

# VILLAGE PALOS VERDES

## HOMEOWNERS ASSOCIATION

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April 28, 2010

Dear VPV Homeowner(s):

### **Litigation Status:**

The final Settlement Agreement for the Vartanian and Griffing matters has been issued for signatures which are required by each current plaintiff. The Association continues to await receipt of the completed document from the plaintiffs. A hearing is scheduled for May 11, 2010; the attorneys will be required to appear before the court and explain why the dismissal has not yet been filed. The Association is hopeful that the hearing will be canceled due to the settlement being finalized and dismissal filed in advance of this hearing. The Association will communicate when the settlement agreement is final.

### **Special Assessment Status of Receipts:**

Receipts for the Special Assessment (as of the date of this communication) are:

- 121 units paid in full
- 39 units enrolled in the HOA Loan program
- 13 units partially-enrolled in the HOA Loan program (enrollment paperwork is either still outstanding or requires being re-issued before it can be filed with the County)
- 7 units are in various stages of collection

Special Assessment receipts as of 4/15/2010 total \$9,975,400. The account funds continue to be maintained in segregated accounts from other VPV operating fund bank accounts. As a requirement to federally insure the funds, they are currently in a non-interest bearing account. Once the HOA Loan program lender is determined, the funds will be transferred and deposited into laddered interest bearing CDs until release for construction progress payments.

Some homeowners enrolled in the HOA Loan program have communicated that they intend to pay the balance of the assessment within the next couple of months, as assets are liquidated in a cost effective manner for the individual owner. Other homeowners, who had not yet arranged for individual financing, continue to be impacted by lenders rejecting financing applications due to the litigation settlement not yet being finalized, or low current appraisal values due to recent cash sales for distressed units. The Association is hopeful that individual homeowners will more readily be able to obtain individual financing once the settlement is concluded and home values are positively impacted with the start of construction.

### **North Pool Heater Turned On May 17**

The North Pool heater is scheduled to be turned on May 17. Homeowners are reminded of the necessity to adhere to pool rules and to be respectful of others in the immediate and surrounding pool area and to maintain acceptable noise volumes. Volunteer homeowners have accepted the responsibility to lock the pool gates each night but are advised to avoid all potentially confrontational behavior with those who do not politely exit the pool area when asked. All homeowners are encouraged to call the Torrance Police Department at 310-328-3456 to manage hostile situations rather than to potentially put themselves in harm's way. The revised Association Rules and Regulations, to be distributed soon, will include a new rule which prohibits smoking in all VPV common areas, including the pool. This rule change is a necessity to protect the Association from potential litigation due to second-hand smoke. Due to recent court cases in California, common interest associations are being encouraged to enforce the new policy. More information on this rule change will be forthcoming. Off-site homeowners are reminded to ensure tenants using the pool are aware of and adhere to VPV rules.

### **Monthly Q&A**

The VPV Board of Directors appreciates your interest in Association business matters and regrets the inability to openly dialog and answer questions directly during the Open Forum portion regular HOA Meetings. To continue providing the most effective communication throughout the community, questions asked during the Open Forum portion of meeting and those submitted in writing during the month which are of general interest to the entire community will be answered in the "Monthly Q&A" document posted on the VPV web site at: [www.villagepalosverdes.org/MonthlyQ&A](http://www.villagepalosverdes.org/MonthlyQ&A)

### **April 2010 VPV HOA Monthly Q&A**

The following questions were presented during the Open Forum portion of the April regular Monthly Board Meeting, held 4/8/2010.

- Q:** Where in our CC&Rs or By-Laws or any other guidelines does the Board get the authority to call for \$61,000 from each homeowner with only a 30-day announcement?
- A:** The special assessment of \$75,000 per unit was passed by the majority of homeowners in October 2008. Due to the litigation, a minimum monthly contribution towards the assessment was established until the court ruled the assessment did not violate the CC&Rs. Since January of 2009, the Association has consistently communicated that the assessment balance due announcement would be issued in writing with a 30-day notice for payments. Article VI of the Association's CC&Rs provides for the conditions of administering assessments.
- Q:** This arbitrary 30-day demand deadline meant that homeowners could not get their own financing within that period. Because there is no loan and the litigation has not been settled yet, why did the Board not choose a 60-day or 90-day demand deadline which would have allowed homeowners to get their own financing and then have an honest choice between signing onto the HOA Loan or paying the \$61,000 from their own low-cost financing?
- A:** The response provided to the previous question also applies to this question.
- Q:** Those people who were unable to secure financing within the 30-day demand period were forced to sign the HOA Loan. Although an information letter had told us that there would be no pre-pay penalty, there was nothing in the written document. So how can we be sure that there is no pre-pay penalty?
- A:** The HOA Loan program enrollment document is a specific business document for the purpose of recording the loan commitment against the specific property title. The document is not intended to, and does not provide specific terms of the program. The special assessment was approved by the majority of homeowners, including an option to enroll in the \$600 per month minimum payment plan. The program was designed and intended as bridge financing to provide financing for those who were unable to, or chose not to, obtain their own individual financing. The Association has consistently communicated that the program does not incur a pre-payment penalty and owners are encouraged to obtain their own financing and pay the balance of their account and exit the program as soon as they choose.
- Q:** Do homeowners who signed the HOA loan have a required period to stay in that program, or can they leave the HOA loan program without penalty after a few weeks, when their own private financing is arranged?
- A:** The response provided to the previous question also applies to this question. The Association has consistently communicated that enrollment in the HOA Loan program will incur fees and interest. The allocation of the fees among the number of program participants and the duration of their enrollment will determine the value of fees applied to individual accounts. It is the Association's best interest that individual owners pay the balance of the assessment and exit the program as soon as they are able.

