

Estates at Dove Run Board Meeting Minutes: 11/27/15

Board of Directors:

- Present: Richard (Rich) Green, President and William (Bill) Wolff, Vice President

Purpose:

- To establish a plan to clarify/amend the Bylaws of the HOA, as it relates to Board Elections and approval of the Annual Budget

Financial Status:

- HOA dues: 97% compliance rate, 11 outstanding
- Rich reviewed the current financial status (see page 2); actual expenditures are well within the budgeted amounts

Discussions with HOA's Attorney

- Rich recently met with HOA's attorney regarding the bylaws of the HOA.
- Attorney contends the Delaware Ombudsperson does not have enforcement authority over the operations of the HOA; however, Counsel believes that our Bylaws are not clear in regards to quorum requirements.
- For clarity, the Attorney suggested that we should amend the Bylaws; the Board concurs.
- Attorney will prepare a draft amendment (modification of changes), which the HOA will mail to the owners of record for approval. Approximately 200 signatures are required to amend the Bylaws.

Plan of Action (Going Forward):

1. Amend Bylaws to state that Board of Directors will be elected by plurality vote (51% of votes cast); voting will be conducted by mailing ballots to the owners of record (proxy voting). The same process will also apply to the approval of the annual budget.
2. Upon amendment of the Bylaws, the HOA will solicit for Board nominees and conduct Board Elections, prior to the annual HOA meeting.
3. Announce the results of the Board elections during the annual HOA Meeting (no voting will take place during the annual meeting).
4. Elected Board Members will establish the budget for the upcoming year; the Board will mail voting ballots to the membership for budget approval.

Miscellaneous:

- Several months ago, the Delaware Common Interest Community Ombudsperson investigated a complaint filed by a Dove Run resident regarding the inclusion of a \$500 line item for Community Events in the 2015 budget. Rich prepared a **Timeline of Events**, outlining his interactions with the Delaware Ombudsperson. Please refer to pages 3 through 5 for additional details.
- Board Meeting began at 2:15 PM and was adjourned at 3:30 PM

Financial Status - 11/27/15

	2015	2015	
	Actual	Budget	Difference
Cash Balance: January 1, 2015	\$11,793		(- Under + Over)
Deposits/Collection of HOA Dues:	\$17,526		
Total Available	\$29,319		
Expenditures:			
Landscaping: Dove Run Blvd, Cul-De-Sacs	\$6,501	\$5,500	\$1,001
Landscaping: Brickmill Entrance	\$8,147	\$10,000	-\$1,853
Community Events	\$0	\$500	-\$500
Cash Reserves	\$0	\$5,000	-\$5,000
JP Court (Collection Fees)	\$20	\$1,600	-\$1,580
Attorney Fees	\$805	\$1,500	-\$695
Liability Insurance	\$1,407	\$1,500	-\$93
Administrative Fees (Website, Postage, Supplies)	\$1,202	\$2,000	-\$798
Meeting Rental Fee	\$0	\$50	-\$50
Delaware Franchise Tax	\$25	\$50	-\$25
Total Expenditures	\$18,107	\$27,700	-\$9,593
Cash Balance: November 27, 2015	\$11,212		

Timeline of Events: Community Events Budget Item

1. On/About December 17, 2014, the HOA President received an email from a Dove Run Homeowner (Homeowner) regarding the inclusion of a \$500 Community Events item within the proposed 2015 budget. Homeowner contended that the budget item should not have been included. In response, the Homeowner was advised to vote against the budget, and that the HOA would abide by the results of the impending votes. The 2015 budget was later approved (46 to 5), and an Assessment Letter (dated January 2, 2015) was mailed to the owners of record.
2. HOA received a certified letter, dated January 3, 2015, from Homeowner regarding the Community Events budgetary item. The Homeowner, requested exclusion of the Community Events from the 2015 Annual Budget.
3. Homeowner submitted a second certified letter, dated January 10, 2015. Homeowner reiterated his objection about the 2015 budget, contending that HOA funds should not have been included in the budget. The Homeowner offered a remedy to "re-send the 2015 Annual Budget, excluding the line item funding Community Events." The Homeowner further added that, in the absence of a formal response, he would file a formal complaint to the State of Delaware's Attorney Office.
4. The HOA President received a letter, dated February 27, 2015, from Mr. Christopher J. Curtin, Ombudsman for the Common Interest Community, which is associated with the Delaware Department of Justice. Mr. Curtin requested a response from the HOA regarding the Homeowner's complaint about the 2015 budget. Included was a copy of the Common Interest Community Complaint Form, signed by the Homeowner. The following statement was included in the Homeowner's formal complaint: **"I am frustrated, because I want to pay my annual dues, but do not want to fund a line item in 2015 Annual Budget called Community Events for \$500."**
5. The HOA President sent a formal response to Mr. Curtin, in a letter dated March 7, 2015. The thrust of the letter centered on Mr. Curtin's request to provide explanation as to why "the vote did not occur at the homeowners' annual meeting." In essence, the response letter indicated that, during the past six years, the budget votes have been conducted via proxy ballots, which were mailed to all owners of record.
6. The HOA's President, via email dated March 23, 2015, responded to a request submitted by an associate of Mr. Curtin, Geneer Johnson, regarding the Homeowner's complaint. The HOA President referred to a Legal Opinion issued by the HOA's Attorney (dated September 13, 2011), regarding the legality of our budget votes. In essence, the Legal Opinion stated that a quorum is not needed to elect new Board members, nor is it required to establish the annual budget.
7. The HOA President received an email (dated June 10, 2015) from Mr. Curtin, who indicated that **his review actually goes beyond the Homeowner's complaint**. In response, via email dated on June 10, 2015, the HOA President contended that we are not focusing on the real issue, the Homeowner's complaint relating to Community Events. The HOA President further stated that the HOA would not expend any funds towards Community Events until this issue has been resolved.

