

TO: The Board

RE: Assessments

Since we are facing major decisions regarding assessments, below is a summary of all matters relating to assessments as set for in the Declarations and By-Laws. Article XV, Assessments and Assessment Liens.

By purchasing a unit, unit owner agrees to pay to the Association annual operating assessments and special assessments for capital improvements:

Section 1. Types of Assessments. Each Unit Owner by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed) is deemed to covenant and agree, to pay the Association: (1) annual operating assessments, and (2) special assessments for capital improvements.

Any assessment we, as a Board, charge is limited in purpose:

Section2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of Unit owners and occupants and the best interests of the Condominium Property.

There are Three (3) types of assessments:

- Annual Operating Expenses
- Special Assessment for Capital Improvements
- Special individual unit assessment

At this time, we are dealing only with the first two (2) types of assessments.

The Annual Assessment for operating expenses required to operate the property include:

- Cost of maintenance, repair and services
- Cost of Insurance / Bond Premiums
- Utility services (not for individual units)
- Amount for general operating reserves the amount determined in no event less than an amount equal to two month of current assessments
- Costs to run association including management, legal and accounting services, mail/postage costs

The Board has the authority to establish the amount of the assessment and the due dates for the payment of these assessments.

The biggest challenge facing us is the decisions regarding special assessments for Capital Improvements, i.e. the siding and related water intrusion issues. Our decision will require major capital improvements. The Board is authorized to levy a special assessment to construct, reconstruct, or replace capital improvements to the extent that our reserves are insufficient.

Section 3. (B). Special Assessments for Capital Improvements.

(1) In addition to the annual operating assessments, the Board may levy, in any fiscal year, special assessments to construct, reconstruct or replace capital improvements on the Common Areas to the extent that reserves therefor are insufficient, provided that new capital improvements not replacing existing improvements shall not be constructed nor funds assessed therefor, if the cost thereof in any fiscal year would exceed an amount equal to five percent (5%) of that fiscal year's budget, without the prior consent of Unit owners exercising no less than seventy-five percent (75%) of the voting power of Unit owners and the consent of eligible holders of first mortgages hereinafter provided.

Some owners think that this provision will required the Board to get 75% of the owners to consent to the capital improvement assessment for siding / leak repairs. The phrasing is awkward but a careful reading of the provisions supports the Board's position that the Board does not need the consent or approval of the owners. A new building, new garages, a new community building would require 75% consent because they do not replace existing improvements. However, repairs to an existing building do not require 75% consent. The Board has the authority levy the capital improvement assessments by a vote of the Board.