

October 1, 2005

Lakeside Development Homeowners Association
Board Meeting

Attendees:

Bill Dodson

Don Browder

Ron Wible

Jim Holbrook

Pamela Santoro

Barney Stine

Chris Heishman (homeowner)

Doug Mort (Sareen)

Mark Stivers

Pamela Mitchell (CCB&C Inc.)

The meeting came to order at 12:30 p.m. and the above-mentioned attendees were present. Pam Mitchell from Clarke County Billing & Collections, Inc. was called to the Board meeting to find out why so many properties are “slipping through the cracks” with respect to paying dues. Many homeowners are “selling by owner” and avoid paying fees, and this is assumed because most realtors provide a packet to homeowners with dues information included. Some places place liens on properties that must be settled prior to a party selling a home.

A lien can be placed within 12 months that dues are delinquent, according to Pam, but a memorandum of the lien has to be filed within 12 months by the principal officer in the organization containing the name of the development, a description of the lot, the name or names of the owners, the amount of the past-due amount, the date it was due, the date of the memo, name of the association, and the name of the person to contact to release the lien (payment) (i.e., LDHOA – Bill Dodson, for example) etc, and it gets recorded in the land records of the county clerk’s office to record it. According to Mark, anyone can file this with the county clerk once it is in proper format, this can be done. So, when someone goes to sell a property (title search), a lien can be found, and before the property can be transferred, this lien would have to be resolved or a clear title cannot be had by the mortgage company. Before the owner can transfer the title, the mortgage company will require the lien to be resolved. An action to enforce a lien will have to be brought.

Mark can do this for every property, according to Pam, but she states that CCB&C has collected 79% of the dollars and 81% of all the accounts, based on accounts she has received. There has been confusion as to who owns certain properties, which hinders the process. Many people file bankruptcy, which has happened, and the Herbert property was transferred into a trust last May. Pam said that there are no assets against this house. Also, many people have so many liens against them that it reduces the value of homes drastically. Also, some bank accounts have been closed and cannot be attached for judgment. CCB&C has been told that we don’t want to take people to court unless we

have to. Once judgment is made, CCB&C asks for money to garnish the wages, etc., which is nominal. The biggest problem is, for example, in the Coffman property, the property was sold to Bearcat Inc., and was transferred without going through a real estate agent. We could start doing a lien after 12 months, but many people pay the current dues and not the past-due dues. It may cost the HOA money to file a lien. We could send notice to people about the possibility of a lien, but many don't read the notices. CCB&C is a 3rd party agency that can handle the liens, and they get a percentage of the collection of the liens. They have not gotten new accounts for about a year. Lien fees are \$23.00 to file which is set by the County Clerk's office. If you file a motion for judgment, there are filing fees for service, which is about \$36 or \$38. CCB&C can handle liens, but they cannot file them. The LDHOA can file the lien via the attorney's office. CCB&C shows on the first two pages a balance due of \$2,560.21 out of \$19,906.98 that was turned over. There is a problem with people not getting bills, but this is not common.

If the lien exceeds the value of the property, as is what happened in an example that Mark provided, the home cannot be sold. Mark said that if a homeowner's association develops a reputation for going after dues, people are more likely to pay. CCB&C has put past-due debt on Equifax to affect people's credit negatively. However, many people do not care about credit. The Virginia Code provides for a scheme for HOA priorities for liens, right up there with tax liens, according to Mark.

Pam said that there are two accounts that are recommended for lawsuits, and CCB&C will prevail. CCB&C prepares the affidavit and hands it over to the attorney, along with the money necessary for fees, and the lawyer does the paperwork. CCB&C attaches fees that are collected when the debt is collected. Jim H. suggested we go to the state court if we have to, even if it costs \$5,000, to collect back dues, just on principle and to make a point to delinquent homeowners.

Doug sends the bill. When it goes into arrears, Doug sends it to CCB&C, and they send out proof of debt with a cover let, with copies of the bills, a copy of the by laws that shows why they owe, etc. After 50 days, an uncollectible notice goes to the person's credit report. After 6 months, a lawsuit may be started. A lien can be filed at this point. The Statute of Limitations is five years, and a lawsuit can occur at any time during this time. During this time, the delinquent person accumulates more debt in fees, interest. After 6 months, debt reminders continue to get sent out, according to Pam. Even if people move around, CCB&C will stay after the people.

