthly meetings. We are no longer to restore our funds. This special assessment has two components:

FUCKING CROOKS -

1. Replenishment of our Roads Reserve Fund.

The recently completed independent expense reserve study showed a shortfall this year of \$25,000, in addition to the \$45,000 we borrowed from the Fund in January 2018 to cover operating expenses, which must be restored to the Reserve Fund. That total shortfall is \$70,000, and the amount required to resolve it is \$336.53 per property.

This assessment was voted on and approved in our March 2018 meeting as documented in our minutes.

2. Current and continuing litigation expense.

The Association is currently defending, McKay v. Timber Cove Homes, a lawsuit filed against the Association by the former TCHA Community Manager in March 2018. The claims included were the subject of a settlement demand made in October 2017 which the Association rejected, based on advice of our prior legal counsel. Investigation and defense of the claims and the lawsuit has already drained our operating funds and we will once again be forced to borrow from our reserves. Our attorney has advised us that our legal costs in this litigation this year will likely amount to \$100,000, much of which has already been spent. Our original budget for legal expense this year, which was prepared before the lawsuit was filed, is \$7,500, which leaves a \$92,500 shortfall, requiring an assessment of \$444.71 per property.

This assessment was voted on and approved in our July 2018 meeting as documented in our minutes.

It should be understood that the current litigation assessment only covers estimated costs through the end of 2018, including no court review and production, investigation, legal research and taking and defending depositions of parties and witnesses, court hearings, etc. It may not be sufficient to cover continuing costs required to defend and try this case to its conclusion, which are likely to extend into 2019. It also does not account for any judgment which may be awarded Plaintiff against the Association resulting from trial of this case.

We should also make clear that this Board previously submitted this claim to TCHA insurers. Coverage was denied on grounds that the prior board had knowledge of probable claims as early as June 2017, but failed to provide required notice to the insurance carriers at that time, and failed to disclose the possible claim in the application for subsequent insurance coverage beginning July 2017. We have engaged a specialized insurance coverage attorney to explore any other avenues for obtaining coverage. If she has

Before I pay you I will sue each of you into the stone age

PROMISE TEG

Insurance

- As you can see, there was a threat, we reported as per the terms of our policy and advise and as a result, the current underwriter will not renew our policy
- We directed our broker to immediately begin looking for a new underwriter
- We had a conference call with our Broker who believes he was able to find a new underwriter.
- We have been advised that the cost will go up significantly due to our non renewal and they are currently reviewing our financials and audit.
- We have been completely transparent reporting all potential claims we are aware of.