

**WOOD CREEK CONDOMINIUM ASSOCIATION
BOARD OF DIRECTORS MEETING
DECEMBER 11, 2009**

DIRECTORS PRESENT: Charles Kelly (by Phone)
Donna Hayley (by Phone)
Robert Harrison (by Phone)

MANAGEMENT COMPANY: Bill Babbitt
Toni Wilson
Michael O' Laughlin (HOA Attorney)

Quorum was established with all three of the board members present

Call to Order: 2:37 PM

Purpose for meeting: Unit 304 HOA Dues Arrears

Judicial Foreclosure Process

Michael O'Laughlin explained to the board that in accordance with the Colorado Law, in order for the HOA to foreclose on a unit the HOA has to file a foreclosure lawsuit. Michael would draft the lawsuit, alleging two things one being that the HOA has the right to foreclose on the unit pursuant to Colorado law, secondly to file an action for personal judgment against Mr. Morgan which the HOA has the ability to do according to the law and the declarations. Mr. Morgan does have a mortgage on the unit Michael did attempt to contact the lender in April notifying them via a letter that the delinquent amount was about \$5,300.00. Robert then joined the meeting and was brought up to date. Both Mr. Morgan and the lender are listed on the lawsuit there was no response from the lender, Washington Mutual. Bill stated that he has spoken with Mr. Morgan and that he did not have the ability to make any payments and he was not going to make any payments. Two letters have been sent to Mr. Morgan on behalf of the HOA the most recent sent on October 27, notifying him that if he doesn't pay, the intention of the HOA is to file a foreclosure action.

Lien order

Colorado law provides the HOA has the first priority on the six months of assessments that are due immediately preceding the filing of the lawsuit, known as a super priority lien. The amount of this lien does not cover attorney fees or the cost the HOA will or has already accrued as part of the collection process. The six month total is 2,800, and everything after that would be in second position behind the lender. Michael explained to the board that usually once the lender has been served they will normally go ahead and satisfy the HOA super priority and then be dismissed from the lawsuit. Once that occurs the board has the choice to either dismiss the suit against the homeowner or go ahead and get a default judgment against him and can decide how to pursue at a later date. Should the HOA complete its foreclosure of the super priority lien without lender intervention,

then after an 8 day holding period, the HOA will own the property free and clear. Michael's recommendation is to file the law suit and try to collect the six months dues of \$2,800.00. His fees will cost the HOA \$1500 - \$2500. At this point with interest included Mr. Morgan is owes just over \$9,000. Attorney fees can not be collected on the six month super priority.

Charles asked what happens if the HOA files the suit and the lender pays, how future dues will be collected since the unit will still be vacant. As part of the lawsuit the HOA files a Claim for relief by petitioning the court and show there is a default, then making a motion to have a receiver appointed to recoup rental fees.

Motion: By Robert to proceed with the lawsuit
Seconded: by Charles
Unanimously Approved

Michael will file the lawsuit next week. The defendants will be served and because they are both out of state they will have thirty days to answer the lawsuit. If they have not responded by the end of the thirty days Michael will file a motion of default judgment against one or both of them.

Adjournment
The meeting was adjourned at 3:08 PM

Respectfully Submitted By

Approved By

Antoinette Wilson
CBMR Properties Owner Liaison

Donny Hayley
Secretary