

**DISCUSSION AND RESOLUTION OF DON COLEMAN LETTER, REF DUES ASSESSMENT  
FINAL 10/05/2016**

**RESOLUTION:**

**After discussing the letter from an attorney representing Don Coleman, owner in Phase X, alleging that the VGC MPMA Board of Directors has failed to follow the Association's By-laws and CCR's as they relate to the Board's assessments against Phase III (Regency), Phase IV (WWHA), and Phase IX (Pahlisch Homes), the Board resolves to: continue the existing and historic dues assessment practices; seek to amend the CCR's and By-laws to better guide the Board in matters related to real estate development; and seek to amend the CCR's and By-laws to more accurately reflect the Board's historic assessment practices with relation to Phase III and Phase IV.**

**DISCUSSION:**

An attorney representing Don Coleman, owner in Phase X, alleges that the VGC MPMA Board of Directors has failed to follow the Association's By-laws and CCR's as they relate to the Board's assessments against Phase III (Regency), Phase IV (WWHA), and Phase IX (Pahlisch Homes).

The VGC Board of Directors allocates no dues to Phase III (Regency at the Park) or Phase IV (WWHA). Dues are allocated to Phase IX per agreement with the Developer in a manner agreed upon as being equitable to the developer, the home buyers, and VGC during the development of the lots. The Board has allocated dues to the Phases and Villages to cover the budget (as required by the Declarations, the Articles of Incorporation, and the By Laws) in a manner consistent with historic practice.

The agreement with Pahlisch Homes for Phase IX was agreed upon after considerable negotiation and in consideration of the inadequacy of the CCR's and By-laws to address residential development within the Villages. It was considered to be in the best interest of VGC to encourage residential development of Phase IX. Pahlisch Homes and the home buyers are making reasonable contributions to the Association in the form of dues, maintenance of the developed property, and contribution to the Reserve Fund.

The current Board follows the same practice of previous Boards of not charging dues to Phase III or to Phase IV since the Master Property Management Association was established in 2002. (Note that the MPMA was not formed until after Phase III and Phase IV were in existence.) This includes the period of three years when Don Coleman himself was president. Also note that Mr. Coleman signed the By-laws, dated 09/28/12, as President, with which the board's historic and current practice complies. Mr. Coleman's complaints are really, then, complaints against the historic practice of the Board, including the Board when he was president.

Attorney for WWHA maintains that the developer and WWHA had a verbal agreement by which the MPMA would not charge dues to Phase IV. It is noted that the developer (Doug Botimer) disagrees with WWHA's position, because at the time Phase IV was developed, the Master Board had not been formed.

The non-payment of dues by Phases III and IV is equitable in that: there is no common area within the other Phases which are required for use by Phase III; Phase III creates no cost to the other Phases; and Phase III receives no benefit from the other Phases; Phase IV shares approximately 175 feet of Garrison Village Way (owned and maintained by the other Phases) for automobile access to the Phase IV housing units; and, as an offset, other Phases share approximately 585 feet of the walking path and bridge on Phase IV property (owned and maintained by Phase IV) for walking the system of paths and open space within the Villages.

It is further noted that Phase III and Phase IV have never voted, to the best of our knowledge, and it appears that they may not have been given the opportunity to vote in VGC affairs.

In consultation with an attorney, he opined that in the event dues were to be charged to Phase III and Phase IV, they will likely raise the defense that the Association has waived its ability to assess fees (because they have never been assessed fees), and that costly litigation would likely be necessary to resolve the dispute. Considering the information discussed above, the Board believes that the costs of litigation outweigh any potential benefit of assessing dues against Phase III or to Phase IV.