

Minutes of the
Sunset Mesa Property Owners Association's (SMPOA)
Board of Directors Meeting

March 15, 2015

Meeting, held at 18431 Kingsport, was called to order 10:15 AM. President, Terry Harper, and Gregg Bernstein were present.

MINUTES

1. February minutes were approved.

FUTURE MEETINGS OF THE BOARD

1. April 11, 2015 11:00 A.M. 18431 Kingsport Dr. due to other commitments
2. May 17, 2015 10:00 A.M. 18431 Kingsport Dr.
3. June 14, 2015 10:00 A.M. 18431 Kingsport Dr.
4. June 24, 2015 6:30 P.M. Place to be determined.

LEGAL MATTERS:

1. Alda Shelton, Jon Sherman and the Estate of Gerry and Edith Sherman update.

As discussed last month, Judge Gerald Rosenberg, on the urging of Shelton/Sherman had lifted the stay against the Association. As we indicated, it is our opinion that the Association is simply being used as a bargaining chip. Rather than cower, the Association, on behalf of all of its members and the CC&Rs, took swift and decisive action.

Shelton/Sherman and the Estate, through their attorneys, Alda Sheldon of the Law Offices of Alda Shelton and John Demarest of Hanger, Steinberg, Shapiro & Ash, filed with Judge Lisa Hart Cole, the Presiding Judge in Santa Monica Superior Court, inaccurate documents stating that Judge Rosenberg had stayed only Discovery against the SMPOA, as opposed to staying the matter in its entirety against the SMPOA. Based on that inaccurate representation, Judge Cole reversed SMPOA's successful challenge to Judge Rosenberg, and Shelton/Sherman and the Estate dismissed their Appeal as moot.

Rather than accept this affront to the Court, the Association submitted a document entitled Report to the Court re: Attorney Misconduct, the effect of which is when a Court is made aware that attorney(s) made inaccurate representations to the Court which may or may not affect the outcome of a proceeding, the Court, to protect the sanctity of the judicial process, must take steps to address the issue. Judge Rosenberg deemed the Report submitted, and, to clarify and leave no doubt about his original ruling that he had stayed the entire matter against the SMPOA, took the unusual step of filing a *Nunc Pro Tunc* Order reinforcing his original Order that, just as the Association reported, the entire matter against the SMPOA had in fact been stayed.

In light of the above, and with SMPOA's Demurrer pending and one day before deadline to voluntarily withdraw the lawsuit entirely in exchange for waiver of costs, Shelton and Demarest stipulated to have the stay against the Association reinstated while they continue litigating neighbor to neighbor. As such, the Board has nothing further to do in this case unless and until they decide to lift the stay, in which case, and as promised, the Board will continue to vigorously defend the CC&R's and will inform the community immediately so that, should you decide to make your individual voices heard, you will have every opportunity.

2. Bankruptcy of Marvin Goodfriend - 3925 Malibu Vista Drive

The Board must unfortunately report that the actions in this matter have become a bit of a fiasco. As previously reported, the Bankruptcy Trustee, Jason Rund, and his counsel, John Melissinos of Greenberg Glusker, had first indicated to the Board that they had absolutely no intentions of interfering with the CC&R's. Despite that clear representation, and with no legal basis articulated throughout these proceedings, they have nonetheless, along with the Buyer, sought to sell the property free and clear of the CC&R violations on that property. Mr. Melissinos and Mr. Rund, very unfortunately, have represented to the Court in filings and in unequivocal terms that no violations had been reported to them by the SMPOA. That is absolutely untrue. President Linda Kaye had sent Mr. Rund via email and U.S. mail the violations of which the Board was aware. That letter was

sent weeks prior to the unfortunate and untruthful filings to the Bankruptcy Court. Rather than retract their representations to the Court, Mr. Rund and Mr. Melissinos instead began to question whether Ms. Kaye was actually the President of the Association, and, further, attacked community members who had contacted the Trustee, Mr. Rund, to express their support of the CC&R's and their concern that he may seek the Court's imprimatur in interfering with the same.

In the meantime, a question has arisen as to whether the sale with these particular Buyers can be consummated.

It remains the Board's position that the CC&R's are covenants that run with the land, not subject to the jurisdiction of the Bankruptcy Court, cannot be interfered with in any way by an Order from that Court, and that they are an integral part of our community and an asset belonging to each and every member. The last time anyone sought to interfere with the CC&R's in simply one tract, hundreds of you appeared at meetings and some even protested in the street.

