

## Answers to Questions Asked by Homeowners

### 1. Based on questions and concerns, on May 14<sup>th</sup>, the Board altered three aspects of the Proposed Indentures/Declaration.

- This information was sent in an email last Friday, but I added some additional information.
- Indentures/Declaration: Annual Assessments, Special Assessments, and Storm Water Assessments. Assessments have nothing to do with why we need to alter the current Indentures/Declaration, so making additional changes to these three aspects was an easy call. To be more specific: increasing assessments at this time was not and is not on the legal committee's radar; assessments has zero to do with why the documents have to be change. Like you, we have a vested interest in not paying more money in assessments.
- Thought from the HOA attorney:

The three altered aspects:

- A. Annual Assessments: page 16, section 7.3 (a), Preparation and Adoption of Budget.
- It went from: "...shall not increase more than twenty-percent (20%) in a five (5) year time period."
  - Is now changed to: "...shall not increase more than fifteen-percent (15%) in a five (5) year time period."
  - **Doing the math, of which I am no expert so please do this on your own too, this change makes the proposed Indentures/Declaration roughly equal to the current Indentures/Declaration.** We are unpaid volunteers with careers and families who are spending hours upon hours upon hours answering questions, so please forgive any typos.
  - Current/Outdated Indentures, page 10: "...Trustees may increase such assessment for any assessment year by an amount which is equal to the increase in the Consumer Price Index..."  
The CPI was 2.6 in 2020 and is currently 4.2% for January-April of 2021.
  - In the proposed Indentures/Declaration, Annual Assessments start at \$702.00, so a 15% increase over five (5) years would be \$105.30 for a new total of \$807.30.
  - **Here is the math on what the assessments could be IF the Board imposed assessments. This is only meant to be a way to show the comparable nature of the two methods and to prove the Board is not altering the current Indentures/Declaration for monetary gain.**

- the 5% storm H2O on both the current & proposed, so #'s equal out on both sides	A. CPI 2.6	B. CPI 4.2	C. CPI 3.0	D. CPI 2.0
Rounding Current	A. \$702.00	B. \$702.00	C. \$702.00	D. \$702.00
Year 1	A. +18.25=\$720.25	B. +29.48=\$731.48	C. +21.06=\$723.06	D. +14.04=\$716.04
Year 2	A. +18.73=\$738.98	B. +30.72=\$762.20	C. +21.69=\$744.75	D. +14.32=\$730.36
Year 3	A. +19.21=\$758.19	B. +32.01=\$794.21	C. +22.34=\$767.09	D. +14.60=\$744.96
Year 4	A. +19.71=\$777.90	B. +33.36=\$827.57	C. +23.01=\$790.10	D. +14.90=\$759.86
Year 5	A. +20.22= <b>\$798.12</b>	B. +34.76= <b>\$862.33</b>	C. +23.70= <b>\$813.80</b>	D. +15.20= <b>\$775.06</b>
End of 5 years	A. <b>-9.18 (less)</b>	B. <b>+55.03 (more)</b>	C. <b>+6.50 (more)</b>	D. <b>-32.24 (less)</b>

- B. Special Assessments: pages 16 & 17, section 7.3 (c), Preparation and Adoption of Budget.
- It went from: *“If the proposed Supplemental Assessment, Special Assessment or respective budget increase exceeds 15% of the respective annual assessment for that year, it must be ratified pursuant to the Ratification Process.”* Meaning that if the Board proposes a supplemental assessment, special assessment and/or increases the annual assessment (all combined) in an amount of more than 15%, the increase would have to be ratified. So if the increase is ever more than 15% in a single year that protection is in place.
  - Is now changed to: *“If the proposed Supplemental Assessment and/or Special Assessment combined exceeds 15% of the annual assessment for that year, it must be ratified pursuant to the Ratification Process.”* The meaning is the same as mentioned above.
- C. Storm Water Assessments: page 17, section 7.3 (d) Preparation and Adoption of Budget.
- *“...may impose a separate annual assessment”* was changed back to *“shall impose a separate annual assessment”*.  
Shall is in the current Indentures/Declaration, and the intention was to keep the same language in the proposed Indentures/Declaration. Thank you for pointing out the error in the draft.

