

RRHOA Board Meeting, January 10, 2017  
Greenwood Cove Lecture Room (Remember to bring your door fob)

Call to Order: 5:30 p.m.

Board Members Present: H. Maslich, L. McLaughlin, W. Fischer, C. Kastner, (J. Galvin absent) and J. Manetta

Community Members Present:

B&R Alconero, D.Barsell, D&B Doane, R&J Hazard, J.Jackson, M.Kastner, D.Linscott, S&B McVay, J.Michels, M. Mohtashemi K. Petras, L&S. Quinn, C.Schmalzbauer, W. Schmitt, MJ&J Thomas, B.Vanfossen, N&F Weinstein

Guest Speaker: Jason S. DiPonzio, RR HOA Attorney  
Jason S. DiPonzio, Esq. is a Rochester, New York attorney, experienced in the areas of civil litigation, estate planning and administration, municipal law and real estate.

Introduction: H. Maslich  
Topic: Potential Complaint with NYS AG Office (45 minute presentation, Q&A)

I was contacted by the board of directors as to remedies that are available to the monetary obligations by the project sponsor.

For homeowners associations and developments such as this, there is oversight by the Real Estate Finance Bureau which is an arm of the NYS Attorney General. The AG has jurisdiction under an article of business law known as the Martin Act. This act gives the AG jurisdiction to remediate allegations of fraud. Proof of intent to practice fraud is not required, only that there were deceptive practices.

The Statute of Limitations applies from the time when the situation arises. There is a dispute among lawyers whether the Statute of Limitations is three or six years. Our limit arises each time the Offering Plan is amended, last time in 2015.

The AG is obligated, when they receive a complaint, to notify the project sponsor and give them an opportunity to respond. The AG can then attempt to negotiate some type of resolution. Both parties have to agree. If one doesn't agree there is no contract, no settlement. The AG only then has the right to file a lawsuit in the NY State Supreme Court. A private party cannot file with the NYS Supreme Court under the Martin Act.

When Rivers Run was started, there was a document filed in the Monroe County Clerk's Office called the Declaration of Covenants, Easements and Restrictions that incorporates all of the rules and regulations applicable and also discusses the sponsor's financial obligations to the development until it is fully built out. The statute of limitations for this type of lawsuit is six years from any time that a breach from that declaration would have arisen.

The RR HOA was turned over to the homeowners in 2011. The developer was providing financial support up until that point. If there was any shortfall of what the developer owed, it probably would have arisen in 2012, but there have been some financial payments made by the sponsor to the HOA. That means that the earliest a problem with the declaration would have been in 2012. The statute of limitations therefore gives us until 2018.

Was the money they paid all that we were due under these documents that apply? Some residents have performed an analysis of what would happen if we kept our homeowners fees to what they were in 2011. That premise warrants further investigation if there's documentary evidence to support it. It is recommended that we (RRHOA) engage the services of a forensic accountant. The accountant would analyze the documents that were provided by the sponsor as well as the income and expense statements that were provided by the HOA. They also would analyze whether it is a reasonable premise that the HOA fees would have stayed at \$191 a month for eight years given consumer price index in an era of rising costs.

These are items that are very important for the Association to look into to assist the Association in the decision because lawyers bringing disputes before a tribunal costs money. The cost of a forensic accountant to provide such an analysis might be between \$1,500 and \$2,000.

The Attorney General's Office, Miss Rossi, has indicated that the action has to be brought by the HOA. It can't be an individual homeowner. It is recommended that the HOA engage an attorney to put together that complaint using the analysis by the forensic accountants and all the documents. The Association is going to want to be sure they put their best case forward and that they are prepared for any defenses that may come back from the developer.

An estimate for the time for an attorney to put together that complaint and also any defenses brought by the developer (this is just at the Attorney General level) probably would run between \$5,000 and \$7,500. Most lawyers in Rochester area charge an hourly rate of between \$250 and \$350. It would be very difficult, if not impossible, to find a lawyer that would take this on a contingency basis. A contingency means the lawyer who takes the case would be paid a percentage of anything recovered.

