

ARTICLE V

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. "Powers". In addition to their other authority, the Board of Directors shall have power to:

(a). adopt and publish rules and regulations governing the use of the common areas (general and limited) and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b). suspend the voting rights and right to use the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c). exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d). remove a member of the Board of Directors with or without cause;

(e). employ a resident manager, an independent

contractor, or such other employees as they deem necessary, and to prescribe their duties;

(f). foreclose the lien against property for which assessments are not paid within sixty (60) days after due date or to bring an action at law against the owner personally obligated to pay the same.

Section 2. "Duties". It shall be the duty of the Board of Directors to:

(a). cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b). supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c). fix the amount of the annual assessment against each Unit at least thirty (30) days in advance

of each annual assessment period, as provided in the Declaration;

(d). send written notice of each assessment to every Owner subject thereto at least ten (10) days in advance of each annual assessment period, as provided in the Declaration;

(e). issue, or to cause to be issued, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(f). procure and maintain adequate liability and hazard and other insurance on property owned by the Association as required by the Declaration;

(g). cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(h). cause the Common Areas to be maintained;

(i). charge, in its discretion, reasonable fees

for the use of any recreational facility situated upon the Common Areas.

ARTICLE VI

OFFICERS

Section 1. "Designation, Election and Removal". The principal officers of the Association shall be President, Vice-President, Secretary and Treasurer, to be elected annually by the Board of Directors. Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor shall be elected at the regular meeting of the Board of Directors, or at any special meeting called for that purpose.

Section 2. "President". The President shall be selected from among the Directors and shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all the general powers and duties which are usually vested in the office of President, including but not limited to, the power to sign, together with any other officer designated by the Board, any contracts, checks, drafts or other instruments on behalf of the Association in accordance with

the provisions herein.

Section 3. "Vice-President". The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 4. "Secretary". The Secretary shall keep the minutes of all meetings of the Board of Directors and of the Association and shall have charge of the Association's books and records, and shall, in general, perform all the duties incident to the office of Secretary.

Section 5. "Treasurer". The Treasurer shall have responsibility for the Association's funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements and financial records and books of account belonging to the Association. He shall be responsible for the deposit of all monies and all valuable effects in the name, and to the credit, of the

Association in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall also be responsible for the billing and collection of all common charges and assessments made by the Association.

ARTICLE VII

DUTIES AND OBLIGATIONS OF UNIT OWNERS

Section 1. "Rules and Regulations". The units and the common areas and facilities and limited common areas (hereinafter in this paragraph sometimes collectively referred to as "commons") shall be occupied and used in accordance with the Declaration, the Articles of Incorporation, these By-Laws, and the rules and regulations of the Association, including the following:

(a). "Use". No unit owner shall occupy or use his unit or the limited common areas appurtenant thereto, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the owner, the owner's family, or the owner's lessees or guests.

(b). "Obstructions". There shall be no obstruction of the common areas and facilities and nothing shall

be stored therein without the prior consent of the Association.

(c). "Increase of Insurance Rates". Nothing shall be done or kept in any unit or in the commons which will increase the rate of insurance on the commons, without the prior consent of the Association. No unit owner shall permit anything to be done or kept in his unit or in the commons which will result in the cancellation of insurance on any unit or any part of the commons, or which would be in violation of any law or ordinance. No waste will be committed in the commons.

(d). "Signs". No sign of any kind shall be displayed to the public view on or from any unit or the commons without the prior consent of the Association.

(e). "Animals". No animals, livestock or poultry of any kind shall be raised, bred or kept in any unit in buildings 1, 2, 3, 4, 7, 8, 9, 10 and 11. Dogs, cats, or other customary household pets only, may be kept in any unit in buildings 5, 6 and 12, all subject to rules and regulations which may be hereafter adopted by the Association regarding same.