Despite the Trustee's consternation, waiting to speak up on behalf of your rights until they've actually been taken from you is not prudent, and the Trustee and his counsel criticizing citizens of the United States in a federal proceeding, who are exercising their right to free speech is counterintuitive. The Board continues to urge members, whether by phone, email, or letter, to let their voices be heard to Mr. Rund and/or his counsel, Mr. Melissinos. You can contact Mr. Rund at jrund@srlawyers.com, (310) 640-1200, Sheridan & Rund, 840 Apollo St., Suite 351, El Segundo, CA 90245, and Mr. Melissinos at jmelissinos@greenbergglusker.com, (310) 553-3610, Greenberg Glusker, 1900 Avenue of the Stars, 21st Floor, Los Angeles, CA 90067. If you prefer, you can provide those communications to the Board at lindakayesmpoa@gmail.com and we will make sure that they are properly delivered.

ARCHITECTURAL COMMITTEE: February 15, 2015 Site Visit Results

The following addresses requested a site visit for February 15, 2015. The following are the results of those visits:

3730 Malibu Vista, (Malouk), Request for remodel review - Approved

18444 Clifftop, (Ayestas), OVI complaint - Letter was prepared to deliver to neighbors for OVI

3418 Surfwood, (Pastor), Request for remodel review - Adjacent homeowner complained about OVI from the story poles. Homeowner requested to resubmit altered plans.

3516 Surfwood, (Stewart), Request for remodel review - Landscape remodel approved

3653 Seahorn, (Ovsiowitz), Request for remodel review - Letter of determination for partial approval of rear of property approved. Request to modify to remove OVI on front of contemplated remodel requested.

3722 Surfwood, (Patel), Request for awning approval - No Show. Rescheduled

18241 Wakecrest, (Bernstein), Request for remodel review - Homeowner advised to install story poles.

Last month it was determined that there was not enough time to respond per the CC&R guidelines, and the Board agreed to meet the day after the scheduled site visits unless otherwise rescheduled. All future site visits will be on the 2nd Saturday of each month. The Board will meet on the subsequent Sunday.

March 14 Site Visit Results

The following took place on March 14, 2015. The schedule was posted at the community website, www.sunsetmesa.org, under the Architect Committee tab.

3825 Malibu Vista, (Pashmforoush and Chew), Revisit proposed remodel - Previously it was determined that the proposed remodel constituted an OVI and a letter of determination was sent. The homeowner revised plans and reduced the OVI, but the letter of determination still stands and there is still OVI.

3820 Castlerock, (Masouda), Homeowner advised to install story poles with tape for contemplated remodel. Homeowner's complaint regarding OVI from a downhill neighbor's tree was substantiated and a letter of OVI will be sent from the AC.

18241 Wakecrest, (Bernstein) - Story poles were placed by Homeowner. Story poles were reviewed and visits were made to uphill neighbors behind the subject property confirming no OVI and the plan was approved.

3418 Surfwood, (Pastor) - Last month a site visit was made and an adjacent neighbor posted a complaint of OVI from the proposed plan of remodel at the front of property. Homeowner revised his plan and site visit was to revisit the proposed story pole plan. Subject to the revised submitted plan to the AC, those plans will be approved.

3722 Surfwood, (Patel) - Homeowner requested a site visit to approve a retractable awning in the backyard. Due to the potential for an OVI to the uphill neighbor, homeowner was requested to install story poles before a determination can be made. Some discussion regarding placement was exchanged and AC went to the uphill homeowner to discuss the potential placement. Any previous discussion regarding agreements between the homeowners is separate from the Board and AC committee. Board member Terry Harper has recused himself in any site visit and AC determination as he is an impacted neighbor currently involved in a legal proceeding with the Patels.