## 2. Why is such an important change being rushed?

- This process is not rushed. If you need more than **three+ weeks and five opportunities to ask questions in an open forum, take more time**, but other people should not be forced to take more time if they are ready. You have ALL of the documents, so vote when you are comfortable. **Voting will take place until we have reached one of two scenarios: more than one-third of the Homeowners vote “No” or more than two-thirds vote “Yes”**. If you need 45 days to go over everything, take the 45 days. Why would anyone have a problem with allowing everyone to vote over time?
- Revamping the outdated indentures has been in discussion for over a year and started as a talking point of the previous HOA President and Board. The formal process has been in the works for 10 months. It has been in the meeting agendas and/or minutes for months. All Homeowners had the opportunity to attend monthly meetings and ask about the agenda or the previous month’s minutes.
- We introduced the Indentures/Declaration on May 13<sup>th</sup>, and everyone was repeatedly informed that the Board was NOT asking anyone to vote at that moment. We have a monthly Board meeting on Thursday, May 20<sup>th</sup>, in which Homeowners may ask questions. We are also volunteering our time to attend three additional question-and-answer sessions (meetings) at the clubhouse in which the number of people is not limited (beyond covid) and people can be addressed in groups or individually: May 19<sup>th</sup>, 26<sup>th</sup>, and 27<sup>th</sup> (4:00pm-8:00pm). We are asking for a vote by June 4<sup>th</sup>; **this is three+ weeks, one annual meeting, one monthly Board meeting, and three working-meeting opportunities from the time we introduced the documents**. That date was put in place knowing there is a high probability it will be extended; again, see above about needed percentages. **A few people are getting tripped up on the date, but the date does not matter since we are voting until we have reached either threshold mentioned above**. Also, see question three about why the changes need to happen now.

## 3. Why do the changes need to take place now?

- The Covid pandemic has allowed the Board to conduct business in ways our current Indentures/Declaration do not allow: notice by email vs. pony mail and virtual meetings. This means that because of the pandemic and the government change of rules attached to the pandemic, we have been able to conduct business via email and virtually. Without the pandemic, we no longer can do this.

- These issues are important to Homeowners because they affect everyone’s pocketbooks and voice.
- Without the pandemic, numerous correspondence must be printed and mailed. The cost of such has gone up, so if this is not fixed, the money must come from somewhere. This also means, even if the Board is meeting in person, we cannot have Homeowners attend the meeting virtually. And if a Board member needs to stay home due to a child-care issue, illness, etc., that Board member cannot participate in the meeting virtually.
- We chose to implement these changes prior to the pool opening so more people would participate. Homeowners tend to show more interest in aspects surrounding the pool; as do I. We are implementing a new entrance system to the pool complex, clubhouse, and gym, and we wanted the two formalities to coincide in order to bring more people out in one chunk of time.
- The new documents are infinitely easier to read, and no one should have to hire an attorney to understand their rights and responsibilities.
- The current Indentures/Declaration do not hold the Board accountable enough and limits notice and voice of Homeowners. This is addressed in another question (#3), and I’m happy to share more specific examples if I am asked in person.

#### **4. Do some of these changes take control from Owners and give it to the Board?**

- This is flatly incorrect. To start, all Board members are Homeowners, and after the Board President changed last summer, new and remaining Board members were encouraged to look into the documents more carefully. **The new documents give Homeowners more notice of rule changes and the opportunity to voice their opinion/concerns, hold Board members more accountable, allow Homeowners to exercise their right to vote on changes without limiting the effectiveness of the Board** (if Homeowners choose not to show up to meetings or participate in subdivision activities). I’m baffled by the comment insinuating Board members are trying to pull one over on the Homeowners. What would be gained by that? Board members are also Homeowners; they are bound by the decisions they make. Board members will not be Board members forever. It is doubtful that a Board member would want something in place that they would not want to observe/adhere to in the future.
- When you see “ratification” in the documents, that is more Homeowner voice than you have currently: 4.6 (p.9 rulemaking); 4.13 (p.11 borrowing); 4.16 (p.11 change use common ground), 7.3 (p.16 adopt of budget), (bylaws-- capital improvement budget over 15%).
- It gives voice and encourages participation for those issues Homeowners find important. Not everyone has time or the opportunity to participate in subdivision duties, but Homeowners do not want the Board handcuffed to prevent the Board from making subdivision improvements. If someone is willing to do the work, no one wants to intentionally make the job more difficult.