(f). "Children". Adults with a child or children residing with them between the ages of 1 and 15 are not eligible to purchase a unit or units in MILL VALLEY CONDOMINIUM HOMES, and each owner (or owners) agrees to sell the unit or units owned by him within one year after the birth of a child (or placement of a child for adoption). No owner shall be a foster parent to a child between the ages of 1 and 15 years. Nothing herein shall be deemed to exclude an adult with a child or children residing with them, between the ages of one and fifteen, from purchasing any unit or units in MILL VALLEY CONDOMINIUM HOMES for the purpose of leasing said unit or units to individuals who otherwise comply with the provisions of the By-Laws, as well as all other provisions of the By-Laws, now in effect or hereinafter enacted.

→ (g). "Noxious Activity". No noxious or offensive activity shall be carried on in any units or in the commons, nor ← shall anything be done therein which may be or become an annoyance or nuisance to others.

(h). "Alteration, Construction or Removal". Nothing shall be altered or constructed in or removed from the common areas and facilities, except upon the written consent of the Association.

(i). "Conflict". The above rules and regulations, and those which may be hereinafter adopted by the Association, are in addition to the Declaration and the documents, contracts, declarations and easements set forth in the Declaration, and in the event of a conflict, the Declaration and contracts, declarations and easements therein shall govern.

Section 2. "Maintenance and Repair of Units". Every unit owner must perform properly all maintenance and repair work within his own unit which if omitted would affect the project in its entirety or a portion belonging to another owner, and such owner shall be personally liable to the Association for any damages caused by his failure to do so.

Section 3. "Limited Common Areas". Every unit owner must maintain the limited common areas appurtenant to his unit in clean and proper condition including, but not limited to, the maintenance and replacement of carpeting installed on balconies and/or patios. No objects or structures, other than movable furniture or decorative pieces, shall be placed thereon without the prior written consent of the Board of Directors of the Association. Every unit owner shall have the right to decorate the limited common area appurtenant to his unit in a non-structural manner provided that decorations which are visible from the adjoining streets or other units shall have the prior written approval of the Board of Directors of the Association.

Section 4. "Amendment and Adoption of Additional Rules and Regulations". The Board may from time to time adopt additional rules and regulations governing the operation, maintenance,



beautification and use of the common areas and facilities, the limited common areas, and the units, not inconsistent with the terms of the Declaration, and the Association's members shall conform to and abide by all such rules and regulations. A violation of any such rules or regulations shall constitute a violation of the Declaration.

ARTICLE VIII

AMENDMENTS

Section 1. "By Members". These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the members, at any meeting called for such purpose by an affirmative vote of two-thirds (2/3) of all of the votes entitled to be cast, provided, however, that so long as Developer is owner of any unit, which has not initially been sold, no such vote shall be effective without the consent of Developer.

Section 2. "By Directors". These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the Board of Directors by an affirmative vote of a majority of the directors present at any meeting at which a quorum is in attendance; but no By-Law adopted by the members of the Association shall be

amended or repealed by the Board of Directors if the By-Law so adopted so provides. So long as Developer is the owner of any unit which has not initially been sold, no action of the Board of Directors under this paragraph shall be effective without the consent of Developer.

ARTICLE IX

GENERAL

Section 1. "Fiscal Year". The fiscal year shall begin on the first day of September and end on the last day of August of each year.

(Rev. Aug. 27, 1974)

Section 2. "Seal". The Board of Directors shall provide a corporate seal which shall be circular in form and shall have inscribed therein the name of the corporation and the words "Corporate Seal, Wisconsin".

Section 3. "Record of Ownership". Every unit owner shall promptly cause to be duly recorded the deed, assignment or other conveyance to him of his unit or other evidence of his title thereto and shall file any lease thereof with the Board of Directors, and the Secretary shall maintain all such information in the records of ownership of the Association.

Section 4. "Mortgages". Any unit owner who mortgages his unit or any interest therein shall notify the Board of Directors of the name and address of his mortgagee, and also of the release of such mortgage, and the Secretary shall maintain all such information in the records of ownership of the Association. The Board of Directors at the request of any mortgagee or prospective purchaser of any unit or interest therein shall report to such person the amount of any assessments against such unit then due and unpaid.