**April 2010 VPV HOA Monthly Q&A - continued**

- Q:** Every month the HOA will collect \$108,000 from the \$600/mo payment "installment." What are the fees and administration costs that amount to \$108,000 a month?
- A:** The figure of \$108,000 is not applicable as only a portion of the Association are enrolling in the HOA Loan program and paying the special assessment by the minimum monthly installment program. Assessment installment receipts are anticipated to be only a fraction of the value suggested in this inquiry. Examples of fees incurred through the HOA Loan program include loan fees to establish the line of credit with the lender; legal fees to create the enrollment forms and to review and approve the loan contracts; recording fees to record the balance of the assessment as a lien on the property; administrative fees to provide separate monthly accounting for the additional assessment account; notary fees; allowances for losses due to bad debt. In addition to the fees, interest will be due on the principal balance of the eventual loan amount. For owners not paying the full balance of the assessment, the HOA is extending this financing option and payments made through the HOA Loan installment program as of April 1, 2010 will be allocated towards payment of the above mentioned fees which are incurred costs to the Association. Initiating allocations towards payment of the fees prior to the loan being finalized is intended to permit a larger portion of installment payments to be allocated towards the principle.
- Q:** Is the HOA Loan program collateralized with the homes of those people who have signed the agreement? (Then why did we need to take our title in to the office to be photocopied if we were going to apply for the Loan program?)
- A:** The Association's collateral for the HOA Loan program is not on any physical property but rather on the Association's ability to collect the assessment. The initial loan agreement in 2008 was based on the how the association levied the assessment. Due to the litigation challenging the validity of the assessment, the original loan commitment was with-drawn. To re-qualify for a loan, the Association continued to collect monthly assessment payments as mandated by a vote of the majority of homeowners, demonstrating the ability to levy and collect the assessment as collateral. The HOA Loan program enrollment documents include the specific property descriptions of each unit enrolled in the program to enable the individual documents to be recorded with the County Recorder's office as a lien on the property title until the special assessment balance is paid in full.
- Q:** When will we – the homeowners – be given a complete HOA report on the special assessment finances that have been collected from the homeowners to date? How much has been collected? What expenditures have been drawn down from this special assessment pool? Why haven't we had any report on this very large sum of money?
- A:** The status of receipts for the special assessment was an agenda item for the regular Monthly Board Meeting on 4-8-10. During the meeting, the Association's Treasurer reported that as of the close of business that day, 79 units had paid the assessment in full. It was also announced at that time that the final receipt numbers would be communicated once they were known following the late payment grace period on the 15<sup>th</sup>. (Please reference page one of this communication for an updated account status.) An accounting of the exterior renovation project costs to date is provided to all homeowners within the annual audit. The Association plans to enact the previous commitment of regular reporting on the project costs, once construction is underway.
- Q:** The Board received a Petition from the required number of homeowners to hold a Special Meeting to explain the financing and answer all the questions that are troubling the entire community. No response was ever received. Why did the Board ignore this request?
- A:** The petition was dated 3/26/10 and recorded as received by the management company on 3/29/10. Corporations Code requires the Association to acknowledge receipt of such a petition with 20 days. A written response to the petition was issued on 4/7/10 and the issue was placed on the agenda for the regular Monthly Board meeting for 4/8/10. The Association is required to schedule the special meeting of the membership for not less than 30, or more than 90 days, following receipt of the petition. The Association's only obligation is to schedule the meeting which will be calendared during a future open meeting. A copy of the petition and accompanying correspondence is attached.

**April 2010 VPV HOA Monthly Q&A - continued**

- Q:** Visitor parking continues to be an on-going problem with homeowners consistently violating the Association's rules. Can we add more teeth to the fines for violating this rule?
- A:** The Association previously received a written request from another homeowner requesting that the fine schedule be escalated. The Board reviewed the request and asked the property management company to provide information on the values of fine schedules for other similar associations. Once this information is reviewed, the Board will have action to potentially revise the current fine schedule and incorporate the results in the Rules and Regulations. The Rules and Regulations are in the process of being updated and a complete copy will be mailed to all homeowners.
- Q:** Because so much time has gone by since we met with the Contractors and got to see all of the materials for the project and with some materials recently selected, will we have a chance to have another big meeting to go over the project again and see the selections before construction?
- A:** Homeowners are encouraged to submit specific questions regarding the project in writing to Scott Management; the Exterior Renovation Committee (ERC) will then address the questions. Budget constraints will not allow us to have another meeting with the contractors, however, some material selections are planned to be installed in various property locations prior to commencing construction on the full project. These 'test' locations are occurring on a limited basis to enable the ERC and the Board to physically see the tentatively approved materials prior to final approval. These locations will be announced to the homeowners so they can take a look at the materials when the work has been completed.