Timeline of Events: Community Events Budget Item

8. On June 10, 2015, Mr. Curtin indicated that the real issue is the “failure of the community to follow its Bylaws. Surely you can make time to discuss this issue with me and the board, in addition to (the Homeowner’s) issue.”
9. In response, the HOA President expressed a willingness to meet with Mr. Curtin, provided the topic is limited to the issue at hand (HOA expenditures for community events). Mr. Curtin (per email dated June 11, 2015) indicated that he would be glad to meet with the Board at a mutually convenient time.
10. On June 11, 2015, per email, the HOA President indicated to Mr. Curtin that the Board members are not interested in meeting with him. However, the HOA President is willing to address this issue via email or telephone conversation.
11. On June 12, 2015, the HOA President received an email from Mr. Curtin. Within the very first sentence, Mr. Curtin indicated the following: **“You do not have to meet with us.”** Mr. Curtin further indicated that the HOA had received incorrect advice from legal counsel regarding the quorum requirements. Finally, Mr. Curtin offered to meet with the Board or the Community to introduce the Office of Ombudsperson, who makes presentations to various community organizations.
12. On June 13, 2015, via email, the HOA President provided a final summary relating to the HOA operations; in essence, the HOA will continue to conduct its operations in the same manner. However, the HOA President indicated that, in an effort to prevent future disagreements, the Board would no longer allocate funds for community events.
13. On June 19, 2015, the HOA President received an email from the Homeowner who requested the following:
 - A copy of the list of members who are entitled to vote
 - Year-to-date copy of the HOA’s financials
 - Copy of the procedural documents used to determine the actual assessments
14. In response to the Homeowner’s request, the HOA President sent copies of the HOA’s 2014 and 2015 Bank Statements (HOA does not maintain financial statements) and a copy of a spreadsheet that showed the calculation of the 2015 budget amounts. Because of privacy concerns, the HOA President did not send a listing of those who are entitled to vote.
15. During the early part of September 2015, the HOA President received a flyer from Mr. Curtin’s office relating to an upcoming symposium of community leaders/organizations. The event was scheduled for the middle part of September; the cost of this event was **\$35/person**. The HOA President elected not to attend, as he deemed it as unrelated to the Homeowner’s complaint.
16. On October 2, 2015, the HOA President received a mailing from Mr. Curtin’s office. This consisted of a 100-page binder (outlining some of our correspondence) and a 19 page Letter, addressed to the HOA President, outlining the Homeowner’s complaint. This same

Timeline of Events: Community Events Budget Item

letter was also mailed to the 298 lot owners at the Estates at Dove Run. On page 2 of this letter, Mr. Curtin indicated the following: "Since you refused to discuss these matter, by copy of this letter, I invite all homeowners of Dove Run to attend a presentation about the Office of the Ombudsperson, and the issues discussed in this letter on October 13, 2015 at the Brick Mill Elementary School multi-purpose Room, at 6 PM."

17. On November 25, 2015, the HOA President had a meeting with the Association's Attorney. The Attorney stood by the 2011 legal opinion (quorum requirements), and stated that the Ombudsperson does not have any enforcement functions. In addition, the Attorney provided a copy of the duties of the Office of the Ombudsperson, as obtained from the State of Delaware Attorney General's website. **It states... "the Office of the Ombudsperson cannot provide legal advice or legal interpretation. The Office can only provide general, nonbinding explanations of laws, and the types of documents and regulations that govern common interest communities. The Ombudsperson may not act as your attorney in a legal action brought by you or any other person."**

18. To avoid future issues, the HOA Attorney suggested that the HOA should clarify/amend its Bylaws involving Board Elections and the approval of the annual budget.