Section 5. "Indemnity of Officers and Directors". Every person who is or was a director or officer of the Association shall (together with the heirs, executors and administrators of such person) be indemnified by the Association against all loss, costs, damages and expenses (including reasonable attorneys' fees) asserted against, incurred by or imposed upon him in connection with or resulting from any claim, action, suit or proceeding, including criminal proceedings, to which he is made or threatened to be made a party by reason of his being or having been such director or officer, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such

matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of his duty as such director or officer in relation to the matter involved. The Association, by its Board of Directors, may indemnify in like manner, or with any limitations, any employee or former employee of the Association with respect to any action taken or not taken in his capacity as such employee. The foregoing rights of indemnification shall be in addition to all rights to which officers, directors or employees may be entitled as a matter of law.

All liability, loss, damage, costs and expenses incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as common expenses; provided, however, that no provisions in this Article IX shall be deemed to obligate the Association to indemnify any member or owner of a unit who is or has been an employee, director or officer of the Association with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of the Declaration,

Wisconsin's Unit Ownership Act, the Articles and these By-Laws, as a member of the Association, or owner of a unit covered thereby.

Section 6. "Subordination". These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto and the Unit Ownership Act under the laws of the State of Wisconsin, which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Unit Ownership Act.

Section 7. "Interpretation". In case any provision of these By-Laws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in any active business for profit on behalf of any or all of the unit owners.

Con: requirement of
audit w/ only
one person
requesting it



**Reserve
Advisors,
Inc.**

*Conducting
Reserve Studies
for Clients in*

Corporate Office: Milwaukee, WI

Southeast Office: Raleigh, NC

To: Assembly Housing Committee
From: Theodore J. Salgado, Principal
Date: Wednesday, February 23, 2000
Subject: Assembly Bill 723 Public Hearing

Arizona
California
Colorado

Connecticut

Delaware

District of Columbia

Florida

Georgia

Illinois

Indiana

Kentucky

Maryland

Massachusetts

Michigan

Minnesota

Missouri

Montana

Nevada

New Jersey

New York

North Carolina

Ohio

Oregon

Pennsylvania

Tennessee

Texas

Utah

Virginia

Washington

Wisconsin

Mr. Chairman, Distinguished Committee Members and Guests:

My name is Theodore J. Salgado. I reside in Glendale, a suburb of Milwaukee, in a Condominium Association. I have served as an officer of that Association for 8 years. I am also a principal owner of Reserve Advisors, Inc., this nation's largest engineering firm providing financial and engineering consulting services to condominium associations. I therefore come before you today with the unique perspective of a condominium homeowner, one who has and continues to serve as a Treasurer of a condominium association and one who provides consulting services to condominium associations. My partner John Poehlmann, I and a dedicated staff of engineers comprising 9 others provide reserve studies to several associations in Wisconsin and hundreds of associations throughout the USA each year. We see the positive effects of reserve funding. We have also seen many condominium associations struggle to preserve their social fabric without the benefit of having funded reserves for replacement of the common elements.

I strongly support Assembly Bill 723, an Act to amend existing statutes of Chapter 703 relating to condominium budgets and reserve accounts.

We have seen this bill characterized by some as a "cost" to homeowners. Do not be misled. The cost to homeowners comes from not taking care of property owned in common. Condominium Homeowners will and must eventually pay for the capital repair and replacement of common elements. It is a question of timing and equal protection, a fundamental concept within our constitutional framework of laws. A good steward, a good fiduciary, a responsible director of a condominium board will budget for capital repairs and replacements. However, there is no statute providing the direction to ensure equity to current and future homeowners. Assembly Bill 723 requires that each Association fund or collect reserves for replacement of the common elements. It explains how to measure the amount of future capital expenditures and reasonable reserves, the manner of accounting and disclosing this information to homeowners and by extension to potential buyers, and mortgage lenders. Assembly Bill 723 is a win, win, win for the homeowner, the future buyer of a condominium unit, and the mortgage lenders.

