

Legal Report 2023

Marie Evans, for the VGC Board of Directors

Originally, in the late 1990s, the builders bought a large parcel of land and called it the Villages of Garrison Creek. The Planned Unit Development (PUD) was divided into several sections: A parcel for Regency at the Park. Some areas for commercial development (Myra Road Commercial), and the largest section in the middle for single family housing. Some old-timers may remember why part of the housing area was given over to Walla Walla Housing, a government-sponsored group of cottages for low-income families. There are 25 cottages adjacent to Village 8.

For the first several years the builders cared for all the properties as they were being developed. There came a time in 2003 when an organization was needed to keep track of the finances for the residents. In 2004, after research and discussion, the Villages of Garrison Creek Master Property Management Association was formed with a Board of Directors and individual Villages, called "phases". Homeowners paid dues for upkeep and management of the common property. The builders paid dues for the lots that were not yet developed. Individual Villages paid dues to maintain their front yards and 6 Villages also pay for city utilities.

Then came the economic problems in 2008 and the housing market suffered. Soon the builders stopped developing the property and chose to discontinue paying for empty lots. They announced to the Board that they would only pay for 2 lots in the middle of the PUD known as Phase 13 and 14. (This area is still vacant.) This brought the membership down to around 200. The addition of Village 9 in 2017-18 completed the building in the Villages meant 242. Since the exit of Phase 13 and 14, we've been at 240 members.

Meanwhile, Regency at the Park, Walla Walla Housing, and Myra Road Commercial were part of the PUD but not a part of the homeowners association. The nursing home is mentioned in the CCRs, but they never paid dues or voted in any action in the HOA. No one on any MPMA Board from 2004 through 2016 proposed any change in the relationship between the HOA and the other properties in the PUD. This includes 4 years when Don Coleman was president of the MPMA Board.

Because the builder was ready to move on to other projects in 2017, he proposed an exit agreement with the HOA. In return for his resignation as declarant, chair of the Architectural Review Committee, and board member, Doug Botimer proposed that the HOA redefine their parameters and officially exit certain properties. They included Regency, Walla Walla Housing, Myra Road Commercial, Phase 13 and 14, and, possibly Phase X. This action was initiated by Doug Botimer, the declarant, not the Board of Directors. However, the Board was willing to help make it happen as it had become more and more impossible to work with Doug Botimer who controlled the board actions.

The membership voted yes, as a super majority, agreeing with the exits and Botimer's resignation. The result was 2 amendments to our CCRs that are on our website. Amendment 1 removes the extra properties from any HOA responsibilities and Amendment 2 removes the relationship between the declarant, Botimer, and the Villages. Also, an agreement was signed between Botimer and the Board that outlines how any homes built in Phases 13 and 14 will contribute to the upkeep of Garrison Village Way from sidewalk to sidewalk, clock tower to Larch. Phase X was given an opportunity to exit with a similar agreement, but negotiations ended in January 2018. The board was never given a reason why they turned down the proposed agreement.

Then in 2018 Don Coleman and a couple of his neighbors filed a lawsuit against 9 current and former board members accusing them of exiting the properties in violation of the CCRs. He added issues around Pahlisch building Village 9, and he added his claim that the board budget was responsible for the maintenance of the Phase X gates. After failing in court to represent the entire membership in his suit, he added the Hawk Hill Association that was registered online just before the court date. At the same time, Coleman named the MPMA Association as a defendant along with the 9 individuals.

Full disclosure: John Cress and I are individual defendants even though we were not on the board when the exit votes were taken.

I won't take you through all the efforts to resolve the issue out of court but will assure you that overtures were made. The insurance company provided attorneys for the defendants and the board. In January 2022, the Superior Court in Walla Walla ruled in favor of the defendants' summary judgement motions that the exits were done legally but the judge did not specifically address the other issues in the suit. Coleman appealed the court's decision to the appellate court in Spokane who upheld the Superior Court's decision but remanded the two issues to be resolved. The appellate judges ruled that Coleman could go after damages for unpaid dues 3 years prior to the exits for the exited properties IF he could show that those properties would have paid the dues had the board asked them. Coleman then appealed to the Washington State Supreme Court who denied to hear the case.

This is where we are now. The next action will have to take place in Superior Court just on the damages and misconduct allegations. Since the exits were already judged as legal, it is unlikely that the court will side with Coleman. Yet, Mr. Coleman refuses to withdraw the entire lawsuit. He still claims millions of dollars in damages including 11 years of maintenance, almost \$50,000, for the Phase X gates.

Every board from 2018 to the present has had to deal with the extra work and stress related to being sued. Meanwhile, Village 10 members have argued that they could serve on the board without any conflict of interest. Hawk Hill President Miller has harassed the board with continuous requests for information. Coleman, himself, is now running for the board claiming that he will get those properties to pay their fair share even though they have not been asked to do so in the 25-year history of the Villages and they have been legally separated from the MPMA.

This summation is not meant to be a precise accounting of everything that has happened. After all this time and remembering the new members of our community, I wanted to give you a shortened version from the perspective of the board. Hopefully, it will all be resolved soon.

Mr. Coleman announced at the October 1st Special Meeting that "not one penny of the MPMA funds has gone to the defense of this lawsuit." He is correct when he says the insurance company is covering the legal costs. What he is not taking into account is the cost to all of us whose properties may have deteriorated in value because there is a lawsuit against the HOA. We have no way of knowing the number of people who have moved away because of the negative atmosphere pushed by Coleman and Miller. We have no way of knowing what houses took longer to sell because people found out the HOA was under litigation. What he's not taking into account is the time and attention this case has cost the board members and the defendants. What he has not taken into account is the effect this lawsuit has had on the community. You cannot put a cost on harassment, disrespect, verbal and written attacks, or constant distrust.

The Board of Directors for the Villages of Garrison Creek has always volunteered their time and talents for the good of the Villages. I am proud to be associated with the villagers who have stepped up to manage the HOA so that we can govern ourselves. Thank you for your continued support.