

MEMBER MEETING MINUTES Market St Lofts Owners Association

March 5th, 2009

Held: 5:30 p.m. on Thursday, March 5, 2009, at Joseph Freed Associates, 0261 Harris St, Basalt, Colorado

The Annual Member Meeting of the Market Street Lofts Homeowners Association was called to order by Ryan White at 5:45 pm. Mr. Kiernan identified the following people during Roll Call.

Members of the Board, Ryan White and Caroline Christensen

Members of the Association: Doug McMillin, David Garrison, Kelly Locke, Emily Von Holten, Tara Nelson, Bethany Bartel, Jennifer Slaughter, Tara O'Bradovich, Elizabeth Block, Kate Gaddi, Andrew Lizotte, Howard Deluca, Adam Platt, Jeff Orsulak.

It was determined that a quorum of Homeowners did not exist.

Also present were Gary Beach and Michael Kiernan from Beach Resource Management

Motion

A Motion was made by Caroline Christensen and seconded by Ryan White to approve the January 8th meeting minutes and include in the March 5th meeting minutes Wendy Lucas's objections and concerns regarding the previous meetings. The motion passed by unanimous voice vote

Wendy Lucas Objections

The Minute heading says "Member Meeting Minutes". As you know, this was a Board of Directors meeting. This point was stressed by the Board of Directors and Beach Management at the time. I think this part of the Minutes should be changed.

I read CCIOA (Colorado Common Interest Ownership Act) after that last meeting. Section 38-33.3-303 (6) states: Not later than sixty days after conveyance of twenty-five percent of the units that may be created to unit owners other than a declarant, at least one member and not less than twenty-five percent of the members of the executive board must be elected by unit owners other than the declarant. Not later than sixty days after conveyance of fifty percent of the units that may be created to unit owners other than a declarant, not less than thirty-three and one-third percent of the members of the executive board must be elected by unit owners other than the Declarant." As I have pointed out before, this was never done. I am pointing it out again to make sure there is a record of my objection to the procedure!

Market St Lofts

The minute meetings do not resolve the issue of when the common elements were handed over to the owners. Again, CCIOA covers this issue. Section 38-33.3-303 (9) states: Within sixty days after the unit owners other than the declarant elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the unit owners and of the association held by or controlled by the declarant, including without limitation the following items:

- (a) The original or a certified copy of the recorded declaration as amended, the association's articles of incorporation, if the association is incorporated, bylaws, minute books, other books and records, and any rules and regulations which may have been promulgated;
- (b) An accounting for association funds and financial statements, from the date the association received funds and ending on the date the period of declarant control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the association.
- (c) The association funds or control thereof;
- (d) All of the declarant's tangible personal property that has been represented by the declarant to be the property of the association or all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties;
- (e) A copy, for the nonexclusive use by the association, of any plans and specifications used in the construction of the improvements in the common interest community;
- (f) All insurance policies then in force, in which the unit owners, the association, or its directors and officers are named as insured persons;
- (g) Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common interest community;
- (h) Any other permits issued by governmental bodies applicable to the common interest community and which are currently in force or which were issued within one year prior to the date on which unit owners other than the declarant took control of the association;
- (i) Written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;

- (j) A roster of unit owners and mortgagees and their addresses and telephone numbers, if known, as shown on the declarant's records;
- (k) Employment contracts in which the association is a contracting party;
- (l) Any service contract in which the association is a contracting party or in which the association or the unit owners have any obligation to pay a fee to the persons performing the services; and
- (m) For large planned communities, copies of all recorded deeds and all recorded and unrecorded leases evidencing ownership or leasehold rights of the large planned community unit owners' association in all common elements within the large planned community.

Election of Directors

Mr. Beach pointed out that a quorum did not exist to elect Directors but the Board does have the ability to appoint a director for the remainder of David Kirshenbaum term. David Kirshenbaum is vacating his seat on the Board. Howard Deluca offered to sit on the Board.

Motion

Caroline Christensen made a motion to nominate Howard Deluca to the Board and Ryan White seconded the motion and it passed by unanimous voice vote.