Assembly Bill 723 ensures that boards of directors, the fiduciaries of condominium associations, budget and plan responsibly for the long range capital needs of an Association. The

Assembly Bill 723 Public Hearing, February 23, 2000

benefit to current owners of condominiums is minimizing the chance of a costly special assessment to replace a common element. The benefit to potential buyers of condominium units is not getting stuck with the cost of a special assessment. There are other benefits.

Assembly Bill 723 benefits the banking industry by minimizing defaults on mortgages, and minimizing the possibility of nonconforming loans from decreased property values. An unexpected special assessment is difficult for a condominium homeowner on fixed income. Condominium ownership is popular among our aged residents. An unexpected special assessment can impair the ability of a condominium homeowner to pay their mortgage. It is therefore quite natural for the homeowners to defer or ignore the need for capital replacements of the common elements when the only course of action is an expensive special assessment or costly loan. And many banks will not loan to an Association without some assurance that future capital replacements are somehow funded through future reserve assessments. Assembly Bill 723 provides for the gradual collection of reserves for future replacements, and embodies the concept of equal protection for current and future homeowners of condominiums.

Without Assembly Bill 723, our state runs the risk of greater social problems as this popular form of condominium home ownership increases. Associations that fall into disrepair from lack of reserves for replacement tend toward increased incidences of crime, decreased property values, increased tax levies on the remaining community, and greater costs for necessary state and locally funded social programs. The benefits to our state, our communities and homeowners of condominiums are evident in Assembly Bill 723. I strongly urge your support of this bill. Thank you.

Respectfully Submitted,

Theodore J. Salgado



**Reserve
Advisors,
Inc.**

*Conducting
Reserve Studies
for Clients in*

Corporate Office: Milwaukee, WI

Florida Office: (800) 980-9881

To: Assembly Housing Committee
From: John P. Poehlmann, Principal
Date: Wednesday, February 23, 2000
Subject: Assembly Bill 723 Public Hearing

Arizona
California

Colorado

Connecticut

Delaware

District of Columbia

Florida

Georgia

Illinois

Indiana

Kentucky

Maryland

Massachusetts

Michigan

Minnesota

Missouri

Montana

Nevada

New Jersey

New York

North Carolina

Ohio

Oregon

Pennsylvania

Tennessee

Texas

Utah

Virginia

Washington

Wisconsin

My name is John Poehlmann. My partner, Ted Salgado and I formed Reserve Advisors in Milwaukee in 1991 when we discovered a tremendous need to help community associations budget for the major capital repairs and replacements of their common elements (or property-owned-in-common) as they wear out over the life of the development. Examples of common elements include: roofs, exterior walls (siding, brick), pavement, sidewalks and other property components typically found outside of the individual units. Some associations have recreational facilities that are considered common elements such as swimming pools, clubhouses, and tennis courts. Since its inception in 1991, Reserve Advisors has grown to where we have conducted capital reserve plans or 'reserve studies' for community associations in over 30 states and will conduct over 300 reserve studies this year.

To fully appreciate the need for legislation requiring associations to set up reserve accounts and contribute reasonable reserves on a regular basis, it's important to understand the background of community association industry and its young history. The following statistics are provided by the Community Associations Institute (CAI), which is the national trade association for community associations. (condominiums, planned communities and cooperatives)

Industry began in early 1960's

In 1970 there were an estimated 10,000 community associations

In 1980 the number had grown to 45,000

By 1990 the number tripled to 150,000

Today there are over 205,000 associations housing 42,000,000 Americans or 1 out of 7 people

Each year, 6,000 to 8,000 new associations are formed.

Here in Wisconsin, CAI estimates that there were about 60,000 housing units in community associations in 1990. Nationally, the number of community association housing units grew from 11.6 million to 16.4 million units, or by 41%. Applying that growth rate to Wisconsin would suggest over 84,000 units today. In other words, the number of Wisconsites living in community associations is approaching the population of Madison. Community associations are found throughout the state, not just in Milwaukee, Madison, and resort communities.