- There is not some invisible separation between the Board & Homeowners; the Board acts in the best interest of Homeowners. The proposed Indentures/Declaration allows the Board to act on certain measures that Homeowners find important or have asked about in the past.

#### **5. Can the Board create rules without a vote of the Homeowners?**

- Rulemaking 4.6 p.9:  
In the **current Indentures/Declaration**, the Board makes and alters rules, regulations, policies, and procedures without notice and without Homeowner voice. Again, the Board already has the authority to make rules, regulations, policies, and procedures without a vote of Homeowners.
- The **proposed Indentures/Declaration** makes rule implementation and changes more transparent because it forces the Board to give notice (meeting agenda) to Homeowners and allows for comments prior to the rule implementation. This is standard practice for HOA law and has taken place with each Board since the founding of the HOA. Forcing the Board to get a vote of the Homeowners for every rule would handicap the Board and very little would be accomplished. Rules can easily be changed to fit (majority) Homeowner wishes, and the Board has a history of doing such.
- Be aware, “Rules” are not Indentures/Declaration. Statute prohibits the Board from altering the Indentures/Declaration without meeting the threshold vote of all Homeowners.

#### **6. Is this vote trying to change or restrict what homeowners can do with or on their own property?**

- We are not altering or voting on the more restrictive aspects of what Owners are or are not allowed to do on their property. Indentures are not rules, regulations, policies, or procedures. More specific architectural standards and CCR rules and regulations are already in place, and you are not voting on those more specific restrictions. In the current documents, the Board already has the authority and power to create reasonable rules and regulations that govern architectural standards and CCR rules and regulations.

#### **7. Does the proposed Indenture/Declaration allow the Board to give away Common ground?**

- **Oh my gosh, NO!** 4.16 Change Use of Common Ground
- The **proposed Indentures/Declaration** is more strict with Common Ground than the current. In the proposed document, an affirmative vote from at least a majority of the Owners voting is required to change the use of any portion of the Common Ground. Please read 4.16 to see the truth.
- The **current Indentures/Declaration does NOT have this safeguard.** In the current Indentures/Declaration, the Board can and has given away common ground. A couple of years ago, the past President & previous Board released a small section of common ground to a Homeowner; the cost to continually mow the tiny section of common ground was ridiculous, but the point is the same—the Board currently has the right to change use of common ground and the proposed indentures are more strict. Homeowners should have notice and the opportunity to vote on this, as set forth in the proposed documents.

## **8. A Homeowner made a vague mention to be aware of General Provisions: pages 39-41.**

- I'm not quite sure what could be controversial in this section, and most of it is in the current Indenture/Declaration. Let me know more specific questions, and I'll be happy to answer. The majority of it is boiler-plate language: validity (integrity of the Governing Documents); that all owners are bound the document; Condemnation; effective date, etc.
- 17.4 (c ) p. 40 Condemnation—Acquisition of Common Ground & 17.5 Termination of Subdivision are already in our current Indentures/Declaration as #13 on pages 7 & 8.
- Important: 17.1 (d) Compliance With Nonprofit Corporation Act; Conflicts. This section says that if the law changes, the law supersedes this document and there is not a need for us to spend money to alter this document to reflect the legal changes. Basically, it allows our Indenture/Declaration to run with the changes in the law.

