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Subject Val Vista Park - Board Letter
From Heywood HOA <Email_Alert@heywoodmanagement.com>
To: DAVID CLEM SR <redd5166@yahoo.com>
Date Mar 3 at 3:24 PM

Good afternoon,

Please see the attached from the Board of Directors.

Thank you

Heywood Community Management

Final revision 3-23-2023.pdf

2-9-23 Wanda request for financials.pdf

2-15-23 Shelley email.pdf

3-2-23 Wanda email.pdf

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Dear Val Vista Park Homeowner,

The Val Vista Park HOA special meeting was held last evening and the special assessment vote was taken to include those members in attendance and all absentee ballots. The vote was 20 in favor and 23 opposed. The association rules dictate that in order to pass a special assessment or raise the monthly HOA dues, a two thirds majority of those voting after quorum requirements are met, must vote to approve. This vote would have required a minimum of 29 in favor and 14 opposed to pass.

The Board has fulfilled its responsibility to inform the HOA members of the current financial status of the association and has provided an opportunity to vote, on two different occasions, to pass a special assessment that would have set the HOA on a path that would have allowed the Board to provide the services stipulated in the Bylaws and CC&Rs.

As a result of the assessment's failure to pass, the Board must now inform the HOA membership that the current budget is not sufficient to accomplish the work stipulated by the HOA Bylaws and CC&Rs. As a result, all painting, street repair and roof repair, other than emergency response, will be postponed indefinitely. This is the result of the no vote on the proposed assessment.

There are 35 units that are East/West facing within the complex and another 15 that have a major west facing wall. These are the units that are most vulnerable to the afternoon sun. Among these units there are already a number where the paint has been deteriorating more rapidly due to the sun exposure. The paint's primary job is to protect the stucco, the stucco's primary job is to protect everything on the inside of your individual homes, from drywall in, which each of you are responsible for. Failing to paint on a regular basis results in damage to the stucco over time. Repairing damaged stucco is much more expensive than painting, as immediately upon repairing the stucco, the area must also be painted.

The cost of not painting is damaged and deteriorating stucco. In the future, as the stucco damage grows, the assessment required will not be for an additional \$150 per month but an additional \$200-300 per month. This is unavoidable if the complex is not painted and properly maintained. Those who voted no to the assessment or who didn't vote at all, may want to reconsider or you can take your chances and gamble on the sun damage to your individual unit. "You can pay me now or you can pay me later" as the saying goes. Later will be more expensive. The situation will not go away but continue to get worse.

As was mentioned during the meeting, if you are planning to sell your unit in the next 12 months, most owners would have voted no on the assessment. This, however, may make it more difficult to sell your unit as all potential buyers will legally need to be made aware of a pending assessment. If you have a North/South internal unit with no west facing walls, you are in a better position than those described above as the afternoon sun damage will be minimal. However, the rest of the community will show deterioration by the lack of painting and maintenance due to the lack of funding.

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Please remember, as an association we do or do not do everything together, we paint together, we repair roofs together, we repair streets together, etc. because these items are held in common by the association. They may be the exterior walls of your individual unit but they are owned by the association, just as the roofs, streets, and common areas, are association owned.

Additionally, effective immediately, any financial expense to the HOA by individual homeowners must be approved by the Board in advance of being incurred. Other than regular monthly expenses, we will now publish those expenses to all members of the HOA so everyone knows how the money is being spent. This includes such expenses as copies or any requests that require the time of Heywood Management or the association's attorney. There has been a request for additional transparency and the Board believes that everyone should have visibility into these expenses and who is incurring these expenses.

There is a small group of owners who caused the HOA to spend approximately \$10,000 dollars in expenses last year alone. This was primarily in attorney's fees, as they waged their turf war against the Board. \$2,750 dollars was spent on a forced election in December to oust the sitting Board President when the annual election of new Board members was already scheduled to be held the following month in January. This was a complete waste of HOA money and accomplished nothing. A majority of homeowners have spoken loudly during meetings and through their vote twice now, not to support these people or their agenda. Homeowners want to focus on making the community a better place to live and not on the drama. Make no mistake, these individuals are not acting in your best interest or that of the HOA. You should all be aware of how they are spending your association dues and taking valuable time that should be spent on important issues of the community.

The Board will be forwarding all requests requiring expenditures or actions to all members of the association from this point forward. You will now see what the Board/Management Company receives on an ongoing basis. Please see the attached requests as an example of what we receive on a regular basis that costs time and money.

Lastly, from today's date forward, any email correspondence sent to the Board or Management Company should **ONLY** be sent to hello@heywoodmanagement.com and not to individuals. The daily emails flooding our email boxes must stop and they will be immediately deleted unread. Sending correspondence to hello@heywoodmanagement.com allows appropriate tracking.