CCB&C sends out a closing report to Sareen. Mark said we could also check tax records to get information. Mark suggests that the HOA has an annual report that can be circulated to homeowners that implies that uncollectible accounts will be turned over to collection procedures.

Bill asked how homes that are in collection can slip through the cracks. Liens need to be filed against homes so we can collect past dues. After 6 months, the HOA will be able to file a lien against a property. If CCB&C is not successful in collecting after 6 months, we can do the memorandum of lien against the property, with CCB&C cc: on the

memorandum so they can be notified. An action needs to be started within 24 months, according to Mark. If a property has no assets, the HOA will have to come back to the board for the board to decide whether or not to push a lawsuit when collection may be improbable. Mark suggested that we file a motion for judgment vice a “bill of particulars” - a motion for judgment can be pled in lieu of a warrant for debt. This can occur when a bill collector is unsuccessful and before the 24-month period expires to pursue a lien against the homeowner. A form, Final Notification Before a Lien is Placed” can be attached with CCB&C’s paperwork that goes out to a delinquent homeowner.

The Board needs to decide at what point to take problem cases (ones that fall through the cracks) for judgment.

Jim asked Mark what we could do to ensure that realtors provide packets and disclosure, and what our alternative would be if they don’t do this. Jim suggested a letter get sent out to this effect. Jim also suggested that CCB&C send a list of delinquent homeowners to the HOA. Sareen sends three notices: 30, 60, and 90 days, then turns the account over to CCB&C for collection promptly, then Pam gets four months after that to collect, which is a total time of seven months. Since the lien should be put on record within a year, according to Mark, we should start the lien process after the seven months (210 days) have expired. Pam could put the action code on an account once Sareen has sent the account to her 10 days after the 90 days have expired. Sareen has at least 80 accounts that are in arrears by at least 60 days. Dues are due every year by July 31st, so Pam will note 8/1 on her “due date” record for collection.

Other business:

1. There is a tree on common area nears Chris’ house that is growing at a 70 degree angle, and if it falls it’s going to do some damage. Bill would like to make a motion to spend the money required take care of that tree (located on lot 45, open space BB) before this happens. Ron said there is a fellow next to him that is a licensed tree-cutter. Jim seconded the motion. Don said this tree should be removed. Chris pointed out the area on the map. The area is accessible for a tree-cutter, according to Chris. Ron will call Mark Spieles, his neighbor, to provide a quote to cut the tree down. The stump does not need to be removed. Mark is licensed and bonded as a tree-cutter, and all were in favor of this action. Mark Stivers suggested we get at least two quotes for the job. All members were in favor of this suggestion.
2. Regarding revision of the deeds of dedication, Mark asked for volunteers to scan the documents prior to revision. Ron suggested the OCR program, but there are problems with doing this with respect to distinguishing between text and pictures, etc. Mark’s notebook contains the deeds of dedication, which is about 4 inches thick. This needs to be done so it can be posted to the website or packages can be sent out (very expensive). We could do a summary that would be easy to mail out. If we need to reference the deeds at any point, that documentation must be available to the general homeowner population (i.e., posting on the website).

Mark said he would talk to Becky Hogan (court clerk) and find out what the process is to transfer the paperwork to digital format. Ron will look at the viability of the OCR software's capability to do this task.

3. Some discussion took place about the cost of the merger. Julie and Frances are now the only two people who are concerned about the efficiency of a homeowner's merger with the LDHOA. This merger has to be sold to the membership, with respect to the merger of Appleton Downs and Lakeside Development Homeowners Association. Also, there are only two board members (Julie and Frances), and the requirement, legally, is three members minimum, according to Jim. Bill said that Lakeview Townhomes do not have a viable board. Barney proposed that we, LDHOA, have nothing to gain with the merger, so therefore both Lakeview Townhomes and Appleton Downs should assume the cost of the merger.
4. Regarding the streetlight issue, Ron had the map that everyone examined for streetlight sites that were highlighted in color. Ron offered to contact John Sisler of Allegheny Power to attempt to get an estimate for streetlight installation and to inquire about solar lighting along Chinkapin, from Lakeridge Drive all the way to Somerset. Also, Don will investigate putting a streetlight on Fairlawn Court for the long stretch of darkness by asking homeowners that he knows on that street for permission. There is a streetlight box on that street.

Jim made the motion to adjourn the meeting, and Bill seconded the motion. The next Board meeting will be on 12 November at 10:00 a.m. at Bowman Library.

The meeting was adjourned at 15:00 p.m.

