

## BOARD of GOVERNORS

### Special Assessment Board Meeting

#### Capri Isle Gardens #2 Condo Association

Tuesday July 21, 2020

Due to the Coronavirus social distancing was enacted and the meeting was held via teleconference. Board members in attendance were Tony Repic, Lorraine Gray, Richard Ellrodt, Theresa Bonner, Hoyt Koon & Debbiee Jones. Frank Cahoon did not attend

Other attendees were Corey Palmer (Ameri-tech Property Management), and owners Joanne & Jack Fidure, Russ & Gail Krutzman, Ken Robertson, Cliff & Karen Griffin, Manny Morris, Zach Manning & Susan Perry.

- Call to Order  
The meeting was Called-to-Order at 6:06 pm by President Repic.
- Determination we have a Quorum
- Established Proof of Notice

#### Board Presentation of Necessary Maintenance:

- **Roof** - The roof is 15-16 years old and needs to be replaced. We have loose & missing shingles, rusted nails, nails popping through shingles, missing rolls of shingles, water damage to 3<sup>rd</sup> & 4<sup>th</sup> floor units, etc. In March 2019, we started the process of gathering quotes, but it was halted due to a few Board members not agreeing with the experts. A reserve study by Felton Professional Adjustment Team was conducted to update repair estimates for budget purposes, and to get an unbiased recommendation on what needs repaired and when. That report (which is on our website) was published in September 2019 and indicated a new roof was needed within two (2) years. Confirming what the roofing experts originally told us. The Board restarted the process in March 2020. We received proposals from four (4) vendors. The Board also sent a Specifications requirement sheet with 22 items to be addressed by each vendor to assist the board in evaluating their proposals. Per Florida building code section 1015.6, a 'railing or guard' must be placed in front (waterside) of each cluster of air conditioners if they are less than 10ft from the roofs edge. Ours are 6-7ft. Conversations between TI building inspector's office and BCMI Contracting indicate it will depend on the roofing inspector if they are needed, since this requirement has not been enforced in the past. If they are needed, it will be at an additional cost. The roof contractor will install the receivers for the railings at no extra cost, so adding the guards will be relatively easy. The cost of installing the railings was not available at the time of the meeting. Therefore, Mr. Koon would like his "No" vote documented based on this. However, whether the cost of installing the railings is \$500 or \$2000, that same delta cost would be applied to the other contractors, which would still makes them non-players. The estimated material cost to in stall a basic permanent aluminum single rail system is about \$800, per conversations with BMCI Contracting.

- **Seawall** – Reuben/Carlson Consulting Firm was directed by the Board on January 24, 2020, to evaluate the seawall. After an inspection performed on February 14, 2020, a letter of findings was sent to the board, which the Board received on March 31, 2020. The findings presented a long-term & short-term fix. The long-term fix is replacing the seawall at an estimated cost range of \$150,000 to \$175,000 or higher. The short-term fix is to do repairs along the seawall and place crushed seashells to fill voids along the seawall where soil has eroded. The short-term fix will give us approximately 5-7 years of seawall life. Owners can re-educate themselves with these findings which are on our website and was also part of the May 14, 2020 Board Meeting minutes.
- **Building Maintenance** – We are over budget by approximately \$7,275, along with the General Reserves being over budgeted by approximately \$1,500. This is due to work we have had done by FAST and other vendors. Funds are needed to correct this deficiency and provide operating funds for the remainder of the year.
- **Legal** – During the last annual meeting on January 27, 2020. Numerous owners ask the Board to investigate the possibility of the landowners paying for a new seawall. This was based on the Rueben/Clarson report indicating we will need a new seawall in approximately 5-7 years. The Board engaged our legal counsel to review our 99-year land lease. On June 18, 2020, the Board had a teleconference with Mr. Dan Pilka (the Association’s legal counsel). The 99-year land lease is approaching the point of being unsustainable from a monetary standpoint for the owners. The Association has a responsibility to maintain all elements (e.g., seawall, dock, parking lot, building, etc.) along with paying taxes and the land rent. The 99-year lease is in year 52 of its existence. Mr. Pilka was asked to investigate the 99-year land lease, based on determining if the landowner has a responsibility to maintain the seawall. During his investigation he found oddities within the lease itself.
  - Mr. Pilka’s investigation into the matter revealed the 99-year lease was entered into by CAPRI INVESTMENT CORPORATION (Lessor) and FAIR INC. (Lessee) on May 6, 1968. Capri Isle Garden Apartments #2 Association was in existence at the time and should have been a party to the lease. The relationship between FAIR INC., and Capri Isle Garden Apartments #2 Association is unknown. The make-up of FAIR INC. is also unknown, but they dissolved in 1970. Mr. Pilka’s investigation revealed the evolution of the title starting with CAPRI INVESTMENT CORPORATION, to the present landowner CAPRI ISLE INVESTMENT GROUP LLC. The property was deeded 4 times since its inception to 4 different parties. There is also no records on how the Association inherited the responsibilities of the original lease from FAIR INC. when they dissolved.
  - There appears to be no legal relationship between the present landowner and the Association. Therefore, the Association may not be responsible to maintain the seawall. The Association must maintain the building (since we own it), including the dock and parking lot (since that was put in by the developer).
  - Florida Statue Chapter 718, Section 122, titled, Unconscionability of certain leases, rebuttable presumption. This section outlines criteria that the court will use to determine if certain provisions within the lease, may make it unenforceable. A lopsided lease provision favoring one party (usually the landowner) is unconscionable or unreasonable but was common practice back in the day.

- Recommendation by counsel, and unanimously agreed to by the Board, is to pursue legal action against CAPRI ISLE INVESTMENT GROUP LLC. The goal (depending on how the lawsuit plays out) is to attempt to renegotiate a new land lease with fair and clear responsibilities defined between the LESSOR AND LESSEE, or renegotiate those parts of the existing land lease that the court has ruled in our favor, or renegotiate with the land owner a purchase price for the land, if the land owner is interested in selling. Keep in mind, there is no guarantee the court will rule in our favor on any of these possible scenarios. But at least we will know where we stand instead of doing nothing and making unfounded assumptions.
- The effort is currently capped at \$20,000. Our legal counsel will report to us on a regular basis on everything that occurs in litigation. The Board can continue or withdraw from this activity at anytime depending how the lawsuit unfolds, based on recommendations of our legal counsel, and a Board vote.

**Open Discussion:**

- Gail asked if Capri Isles Gardens #1 is owned by the same land lease company and if they should be notified about the legal action we are taking. The Capri Isle Gardens #1 is owned by the same land lease company, but we have not let them know what we are doing.
- Manny asked how the four special assessment payments will be collected. Coupon books will be mailed to owners with payments made quarterly. Payment dates are the 1<sup>st</sup> of September & December 2020 and March & June 2021.

**New Business:**

- Manny asked if we have an end date for the attorney. There is not an end date, but we will re-evaluate and if it does not look like things are not going in our direction we will decide if we want to proceed further or stop the process from going any further. This is an ongoing process.
- Theresa asked about the purchase status of unit 202. There was a buyer, but it appears the unit is back on the MLS.
- Corey asked about the application submitted for the sale of unit 205. The application has been approved.

**The Board reached a majority vote to move forward with the Special Assessment:**

- Roofer - BMCI Contracting was awarded the contract
- Seawall – Enterprise Marine was awarded the contract
- Legal – Pilka & Associates, P.A. was hired

*The next board meeting is scheduled for August 18th at 6pm.*

Motion was called to adjourn the meeting at 6:42pm.