

Legal Report for MPMA Special Meeting – January 30, 2022

The Villages of Garrison Creek has a corporate attorney in Spokane that assists the Board of Directors with association business. The corporate attorney did not represent us in the recent lawsuit. She is available for questions, research, consultation on our documents, and any other legal issue that comes up. We use her services throughout the year. Our lawyer has vetted the proposed CCR and Bylaws drafts and will vet the final versions before they are presented to the membership for a vote, hopefully later this year.

For 3 ½ years the Villages of Garrison Creek has been dealing with a lawsuit. This is a short explanation of the history of the lawsuit.

The lawsuit was filed in 2018 by Don Coleman and Sue Wright from Village 10 against 9 current and former board members. In 2019, the lawsuit was amended to include the Association as a defendant and to add Hawk Hill Association, which includes the residents of Village 10, as plaintiffs. The plaintiffs have a local lawyer and are led by Don Coleman, a longtime resident of the Villages and a former president of the Board of Directors. (You may have received mailings from Mr. Coleman over the last couple of years.) The Association and the defendants are represented by attorneys assigned by our insurance company.

When the Villages were first formed as a construction site, the total property included the areas that are designated as commercial or given over to public use. Regency Rehabilitation Center and the Walla Walla Housing units were built early on, while homes were being built for sale in Villages 1 and 2. After a few years, it was necessary to have an organization that would be responsible for the maintenance of the common property as the builders continued to fill the lots with new housing. Regency, Walla Walla Housing, and Myra Road Commercial were never included in the governing process of the homeowners' association formed in 2004. They never attended membership meetings, voted, or paid dues to the association. The builders paid dues for projected building lots in their vacant property for a while but lowered those projected numbers over the years until they were only paying for two lots in the vacant acreage north of Garrison Village Way.

In 2016, the primary builder of the Villages, Doug Botimer, asked to exit the Association as the Declarant and as chair of the Architectural Review Committee. He requested that the vacant property on the north

side of GVW also be exited from the Villages of Garrison Creek. In addition, he asked that Regency, Walla Walla Housing, Myra Road Commercial, the then new Village 9, and the completed Village 10 be allowed to exit the Homeowners Association as well. Mr. Botimer made this a condition of his resignation. The Board negotiated with Mr. Botimer at his request.

Commented [BY1]: As the attorney the individual board members, I recommend not discussing the Board's state of mind.

Over the next several months the Board's corporate attorney advised the Board throughout the negotiations, the preparation of the documents, and the final result of Mr. Botimer's exit from the Villages. The Board, with the help of the attorney, broke the issues down to several resolutions that were brought to the membership in December 2017 for a vote. The resolutions needed 67% approval to take effect, and each resolution on the ballot received between 72-84% approval by the members at that time. Mr. Botimer's wishes of having Regency, Walla Walla Housing, Myra Road Commercial, and his vacant property separated from the Villages was the result. Pahlisch Homes in Village 9 chose to remain with the association and a satisfactory agreement was reached with the Board on dues and common area construction. Village 10 leadership was not able to reach an agreement with the Board prior to the vote, but the membership voted that negotiations could continue.

By September of 2018, a full agreement was reached with Mr. Botimer concerning his vacant property. He agreed that any homes built would share in the cost of maintaining Garrison Village Way, including the parkway on both sides. Regency Rehabilitation and Myra Road Commercial do not use our common areas or our roads, so they would continue to pay nothing to the association. (The circle road around the clock tower had already been deeded to the city of College Place as public road. It does not belong, nor is it maintained by the Villages.) Walla Walla Housing maintains their own property and only use a few yards of GVW to access their road. They were never asked to contribute to the Villages' road care. The amendments to our CCRs were prepared by counsel to reflect these changes and the documents were filed at the Walla Walla Court House. These exits were a central issue of the lawsuit.

Village 10, after coming close to an agreement early in 2018 has refused to negotiate since. The leadership in Village 10 contends that the association should be maintaining their electric gates, though the association has never recognized those gates as common property to the Villages.

This lawsuit has personally affected the lives of 9 people who volunteered their time for many years to conduct the business of the Villages of Garrison Creek. The individual defendants, who volunteered their time to the MPMA and named in the lawsuit are: Dick Cook, Ray Goff, John Cress, Marie Evans, Ron Hines, Dave Gullo, Jim Murphy, Scott Towslee, and Cassie Siegal. These last five defendants I listed have moved from the Villages. In addition, the past 3 Boards have had to deal with the lawsuit work and stress.

Both the nine defendants and the association have had attorneys representing them for the past 3 ½ years. We had a court date set for June of this year, but that date has now been cancelled. On January 19, 2022, the plaintiffs and the defendants presented motions for Summary Judgment to the court. The plaintiffs asked the court to rule that the actions of the MPMA Board were improper making the exits invalid, and they asked for the defendant's expert witness to be struck from the case. The Association lawyers presented a motion to dismiss the entire case on the basis that the Board acted in good faith with the help of their counsel. The Court granted the Association's motion for Summary Judgement, which resulted in the dismissal of the entirety of plaintiffs' claims in the lawsuit, with prejudice.

The Board of Directors for the Villages of Garrison Creek are grateful for those members who supported us through this difficult time. The work of the Association has gone forward throughout the lawsuit and the pandemic. We continue to be committed to what is best for all 8 of the Villages of Garrison Creek.

Marie Evans
January 30, 2022