If the HOA and the developer can't agree, it would be up to the HOA to file lawsuit to enforce it under a motion review in the court. Estimated cost would be in excess of \$20,000. If there's a trial involved, those costs would go up from there. Miss Rossi indicated that they (AG's office) generally won't file a lawsuit under the Martin Act when it involves a unique dispute with one community in one part of the state. They need to see a pattern of conduct occurring throughout the state before considering filing in State Supreme Court under the Martin Act.

#### **Questions for J. DiPonzio from the community:**

F. Weinstein - Do you know that Cy Kastner has been in touch with the AG Office and there's a long summary of the situation? Do you know of the letter addressed to Mr. & Mrs. Kastner saying it is likely the AG would investigate if the complaint were submitted by the HOA? It was suggested that we hire a lawyer and that it be one who had HOAs, condominiums and co-ops as his specialty?

A - Yes. I am aware and I spoke with Miss Rossi last week and she sent me copies of the complaint and all the communications back and forth that have been going on from October until

some time in November. I do agree that she indicated that if there were a complaint filed, the Attorney General's Office would take some action. It's not specific as to what action that would be. They are obligated by law to investigate but depending on that investigation, the action remains to be seen.

W. Schmitt - You said that the Attorney General will only pursue action in the State Supreme Court under the Martin Act if it involves a pattern of conduct that's going on throughout the state.

A - The Attorney General is going to extend their resources only on an issue that is developing across the state. If it amounts to just a private dispute between two parties, they won't accept and file a state court action.

W. Schmitt - We could spend this money and all this lawyer's time could they then say no we're not going to take this and we'd lose that money?

A - Yes. Once that money changes hands, there's no guarantee that you're going to get the outcome that you want.

J. Michels - Is the current owner financially responsible for what went on in the years before 2014 when Rivers Run LLC transferred its interest to Morgan, Rivers Run Holding LLC?

A - Yes. There was an amendment to the Offering Plan that was filed in 2013 or 2014, it did address that.

S. McVay - Would an attorney whose background or area of expertise is in HOA law and development issues be able to clarify the issues?

A - Yes, if I knew of an HOA lawyer, somebody who practices exclusively HOA law. I would say that I don't think there is a lawyer in Rochester that would say that they practice exclusively HOA law. Homeowner associations involve different disciplines. Those are governance, by-laws, real estate, contract interpretation, zoning and planning. Lawyers who represent HOAs have experience in each of those areas. I do have experience in each of these other disciplines that are very well germane to issues that are presented to a homeowners association.

B. Alconero - I understand that our sponsor is paying per unit. What about the 16 lots that are still hanging around?

A - I don't see documentation to support the sponsor paying per unit. The documents are very specific in that the sponsor's monetary obligations are based on an analysis between the operating budget and expenses that are needed in order to operate Rivers Run and the fees which are actually collected. That's where the dispute lies.

B. Alconero - What should he legally be paying?

A - .According to the law, there's an argument; The right amount is dependent upon an analysis of a forensic accountant.

B. McVay - I'm confused about the informal agreement between the developer and the HOA shortly after the turnover of the HOA. What kind of informal agreement and how would a forensic accountant take that into consideration?

A - The sponsor agreed they would pay all of the association fees on lots being built as soon as a roof was put on, they would begin making monthly payments. Once title was transferred, it would be the new homeowner who would take over those monthly payments. What the forensic accountant would have to do in their analysis would be analyze the budget, the actual income and expense statements and then take into account the amount actually paid.

K. Hayes - I understand part of my HOA fee is my cable television. Is what we are paying now the magic number? Also, I understand that we invested money and hired somebody to do something about the ponds this summer and someone has told me we were never reimbursed. Where do Morgan and Christa fit into the picture?

A - My assessment would be that the cable TV is a service you took advantage of on a group rate. I don't think that would get into the analysis of the forensic accountant. The second part of the question is about the maintenance of the ponds. That was included in the documents to the AG. Her response was that the issue she took the most interest in was the payment of the Homeowners Association fees. I think that the maintenance of the property is a separate issue

M. Kastner - Christa plans on starting a building up on top of the hill. What if he stops and leaves a big hole in the ground? What legal recourse would we have to prevent them from doing that to us?