Community association has 3 core functions:

- Community
- Governance
- Business (non profit corporations)

The community association industry spends \$20 billion each year in goods and services. We are constantly educating condominium board members that they are running a business.

Some trends and projections that CAI has identified:

- Community associations will play a more important role in American politics and civil society.
- State legislation regulating the activities of CAs and CA manager will increase.
- A key factor that contributes to association problems is the underfunding of reserves for the major components like pools, roofs, road surfaces, and buildings
- As properties continue to age, repair, renovation and refurbishing costs will dominate CA spending in the future.

Planning for the future success of their association with the means to maintain the association in excellent condition is the goal of this proposed legislation.

6 out of 7 of our clients are not setting aside sufficient money into capital reserves. As a result of this problem, legislation like that of Assembly Bill 723 has developed in many states.

Thank you.

Respectfully Submitted,



John P. Poehlmann

Why should my condominium association set up a capital reserve account and set aside reasonable reserve funds for the future repair and replacement of the major property components?

What are the Benefits?

Condominium Homeowners

Appropriate reserve contributions

No fear of special assessments, which are particularly difficult for those on fixed incomes

Stable level of funding into the future helps homeowners plan for the future with ease

Equitable treatment of current and future owners, paying for the wear and tear of the common elements while the owner lives at the condominium

Preservation of market value of investment by maintaining the association in excellent condition

Properly funded reserve is an excellent marketing tool for sellers

Peace of mind in knowing that their investment is being properly managed

Condominium Board Members

Fulfill fiduciary responsibility

Community association is a non profit corporation - board members have similar responsibilities

Comply with State Laws

Nearly 20 states address the topic of capital reserves, including Illinois, Michigan, Minnesota, Florida, California, Oregon, Massachusetts, Nevada, Hawaii

Comply with AICPA Audit Guide for Community Associations

A Common Interest Realty Association's primary duties are to maintain and preserve the common property

If the disclosure about the association's funding for major repairs and replacements is absent or inadequate, the auditor should modify his or her report (resulting in a qualified report)

