

# The POA BULLETIN

The Property Owners' Association of The Villages

Champions of Residents' Rights Since 1975

October, 2002

## Your \$105.00 Monthly Fee Could Be \$70.00 If Only Maintenance Was Charged

Every time you write that monthly fee check for \$105.00, it could be \$70.00.

You are paying \$35.00 more than you could be paying every month.

And, that extra \$35.00 is a redundant payment for something that you have in essence already paid for once before.

The underlying facts are provided in the recently released Villages Center Community Development District (VCCDD) amended budget for the just completed fiscal year ending 9/30/02. This shows monthly fee revenue of \$16.6 million and VCCDD maintenance and related administrative expenses of \$11.1 million (that is 67% of the \$16.6 million total).

That means that for every \$105.00 of amenity fees collected, only \$70.00 (67%) is spent on maintenance and administrative expenses.

If you are paying \$105.00 per month ... and maintenance and related administrative fees amount to only \$70.00 per month ... where does the other \$35.00 go?

The other \$35.00 goes to service the debt (principal and interest) which was issued by the VCCDD to buy all those facilities, mostly from the developer, that attracted us to The Villages in the first place.

You might wonder why we are buying these facilities when we paid so much more for our houses and lots when we first moved here. If our houses were built in southern Sumter county, for example, it is likely that they would have cost two-thirds to three-fourths of what they did here in The Villages. That is because Villages residents pay more to be close to the facilities in the Villages. And, the

developer prices the house and lot higher than would otherwise be the case so as to capture the value of access to the nearby facilities.

So, if we paid more to be close to the facilities in The Villages, why are we buying these amenities again for this extra \$35.00 per month?

How did this happen?

The root cause here is the agreement with the developer to pay the monthly fee. A related factor is the ongoing indifference on the part of many residents to the use and application of the monthly fee.

Residents agreed to pay a monthly fee for vaguely stated uses when they originally bought their homes and lots in The Villages.

Everybody buying into our community, CDD or not, agrees to pay the developer a monthly fee (now capped at \$105.00 per month) for either “perpetually maintaining the recreational facilities” (old version) or “perpetually providing the recreational facilities” (new version). This phraseology is contained in paragraph 4.1(a) of the Declaration of Restrictions and the dollar amount is in the Warranty Deed to our property which was given to all of us at or before closing on the purchase of our property.

Yes, yes, yes ... we all should have read these provisions and been alert to the subtle implications. Some of us did and some of us didn't. If you did not like the language, the only solution at the time was to not buy a home in The Villages. If you did not notice the language, well, then, you can't blame others for your failure to notice this important distinction.

The essential problem, however, is that these provisions are so vague and so poorly worded so as to be stacked against us residents and stacked in favor of the developer.

The vague wording allows the developer to spend the monthly fee on almost anything under the guise of “providing” the facilities. The spirit of these provisions, however, was and is for a “maintenance” function -- that is, keeping the property in its original condition by providing repairs and other acts to prevent a decline, lapse, or cessation of function or condition.

However, the developer, under a favorable and self-serving interpretation of the stated function, could put up anything, including a gasoline tank farm behind Town Square, and charge us for “providing” those facilities.

To be sure, the developer does do a pretty good job of providing maintenance and basic services for the \$70.00 per month. However, he cleverly designed the contractual language to utilize the excess monthly fee, now ballooned to \$35.00 a month, to sell us again what we thought we paid for through a higher house and lot price in the first place.

On the issue of indifference, the developer did charge for just maintenance until the formation of the Community Development Districts (CDDs) in the early 1990s. However, he encountered no effective opposition to his scheme to spend part of the monthly fee not required for maintenance on repurchase of facilities from himself. Nobody effectively countered this scheme; most people just didn't care to be bothered with these details. Silence and forbearance have apparently implied consent.

A related problem here is that the supervisors of the VCCDD, who are empowered by law to purchase facilities from the developer, are either business

associates or employees of the developer and are appointed by the developer rather than elected by residents. The POA believes that this situation has serious conflict-of-interest implications.

Ok, the problem appears to be real and costly to residents. What is the remedy? To remedy the problem, the provision for how the monthly fee is spent should be reworded and split into two parts, as follows:

The first part should be for just maintenance and administrative expenses and be initially set, using today's figures, at \$70.00 per month. Over time, this figure could go up with inflation ... or it could go down as expenses were spread over a larger base of residents in The Villages. The figure would probably go down over time as more people move to The Villages.

The second part should be for an additional monthly fee for purchase by the VCCDD of other facilities in The Villages from anybody, including the developer. But, any significant purchase, say more than \$2 million in the aggregate in any year, would have to be approved by a vote of all residents in The Villages. And, any purchase would have to be supported by a market-based appraisal – no more of the income-based appraisals that stack the deck in favor of the developer. This additional charge could be \$35.00 per month, or it could be zero, depending on what facilities the residents agree to purchase.

Unfortunately, we are all still on the hook to the developer for the \$105.00 per month.

But, is this fair and equitable for the residents of The Villages? Up to \$105.00 isn't needed for maintenance. And, the extra \$35.00 per month probably does not represent the will of residents regarding purchase of additional facilities in our community. Is this fair to residents?

Why doesn't the developer, in an effort to be a responsible and positive influence in this community, adopt this clarified wording for a two-part application of the monthly fee for all residents as explained above?

If the developer did adopt this language, the monthly maintenance fee would be fair and equitable. And, residents could voice their approval on the purchase of additional facilities.

This is our community – and we, the residents, should have a say in the purchase of any common facilities.

This would seem to be a reasonable solution for both issues. Residents would pay fair value for fair value regarding maintenance expenses; and, the developer would have the opportunity to develop and sell facilities to residents.

Please, Mr. Developer, could you do the right thing and make these change to the definition of monthly fees?

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