A - It is part of the community and is part of the Offering Plan. It's under the jurisdiction of the Attorney General. The AG maintains oversight until the project is complete. Secondly, the Town of Henrietta issues building permits and then supervises the process until the Certificate of Occupancy is issued. If a building were just abandoned, the Town of Henrietta would have enforcement power over the developer as well.

C. Kastner - The position that the HOA is taking is to use our document as a complaint and that our sponsor is going to keep his promises. Can this document be an insurance policy that could be launched in the event the developer doesn't keep his promises?

A - Yes, the 38-page complaint is a valid document. There was a lot of work that was put into it. However, for attorneys to put their name to it, they will want to independently verify what's contained in there. It definitely is valid and warrants further investigation. I think that the fact that the AG is asking for further information did demonstrate that she was interested in the contents of it. The second part of the question, could it be used as an insurance policy in the event that the developer doesn't follow through with construction as he's indicated? I don't believe, and the Attorney General said, we are under the gun on the statute of limitations issue. The Board looked at this issue in the fall and took the position to wait until summer. We have until the Statute of Limitations expires to file a complaint with the Attorney General.

S. Quinn - You said there's a grey area of what the sponsor legally owes us in the shortfall. To me, it looks like the AG's saying that there's a precedent out there that she knows of that you aren't aware of. I'm wondering why she doesn't feel that it's a grey that they owe us the shortfall.

A - My characterization of it is grey is that the complaint is taking one position. We're taking another. It would not be easy for us to agree on what the proper interpretation is. Secondly, the Attorney General is asking for more information to support the damages calculation.

S. Quinn - My question is about the developer's legal obligation to cover the shortfall. I thought you thought that was not legal necessarily, that you thought that that was grey.

A - Two reasons I referred to it as grey. No. 1 is because the sponsor has taken the position that once the HOA was turned over the obligation ceased. And the second is what is contained in Schedule A. I didn't have the opportunity to review Schedule A.

S. Quinn - I think that's very important because then it could be very black and white that they are responsible.

A - Then again, there may be other arguments. What if schedule A says there will be a build out in 2006 and we're going to finish our last units and be all done in 2011. That would support their argument that they don't have to pay owner fees. But they are still under an obligation to the development until it is completely built out.

D. Linscott - Is there any way we could have them pay to get this stopped?

A - In the United States, there are only two ways that a party can be forced to pay legal fees. No. 1 is if there is a statute that provides that authority or No. 2 if there is a contract agreement under which it is agreed that we will be satisfied or we will be able to recover our attorney's fees. There isn't a provision that would be applicable here.

J. Thomas - Could somebody please read Schedule A to us?

A - We don't have the actual document here.

W. Schmitt - What's the number that we're turning to?

A - The amount of the complaint that was initially being sought is \$132,000. The Attorney General's response to that was please provide documentation to support the damages figure. My opinion is that the document to support that figure would be an analysis by a forensic accountant. It then would be up to the tribunal negotiator to respect that damages figure.

F. Weinstein - Some lawyers take a percentage of what they win.

A - That would be a contingency fee and I don't think we'll find a lawyer who would take this on a contingency fee basis.

F. Weinstein - but we don't know

A - Reasonable minds can differ. People can make phone calls to find out.

H. Maslich - Way over time, if you have a question, submit it to the board and we will get it to Jason

## Approval of November 8, 2016 Meeting Notes

L. McLaughlin moved to approve, C. Kastner seconded. Motion approved.

## Committee Reports

### Building & Grounds - C. Kastner

We don't have scope of work document from Davey Landscaping yet. It is past due. LM. Did we have a due date on it? We paid \$500 to get that scope of work and he said he would submit it to J. Manetta. JM. we talked about it via email last week. He apologized for the delay. He said he would have it for me in a couple days. Didn't get it in those couple days so I reminded him again. LM have we paid him already? JM Not sure would have to look it up.