## **9. A Homeowner made a vague mention to be aware of Community Standards: pages 20-27**

- This section has very few differences, but those differences are actually less restrictive in a few places than the current Indentures/Declaration, and some say they are subject to any ordinances of the City of Wildwood. Currently, the Board has discretion and has already created rules, regulations, policies, and procedures around Community Standards. **Let me know any specific issues, and I'll address those.**
  - A. 10.1 Pets—we took out the 2-pet max so that could be up to Homeowners/Board. If Homeowners want a limit, they can show up and ask for that to be in the rules, regulation, policies, procedures section. This is on page 14 under Animals in the current document.
  - B. 10.2 Signs & Flags—the proposed Indenture/Declaration has significantly more language than the current document because Statute dictates these are what Homeowners are legally entitled to have. No Board can prevent Homeowners from having these.
  - C. 10.6 Nuisances—this may look different, but it's actually in the current document as a different name: see p 14 #4, p 14 Animals.
  - D. 10.15—Solar Panels—subject to any ordinances of the City of Wildwood
  - E. 10.12—Trash—this is a change from the current Indentures/Declaration. In the current Indentures/Declaration, all trash cans must be kept in the garage or in an in-ground area with a lid. The proposed Indentures/Declaration opens this up and allows Homeowners to have a voice on the possibility of having trash cans behind their house or behind their fence so long as they are not visible from the street. This still has to be approved by the Architecture Committee, and we will be discussing and taking input from Homeowners on this at a later date; let us know your thoughts. This does not mean the Board gets to decide what to do; it means Homeowners get to make changes if enough of them wish to. Keep in mind, this does still keep trash from being in the front or on the side of houses---not visible from the street.
  - F. 10.22—Important change—Technological Advances. We absolutely need this because it allows us to adopt reasonable rules as technology advances.

## **10. Exhibit A in the proposed Indentures/Declaration was in an email sent to Homeowners on Friday afternoon.**

- Recitals: page 1, section B.  
This section clearly lets readers know Exhibit A is, "...the Original Declaration as more particularly described in Exhibit "A" ...".

## 11. The previous Board President asked about having the complete current Indentures/Declaration

- Homeowners have the current Indentures/Declaration the HOA uses and what has been used by past Boards for years and years. **These are the same documents the above-mentioned previous Board President approved for the LCHOA website years ago and used herself as the president and chair of the legal committee for some 6-8 (?) years.**
- The current Indentures/Declaration mentions Exhibits A-F, and the document makes it perfectly clear those Exhibits are collectively *the properties (LAND)* "...a tract of real property [land] located in St. Louis County, Missouri, as more particularly described in Exhibit..." and reflects who originally owned the property [builders]: Mason, Kingsway, Mayer, Papin, Whitehirst, Domain. These exhibits are solely showing the land in which we already know because we have phases 1-5 on that land. We are not changing plats of land and not voting on any changes to land. That is not even logical. Exhibits A-F do not alter the body, the verbiage, or the intentions in the current Indentures/Declaration. We have these documents at the clubhouse for viewing.
- **There was more to the question (typos in pages that are not part of the original document), but the attorney will be at the clubhouse tomorrow night to answer specific questions on this matter and to assure you the verbiage in the documents on the website (and what was emailed to you last Friday) is what you should have to compare to the proposed Indentures/Declaration.**
- \*\*\*If you cannot attend in-person tomorrow evening (Wednesday, May 19<sup>th</sup>), you will be able to view the recording. Details with a link (or the like) will be sent out after the meeting.

## 12. Some Homeowners have asked for a breakdown of the differences in the two Indentures/Declarations.

- **Update: the attorney is attending the meeting at the clubhouse tomorrow evening (Wednesday, May 19<sup>th</sup>) to answer questions and is working on a summary of differences. She is coming to the clubhouse after a court appearance, so we cannot guarantee a specific time. We feel confident she will be at the clubhouse between 5:00-5:30 and be able to address questions and concerns until 8:00.**
- **If you cannot attend in-person tomorrow evening, you will be able to view the recording. Details will a link (or the like) will be sent out after the meeting.**
- Originally Sent Monday Evening: As much as I would like for that to happen **and have tried**, people still have a responsibility to read documents for themselves. **Don't take our word for this, it's in black and white. We pointed out differences in the meeting, and I have laid out several differences in all these questions. The legal committee is seeing what that will take to complete, but there are four more opportunities for in-person discussions and questions.** Keep in mind, we are unpaid volunteers with families and careers, and we are simply trying to do our best so we can guarantee homeowners get notification of all changes and have a voice regarding those changes, avoid spending more money on printing and mailings, to be able to conduct meetings virtually if needed, and ensure that any Board is held to a higher standard (ask me about this in person, and I'll be happy to share facts).
- Mostly Boiler-Plate Language: The 1-14, 30-34, 36-41 (End) pages are boiler-plate pertaining to statutes and/or have minimal impact on us as homeowners. I can break this down a little further in person or when I get more time.