The AC may be contacted at sunsetmesaac@gmail.com. As a reminder, **ALL EXTERNAL CONSTRUCTION INCLUDING HARDSCAPE, ADDITIONS, AND REMODELS ARE SUBJECT TO THE REVIEW AND APPROVAL OF THE ARCHITECTURAL COMMITTEE. WITH SUMMER COMING UP, YOU ARE ENCOURAGED TO SUBMIT YOUR PLANS EARLY BUT PRIOR TO ANY CONSTRUCTION, SO YOU ARE NOT DELAYED.**

TREASURER REPORT

Treasurer's report provides information below as of February 28, 2015 including:

- The **WFB account** with an ending balance of \$147,134.59 as the Association continues to liquidate the investment accounts for the safe harbor sheltering of the Association funds. This increased amount represents a deposit made on 2/28/15 in the amount of \$22,650.59 from the transfer balance of the UBS Cash Assets account. Additional deposits of \$875.00 from Homeowner dues collected in 2 separate deposits and an interest payment of \$0.90 on 2/27/15 were completed as well.
- Checks totaling \$6,200.37 were paid out as follows:
 - Check 2110: \$5,276.37 to Kaiser/Swindell, attorney in the Goodfriend matter
 - Check 2111: \$500.00 to Chris Campbell, attorney for costs in connection with the writ on Shelton/Sherman matter
 - Check 2112: \$129.00 to Vogel Kinne for previous CPA balance
 - Check 2113: \$390.00 to Clerk, Court of Appeal for First Appearance Fee (hasn't cleared as of 2/28/15)
 - Check 2114: \$65.00 to Franchise Tax Board
 - Check 2115: \$230.00 to Emily Toh for bookkeeping and data entry

Wire transfer fee: \$15.00 for receiving UBS funds

As mentioned last month, we thanked Natasha Roit and Becky Rickley for their contribution and advice in assistance in the HOA's legal matters regarding Shelton/Sherman matter. As a small token, the Board approved a wine purchase in the amount of \$178.74.

Debt Card purchases - \$445.50 to the Hillman Group for the 5" reflected numbers used for the curb number paintings

Deposits to be made on 3/16/15 includes a deposit of \$647.50 from a refund check from Law Offices of Kaiser/Swindell for a duplicate payment and a deposit totaling \$800.00 from 8 separate Homeowners for dues.

- **Stifel account.** Balance as of 2/28/15 was \$33,079.20.
- **UBS account.** As of February 28, 2015 the account's balance value is \$80,091.19.

TAXES

Tax and accounting data were sent to Steve Vogel, CPA, of Vogel and Kinne, for preparation of the corporate tax returns for FY 2013-2014. These returns were filed electronically. A check for \$129 was approved to pay an unpaid balance.

CURBSIDE STREET SIGN PAINTING

Additional numbers were ordered this week for the new paid homeowners and requests have been made by numerous homeowners to have their curbs painted by John Lehne.

Lisa and Eric Maier have volunteered to distribute a printed notice to all homeowners about the curbs and Getty Cards and other information to make sure all homeowners understand that these are benefits provided to them through their paid HOA membership.

GETTY CARDS

New cards have arrived. A benefit of paid dues entitles you to a card. Members not in good standing will no longer receive this benefit. Cards are now available for pick-up through the Board only and will be distributed to members in good standing. To receive your Getty card please send a self-addressed, stamped envelope to SMPOA at 18431 Kingsport.

OTHER MATTERS

The Board would like to thank Marika Erdely and Mark Estes. When they noticed that the dog waste containers were not being filled and the dog waste in the Mesa was again an issue, they volunteered to monitor and fill them.

It was reported to the Board that a beetle has infected neighborhood pine trees, some on private properties. Once infected the pine tree has limited capacity to defend itself and will die. If any of your trees are infected, you may wish to consult an arborist or remove the tree to avoid further infestation.

Membership to the SMPOA is automatic as an owner of a property within its tracts. A member in good standing is a member who has paid their \$100 dues. The community and your ocean views are strongly protected and violations are processed. This costs money. Your minor dues ensure the preservation of your home values by pursuing violations caused by OVI. As you can see, there are two current cases involving CC&R protection. In short, we're doing our part. There are 300 of the 500 homeowners who have not paid their dues. That's a significant number of people who enjoy the benefits we so strongly protect. Rather than incur the expense of mailing these people individually, the Board will soon post a list of all members still owing yearly dues that covers the period July 1 through June 30.

If you have not done so already, please send your \$100 dues check to SMPOA c/o 18431 Kingsport Dr. Malibu, CA 90265.

There being no further Board business, the meeting adjourned at 11:45 A.M., and the Board moved into Executive Session.

Submitted on behalf of SMPOA



Gregg Bernstein
Vice President