### Finance - J. Galvin report read by H. Maslich

As of the end of December, we have \$49,363 in our Operating Account and \$95,544 in the Maintenance Reserve Account including the \$2,760 for landscaping contributed by the homeowners. We established the Maintenance Reserve with a January 1, 2017 target of \$80,768 including the \$8,350 road repair claim estimate we have received from Cincinnati Insurance. Our year-end balance exceeds this target and places us in an excellent position for future expenditures. It should be noted that the unusually large operating cash balance has some expenses committed to in 2016 that will not materialize until 2017. It is expected these expenditures and additional tree work and deferred landscape improvements will serve to bring the balance into more traditional levels. Items of note contributing to the large cash balance include but are not limited to: approximately \$9500 for unbilled November and December snow contract installments; tree replacement; and 2 areas of landscape improvements from the master plan postponed until spring. This balance also includes the total of \$10,800 we received in sponsor contributions. Additionally, December always sees an increase in homeowner-prepaid payments for homeowners that winter in warmer climates. This will usually balance out with reduced payments in the first quarter of 2017.

The budget through the 12 months of 2016 shows the following:

- Total expenses of \$143,986 versus budget of \$172,024 showing spending \$28,037 under plan.
- Individual categories accounting for the majority of the spending differences are:
  - Building repairs: \$5,650 over budget based on increased repairs over expected levels, and shutter painting \$1,766 and Gazebo refinishing \$2123.
  - Electric: \$2,175 under budget based on cheaper energy.
  - Insurance: \$587 under budget base on lower renewal cost than anticipated.
  - Summer: Approximately \$3,311 over budget based on pond maintenance (\$1,620 billed to RR Holdings) and additional maintenance work (tree removal, replacement or foundation landscape plantings etc.).
  - Legal: \$3500 under budget based on no billings received to date.
  - Snow: \$19,912 under budget based on last season's mild winter and no billings for current contract received in this year.

- Refuse \$2,590 under plan based on switching carriers and savings in the Waste Management contract through negotiating the elimination of fuel surplus charges.
- Tree maintenance \$5,000 postponed until 2017.
- All other expense categories are at the expected level

#### Update Reserve Plan - J. Manetta & J. Galvin

The plan is a living document, which changes. We calculated the fact that the developer told us recently to expect 15 more units. They didn't give us a timeline but we figured adding three per year. We calculated future contribution to the revenue based on 46 units this year and three each year to a maximum 58 units. We also calculated the HOA fees to rise \$5 per unit, per year until we hit \$295 in 2020 and calculated that will not change any more. In four years with \$5 increases, we will hit the max increase per year. That will bring us out to 2034. During that time, the big ticket items are: road resurface which is the biggest item and which we intend to resurface in 2031. The settlement for road damage is in the savings account and us intended to be applied toward that total. \$175,000 is today's estimate based on today's cost plus about 2 or 3 per cent increase until we hit 2031. Other big ticket items are the roofs, sidewalks, gutters and downspouts. Trim painting should be done. All those things are built into the plan. Once it's approved by the Board, we will share it with everyone.

**Hospitality** - W. Fischer - nothing new

**Policy** - L. McLaughlin - nothing new

**Social** - W. Fischer - Social asks people to keep participating and signing up for events.

#### **Old Business**

RR Master Tree Maintenance Program Plan - J. Manetta

Originally planned to plant trees in the Fall. The trees we had requested were sort of picked over and not really available. We did not want to get the runts of the litter. We thought it best to wait for Spring for better selection. Forest said we are first on his priority list and we will get the best trees to choose from and we will get them installed as soon as the ground allows

RR HOA Routine Maintenance List - J. Manetta

Has not been updated. Is on the calendar.

#### **New Business**

Variances

1602 storm door waiting for additional information about the type of door. As soon as Crofton gets that we can go ahead and approve it.