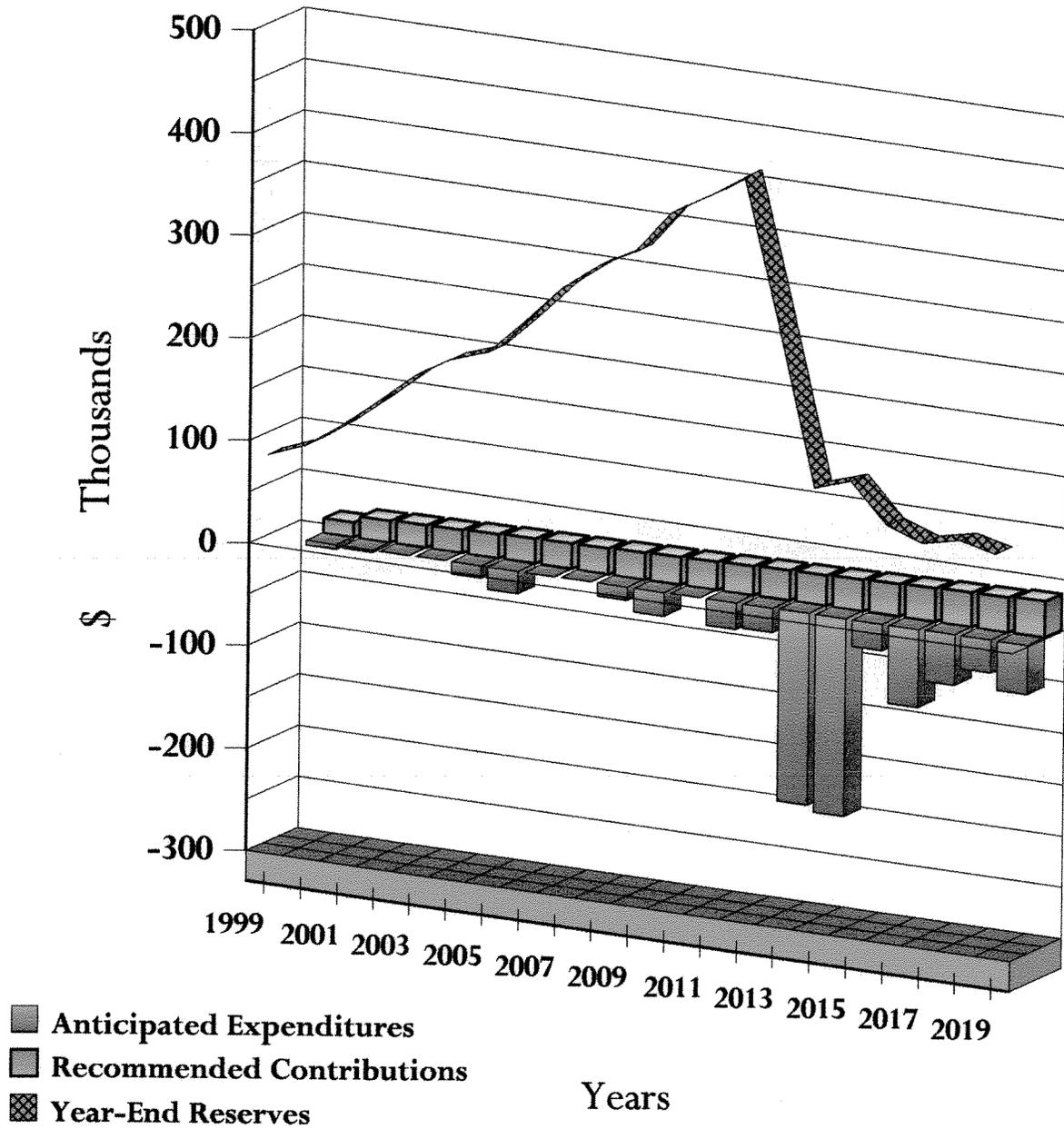
Reduce claims of financial mismanagement