- Important pages:  
 Financial: pages 15-17  
 Architectural: pages 20-27  
 Leasing: pages 35---15.1 a

### 13. Should voting be postponed?

- If you need more than **three+ weeks and five opportunities to ask questions in an open forum, take more time**, but other people should not be forced to take more time if they are ready. There is no need to postpone the vote. You have ALL of the documents, so vote when you are comfortable. **Voting will take place until we have reached one of two scenarios: more than one-third of the Homeowners vote “No” or more than two-thirds vote “Yes”.** If you need 45 days to go over everything, take the 45 days. Why would anyone have a problem with allowing everyone to vote over time? I answered this the same way in Question 2.
- We introduced the Indentures/Declaration on May 13<sup>th</sup>, and everyone was repeatedly informed that the Board was NOT asking anyone to vote at that moment. We have a monthly Board meeting on Thursday, May 20<sup>th</sup>, in which Homeowners may ask questions. We are also volunteering our time to attend three additional question-and-answer sessions (meetings) at the clubhouse in which the number of people is not limited (beyond covid) and people can be addressed in groups or individually: May 19<sup>th</sup>, 26<sup>th</sup>, and 27<sup>th</sup> (4:00pm-8:00pm). We are asking for a vote by June 4<sup>th</sup>; **this is three+ weeks, one annual meeting, one monthly Board meeting, and three working-meeting opportunities from the time we introduced the documents. A few people are getting tripped up on the date, but the date does not matter since we are voting until we have reached either threshold mentioned above.** That date was put in place knowing there is a high probability it will be extended; again, see above about needed percentages. Also, see question three about why the changes need to happen now.

### 14. Does the HOA attorney represented the Board or the Homeowners?

- 100%--Homeowners
- The Board is a representative of Homeowners. Board members are a group of individuals who are elected to represent the Homeowners. The attorney acts in the interest of ALL Homeowners.

### 15. Does the attorney live in Lake Chesterfield or the surrounding area?

- No

### 16. Will the attorney be able to speak with Homeowners to address questions and concerns?

- Absolutely! Wednesday, May 19<sup>th</sup>.
- **The attorney will be at the clubhouse tomorrow night, Wednesday, May 19<sup>th</sup>, to answer questions and concerns. She has a court appearance in the afternoon but is coming to the clubhouse directly after. Because of this, we can only approximate her arrival at this time. We are available from 4:00-8:00, and we predict the attorney will be able to start between 5:00 and 5:30.**
- If you cannot attend in-person tomorrow evening, you will be able to view the recording. Details with a link (or the like) will be sent out after the meeting.

- From the beginning, we mentioned there are three+ weeks and five opportunities to ask questions in open forums and that we intended to see when the attorney could attend. We scheduled open forums at the clubhouse on several days to accommodate various schedules and are recording all of the sessions for Homeowners to view: May 19<sup>th</sup>, 26<sup>th</sup>, & 27<sup>th</sup> from 4:00pm-8:00pm (where you can also secure access to the pool complex at that time) and May 20<sup>th</sup> at 7:00 at the monthly Board meeting.

\*\*\*Here is the email to send comments and questions: [legal@lchoa.org](mailto:legal@lchoa.org) . We are answering questions on a rolling basis and are posting all questions and answers on the LCHOA website. You may request a printout of the questions and answers after they are published. You also have four (4), yes 4, more opportunities to ask questions and have a discussion in an open forum.