Broccolo's Bid and Proposal for five retention pond maintenance

We talked to Broccolo about the five ponds and she sent back a schedule for a maintenance program. It's broken into four pieces: an early spring cut, a late spring cut, a summer pruning and a fall pruning if needed. Again, we can take all or nothing. The total for

all four pieces is \$3,300. The Board needs to decide because the first cut would be done in March timeframe. We have to decide do we want to send this out for bid with somebody else to see what their price would be or do we just want to continue with Broccolo. Then lock Broccolo in so that J.Manetta can get it scheduled for the March timeframe. Another part of the decision is the Enhancement Program and Conceptual Design.

#### Broccolo Proposed Enhancement Program

We asked Broccolo for a price to cut and seed specific areas around the five retention ponds that have been encroached on by the overgrowth from the five pond banks on the common areas. Broccolo indicated they needed to review areas in question, price out and then would be included in the March\April first cut. Example: There are some areas like behind Building 1300 where the bush whacking didn't get done properly so the weeds and woody plants are starting to edge right up to the back doors of some of the homes. We need to determine which areas to have Broccolo review and get the walk around scheduled. So do we want her to cut back? If we do, she needs to know what the price is so it can be included in the first cutting.

#### Broccolo Conceptual Design

Broccolo needs to do a walk around. It basically would be a consulting fee. It would be similar to the master plan we have for the community common area only for the specific area of the five retention pond banks. We would review what she would do and then anyone could come in and do the work based on her plan. We don't have to decide that right away but it is part of what we asked her to put in her program.

H.Maslich asked if we would be billing Christa for the ponds? L. McLaughlin - Yes. Like we did this year. We are working on reimbursement from Christa for the pond work that has already been done. This is for new pond work. I'm thinking we should put all this into a note to Christa before we engage anyone and say that based on our agreement, this is the direction we would like to go in and we want you to approve it before we get her to come. Now, if he says "I want to send my landscape guy, I think we should entertain that. We are still waiting for payment for last year's work. As agreed, he has 30 days to respond. Then we will do the work and bill him. The question is are we trying to ask him upfront to agree within 30 days and to get another letter of intent. C.Kastner - I think we should send a letter to him reminding him that he did agree and would be part of this program and get his response. H.Maslich - And we do that before we engage Broccolo. CK - yes, he might have a different idea and want to use a different contractor but whoever he decides, if he doesn't want to go with Broccolo, has a different philosophy, I would think that we would want to participate, not just let him go ahead and do it.

C.Kastner moved that we take Broccolo's new proposal and submit it to our sponsor, remind him of his obligation for pond maintenance and ask him for his response. Whether he will go forward and support it or whether he has other ideas on the subject. H.Maslich seconded the motion. The motion was approved. L. McLaughlin will take care of writing the letter.

#### RR Holding Construction Update

H. Maslich - L.McLaughlin has been on a committee with Christa, Lowenguth and Jim Fahey, Christa's architect. She will update us on what so far has been decided about the units that are supposed to be built.



We met about a week and a half ago, maybe two weeks. We looked at the plan to make sure there was an architectural consistency on the outside, that all of the doors, the siding, the garages are consistent with ours. I have the initial plan but it is of the initial concept of what the architect thought the outside should look like. So the garage doors and the entry doors are a little different but the rest is the same. I also have the floor plan and the units will have two-car garages and there are three distinct units on each pad. So that the two end units are not mirror images. They are all different sizes. The units in Building 100 will have a basement. It was brought up at the meeting, by me, that basement walls will not be covered as part of the HOA responsibility. They will be the homeowner's responsibility for any issues or problems with them. That made some eyebrows rise because RR Holding wasn't sure they had that as part of the offering plan. Gar and Cindy are going to be talking to Paula Lapin who is Rivers Run Holdings attorney to let her know what's happening about the design and see if there's anything that has to go into their offering plan and be filed with the AG before they start. J. Fahey is to put together a marketing brochure. He will use our brochure that we put together as part of their marketing brochure. It will help them get a feel for the community and what's going on. The architect is doing the brochure because he has the architectural plans and the building information. Upon leaving the meeting, D. Christa's comment was "I want the marketing to start within six weeks. The architect didn't think he'd have all the drawings done in six weeks. Might be eight weeks but we should see some kind of a marketing plan. I reminded D. Christa that we have a very poor image on the social media and if he can't rebuild the web site, he needs to override it and see if we can't get some sort of better image on the web. He said he would see if he could get somebody in house to take care of it.