Gary turned the meeting over to Doug McMillan and Howard Deluca to present their findings on the HOA's punch list. Doug's main concern is the quality of the concrete in the Courtyard. Doug felt that the expansion joints and the concrete slab were not installed according to industry standards. Doug noted that the Courtyard is a heated slab and that any repair work would be very expensive. Doug felt that the concrete may become problematic within 10- 15 years and there may be spalling sooner than that. Doug's investigation revealed the waterproof membrane installed under the concrete is warranted for 20 years as long as the topping slab is installed correctly. Mr. Beach asked Doug to clarify his statement that the concrete was not built to "industry standards." Doug explained that for a concrete slab of the thickness in the Courtyard that the control joints, which are installed to prevent cracking, should be placed at a minimum of 12 feet or less and the existing control joints were placed, per architectural design aesthetic, at a greater distance than 12 feet. Gary noted that because of the design there would be a situation where the architect and contractor pointing fingers. Doug said neither could claim that per industry standards that the slab was installed correctly. Doug explained that per industry standards the control joints can not be installed more than 11/2

times wider than they are in length Gary said that beyond the one year warranty period there is a seven year workmanship warranty period according to State Statue and the Association could address any warranty issues through the State Statue if they were not reconciled by Freed & Clayco. Doug also said that perhaps elevations of the slab should be taken to see if it was poured correctly for drainage and that it might be possible to avert any decaying of the concrete with a sealing substance.

Howard Deluca said he would be uncomfortable relying on the 7 year State Statue and would prefer to have a letter sent to Clayco and Freed establishing the Association's concerns regarding the perceived sub standard slab installation. A discussion ensued. Howard suggested that the Association request the work orders and times of completion to determine when the slab was poured.

Howard reported that he had issues with the roof design of the heating and cooling systems. Howard said as a resident he has experienced vibrations in his unit that originate in the mechanical room and that 2 heating pumps, along with numerous seals, have been replaced in less than a year. After talking with several industry experts Howard determined that heating systems with pumps at the top of the loop are problematic because they tend to trap air in the system creating cavitation in the pump which lessens their efficiency and durability. Beach concurred with Howard's assessment that any roof system was problematic. Howard suggested installing an "air scoop" to capture and bleed off air existing in the loop. Howard also suggested that the Association hire an independent contractor to identify any design flaws and maintenance issues with the HVAC systems so those problems can be documented and presented to Freed and Clayco.

Howard added that in his inspection of the building he was concerned about the amount of electricity being consumed to maintain the building – specifically the lights in the garage and the lights and heating in the corridors. A discussion ensued.

Kiernan added that the Beach staff had done a complete walk through of the building and inspection of the mechanical systems and found that in general everything was in good running condition. Kiernan noted that like Mr. McMillin and Deluca they had issues with the roof design of the HVAC system.

A home owner asked about installing a building wide water softening system stating that she was experiencing mineral build up. Howard Deluca said he would investigate the cost of installing a system and report back to the homeowners

Caroline Christensen said the Executive Board would compose a formal letter to Freed and Clayco identifying all the existing issues with the building that needed to be addressed.

Financial & Budget Discussions

Mr. Beach reminded the homeowners that the 2008 budget had been created by Freed and that it had been difficult for Beach to operate within the budget because Beach had little input in creating the 2008 budget. It was also difficult because some of the 08 line items were one year line items and others were 6 or 8 month line items. Gary said that the good news is that the Association ended up with, on accrual basis, spending about \$98,000 out of the first years budget of \$208,000 which was based partially on a year long costs and partially on monthly costs. Management started operating in earnest in July 2008. That's when management started paying bills and collecting assessments. Management has collected in assessments \$113,000 and spent year to date \$ 98,000(if all assessments are collected) will leave the Association approximately \$14,000 in carry forward(there are \$14,000 in accounts receivable in assessments.) Howard Deluca suggested that properties with overdue assessments be sent pre-lien notices, noting that in his experience such notices usually initiated prompt payment. Also not included in the budget are the shared costs due to the Association by Freed, for retail, representing about \$12,000. Once the building is fully occupied with retail the shared costs should run about \$24,000. Freed's original budget did not account for a reserve fund but Management feels it makes good sense to set money aside for a reserve fund and has included it in the 2009 budget. At this time Gary wanted to address the mechanical system because he felt that it would be fiscally prudent not to renew the R& H Mechanical service contract, explaining that he felt they were not operating with the best interest of the Association. Gary then discussed other cost savings that Management would recommend to the Association.in a continuing process to keep costs down Mr. Beach then gave a general explanation of the 2009 budget and explained specific line items upon request. The bottom line is that 2009 assessments would be slightly increased from 2008 to accommodate Reserve funding . The Budget was ratified because 67% of the homeowners did not object.

By-Laws

Gary said that if the owners did not object the Board would like to change the annual meeting date in the By-Laws to November because it coincided more conveniently with budget submittal and approval .

Adjournment

There being no further business before the Members, the meeting was adjourned at 7: 10 pm.

Michael Kiernan
Manager

Seal:

Date of Approval