Thank you.

VVP Board of Directors

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From: Wanda Swatling <[REDACTED]>
Sent: Monday, February 6, 2023 8:10 PM
To: Carlee Collins <carlee@heywoodmanagement.com>
Subject: Fw: January 2023 Financial From: Wanda Swatling <[REDACTED]>
Sent: Thursday, February 9, 2023 9:20 AM
To: Carlee Collins <carlee@heywoodmanagement.com>
Subject: Re: January 2023 Financials & Vendor Invoices

Carlee,

So the January 2023 Invoices, copy of check register, and financials. Also, I almost forgot, I'd like to view all the vendor bids from January 2022 to current.

Thank you Carlee.

Wanda Swartling-Clems & Vendor Invoices

Carlee,

This is my second request for the month of January 2023 Financials & Invoices along with a copy of the bank statement. If you can't get them mailed out by February 13th, let me know and I can pick them up from Makenzie.

Regards,

Wanda Swartling-Clem
VVP - Unit 82

From: Wanda Swatling <[REDACTED]>
Sent: Thursday, February 9, 2023 9:20 AM
To: Carlee Collins <carlee@heywoodmanagement.com>
Subject: Re: January 2023 Financials & Vendor Invoices

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Thank you Carlee.

Wanda Swartling-Clem

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From: Wanda Swatling <red5166@yahoo.com>

Date: March 2, 2023 at 8:43:54 AM MST

To: Steve Cheff <steve@heywoodmanagement.com>, Patti Locks <blocks@cox.net>, Carlee Collins <carlee@heywoodmanagement.com>

Subject: Request for Documents

Steve & Patti,

After consulting an attorney, I am making the following request for documents.

Since the board took action without a meeting in regards to this special meeting scheduled for 3/2/2023, I am requesting copies of the minutes and written consent via e-mail. If the board discussed community business or conducted community actions in written form (which the e-mails are) they are records of the associations and required by ARS 33-1805 to be made available to any member so requesting. In fact in some cases if the board does not conduct it's communication on a separate e-mail accounts, the board members have been required to provide their entire e-mail history from their personal e-mail accounts in response to subpoena's from the courts. This is not a small deal, and boards should be more cautious in not conducting community business via e-mail.

In 1997 the Attorney General of Arizona cited in an official opinion that in the absence of definition of what constitutes a "meeting" in Title 33, you can go to the only other definition of the word "meeting" in statutes and that is in Title 38 for public bodies. The definition in that Title (38-431 (3)) is clear and in detail discuss types of e-mails that constitute a meeting. That particular statute was modified last year to incorporate another Attorney General opinion directly related to the use of e-mails.

The only time email should be used to accomplish board business is when action is being taken without a meeting. According to the Arizona Non-Profit Corporations Act Title 10 of the Arizona statutes section 3821 allows a board of a non-profit corporation to take action without a meeting with unanimous consent. In fact based on that long standing statute most HOA bylaws, including ours, include the exact same provision. Approval by email is written approval of the action.

But Title 33 Chapter 9 and 16 apply open meeting laws to Planned Communities (33-1804). There are no open meeting laws for non-profit corporations, and what the courts have long held, is that when general statutes conflict with more specific statutes the more specific statutes prevail. Any aspect of Title 33 Chapter 9 or 16 that conflicts with statutes in Title 10 the provisions in Title 33 chapter 9 or 16 prevail.

Arizona open meeting laws for Planned Communities' require that any meeting of the board must be noticed and must allow the members of the community to attend and participate in those meetings. The only time action by a board can be taken outside of a noticed and open meeting is for emergency meetings, that cannot wait for the 48 hour prior notice. I understand executive session meetings can occur by e-mail, because the members are excluded from attending and participating in executive meetings of the board, but even executive sessions must be noticed 48 hours in advance of the meeting, unless it is an emergency and the action or subject of that meeting cannot wait the 48 hours for the notice to occur.

Action by unanimous consent without a meeting is a direct violation of the open meeting laws for HOA's ARS 33-1804, if that action was not an emergency that could not wait for the 48 hours required for notification of an open meeting.

The most powerful aspect of the open meeting laws for HOA's is the public policy statement contained in those statutes. In 2017 a bill that include language into that policy that specifically held the board and

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the community managers responsible to ensure that if there was any doubt in whether the open meeting laws applied to clear that doubt in favor of open meetings.

I will pick those documents up from Heywood's office in 10 business days.

Thank You,

Wanda Swartling

VVP-82

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