The major thing that has to be found out is what the water tables look like. As I said, the initial plan is to put a basement in but they can't put a basement in until they know what the water tables are. Christa knows where FEMA has indicated the water level should be. Now he has to find out what the Town says the water level is. That's for Building 100 only. The plan for the other three buildings is to have an air space or a crawl space under the buildings to allow for the floors to have a better heating capability than our current floors. Again, it depends upon the water tables as to what would occur with that. The plan is to put a four- or five-foot crawl space under the units to allow for utilities with the option for the utilities to be brought up into the garage. That would be an option for the new owners. None of the units will have a loft area. They will all have first-floor living. They will have to get building permits to start, but overall, we're thinking they should be able to start in the April/May timeframe pending approval of all the different governments. Maybe a little out into June before they get the show on the road. Again, I have the floor plans here if anyone wants to take a look at them after we finish here tonight.

#### Landscaping form

Last year, M. Kastner got responses and made a notebook which was to go to G.Romig before he started. He never got it and there were problems. She will be happy to do it again but would like to make sure it gets to him. C.Kastner said we should encourage G.Romig to come in to discuss it before he starts work. Last year, it did not happen. L. McLaughlin asked if it could be sent to J.Manetta electronically. So if he gets a question, he can answer. J.Manetta asked if the book could be ready before the spring meeting. It was agreed the Kastner's would send the book electronically to J. Manetta and the hard copy of the book would be ready for the March Board meeting and J.Manetta will get it to G.Romig. C. Kastner will send the forms out.

## Community Member Comments

K. Hayes - Talking about water levels and crawl spaces, my back yard is a bog for most of the year. I wouldn't want crawl space for all the money in the world

L. McLaughlin - They feel that they will have more of a market appeal because there would be more space for storage. I have reiterated the situation in that area and the architect is not going to build either of them until he finds out what the water table is.

K. Hayes - Regarding trees and ponds: I wasn't aware that we homeowners had to pay for any of that, just what is on our properties. A lot of trees are dying. It is costly to treat them. When are you going to hold Christa's nose to the grindstone to pay for his responsibility to the overall property.

C. Kastner. - We've commissioned Davey Landscaping to do a scope of work for all the trees that we have on our property. The scope of work will include the common area owned by the HOA and the trees that are on the perimeter. We have yet to see that so we don't know what they will propose as far as cost.

L. McLaughlin - The five-pond area banks are the responsibility of Rivers Run Holding. Last year, we sent them a letter saying you have 30 days to do the work or we are going to do it and bill you. In the end of November or early December we billed RR Holding for the work and we should be seeing that money soon. It's approximately \$1,600 to do that pond area.

H.Maslich - The pond maintenance responsibility was within that letter of intent that he has signed. Within that letter was the invoice for the 2016 sponsor contribution. He paid that. So we fully expect we'll have no trouble with the \$1,600.

M. Kastner - Has RR Holding had been reminded about the dead ash trees in the woods behind 1200, 1400, 1600 and 1800?

H.Maslich - They are aware. They know about it. They own those wetlands.

F. Weinstein - I'm concerned about the placement of the model. If someone says I don't like this area, but I'd like a home down there with a basement, they'd have to say we can't put a basement there because the water level is high. That is not a good plan. I say build the model in a more select area.

L.McLaughlin - The entire Board has brought that point up to D. Christa. He insists on building Building 100 first because that's the building you see when you first come in the project.

D.Linscott - Saw Francis & John Ratcliffe over the holidays and they wanted to say Happy New Year to us and they miss us but have settled fine where they are.

S.Quinn - I would like to agree on the position of the pad. I thought I read that Christa would build a pod or a pad and when that's sold he would go on to the next pad, but not until?

H. Maslich - It hasn't been specified. He may build sooner or build one building and then go on to the next. We don't have a date for the second. In the letter of intent it says "our plan is to start with one building. Once that is sold, we will build the next and so on."

S. Quinn - I see those (Building 100) as unsellable with the 700 students in their back yard. I have a feeling that he'll build that and then he would claim it is unsellable. Then like with the big house (apartment), say they're unrentable and then get rid of the 55 designation. Then he can get parents of the students to come in here and buy anything

L. McLaughlin - First of all, he cannot do away with the 55 plus in this community. It is in the Offering Plan and the community members who are the HOA would have to vote it out. We have recently surveyed the HOA and majority said leave it as is; The sponsor did ask us and we said no. If 80% of the members vote it in, there's nothing as a Homeowners Association can do about that.

S. Quinn - I got the feel from Jason that any action would be in the \$20,000 range. But that's just if the Attorney General says no. If the Attorney General takes it, it won't cost us anything

H. Maslich - Actually, he estimated the cost for us to make that move would be between \$5,000 and \$7,000 because every attorney, even if the documents are very complete, would not want to put his signature on it until he went through everything. Attorneys always want to read the offering plan billing at their rate which is between \$300 to \$400 an hour and they are very slow readers.

C. Kastner - The \$20,000 would only be in the event that a lawsuit would be made as opposed to enforcement by the Attorney General. They do that for free but we have to pay our attorney to have a conversation.

S. Quinn - The last thing was that I am disappointed that Jason didn't look at Schedule A. That was his grey area and he's the attorney and that grey area, Schedule A, says whether they do owe us or not.

H. Maslich - We will get the Schedule, look at it and get his take on that.

J. Hazard - It appears that Christa is willing to pay at the rate of three units per year. That's our guess. From a prior meeting I'm gathering that there is this uncertainty about the statute of limitations. Implications are that for 15 units, its going to be about five years in duration or longer. If we don't have something firm, in writing, with a start date and a finish date, we are screwed.

C. Kastner - The Statute of Limitations would apply from the very last amendment to our Offering Plan which was in 2015. If he builds another unit on the hill, he's going to have to file another amendment which would now be in 2018. So the statute of limitations would be from 2018 and then on and on, every time he has to file another amendment.

S. McVay - When will the board decide if and when they will file an additional complaint?

H. Maslich - Our position is that we will begin to look into beginning to file if promises are broken; the promise of building in the spring. If we do not see the building in the spring, we're going to

have a meeting and talk about filing a complaint. The goal all along is to get the sponsor to build out our property. When our project's built out, our income will be somewhere around \$200,000 a year. We then will be entirely self managed and independent of the sponsor.

F. Weinstein spoke in praise of work that was done by C. Kastner regarding the AG document.

N.Weinstein - I'd like to know why the Board has not included Cy Kastner in it's deliberations with the attorney about this matter.

H. Maslich - At a meeting in November. Cy showed us the complaint that he said was ready to be filed and the decision was up to us to do whatever we thought. He suggested that we call E. Rossi in the Attorney General's Office. We elected to have our attorney call.

*Following this, there was discussion about other communications, the length of a meeting with the lawyer, and Cy's resignation plans. It was agreed that going forward there would be no secret meetings or communications excluding other people.*

H. Maslich reviewed the Ethical Principles of a RR HOA Board member

D.Linscott - With the new units and our neighbors only so far back, couldn't we see if Christa would give us some kind of a hedge or something?

L.McLaughlin - We can ask.

B.McVay - When the trees were cut down along the south fence line, the person on the Planning Board said Christa would likely build some landscaping to make up for that extra row of trees.

LMcLaughlin - The Town said the same thing to me. They are aware of it and they are going to make them do something.

B.McVay - Maintenance of the gazebo - I thought we gave away the gazebo.

L.McLaughlin & C.Kastner - It was the one right here (across from the apartments). It's ours.

L.McLaughlin Moved we adjourn. W.Fischer seconded. The motion was passed.

**Meeting Adjourn:** 7:30 p.m.

**Next Meeting:** March 14, 2017

**Attachment:** Transcript of J.DiPonzio remarks at the meeting