Save valuable time with long range plan for capital repairs and replacements

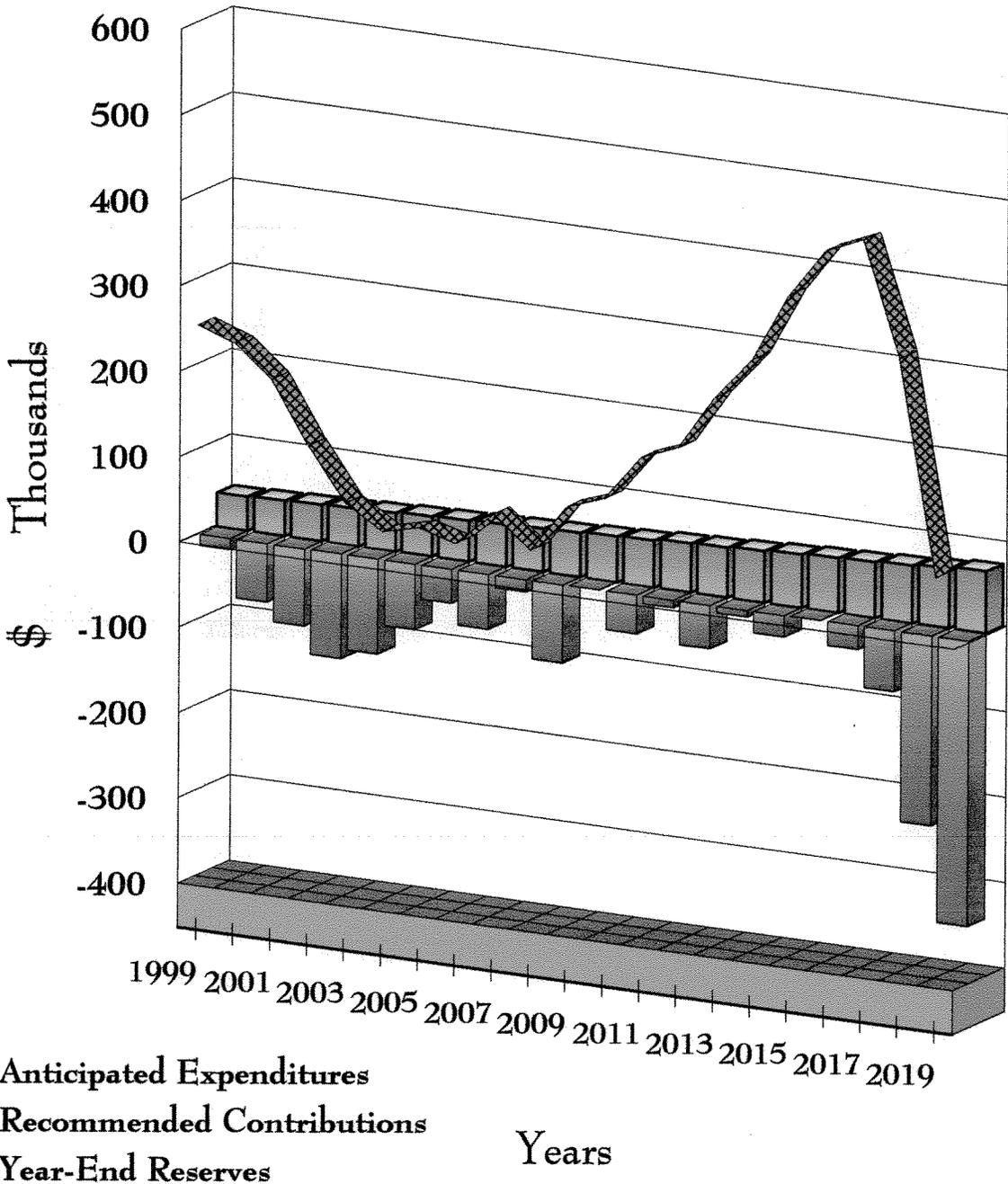
Properly planned reserve program makes transition easier for new board members

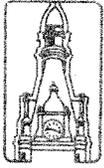
It makes good business sense

Recommended Reserve Funding Meadow Grove Condominium Association



Recommended Reserve Funding for Camelot Square Condominium Association





**City
of
Milwaukee**

Department of Administration Intergovernmental Relations Division

City Hall, Room 606, 200 East Wells Street, Milwaukee, Wisconsin 53202-3515

John O. Norquist
Mayor

David R. Riemer
Administration Director

Patrick T. Curley
Intergovernmental Relations Director

Phone (414) 286-3747 Fax (414) 286-8547

February 23, 2000

TO: Members
Assembly Housing Committee

FROM: Dorinda R. Floyd *DRF*
Legislative Fiscal Manager

RE: AB 723

The City of Milwaukee supports AB 723. In light of our involvement in several condominium properties on the northwest side, the city believes that AB 723 is an important step to encourage appropriate capital investments in the maintenance of condominium properties thus ensuring stable or increasing property values.

The inadequacy in state law governing condominiums could not have been more apparent than in the North Meadows Condominium Complex. This 576-unit complex which houses more than 2,000 people was built in the 1970s to provide housing for moderate-income families. However, since that time North Meadows has fallen into disrepair. Approximately 21% of all units are owner-occupied, 10% are vacant, over 20% of properties are delinquent in association dues totaling more than \$150,000 and property values have plummeted to an average assessed value of \$22,268. In addition, surrounding property values have declined, most notably Northridge Mall, whose value has decreased from \$63 million in 1998 to \$27.7 million in 1999. As a reflection of the decline in property values, the demand for city services has increased significantly.

Since the vast majority of the units at the North Meadows complex were occupied by renters, many of the absentee landlords, some of which owned as many as 20 units, opposed any special assessments for major capital improvements. Consequently, the condition of the common areas deteriorated and property values declined significantly over time. Condominium association dues were used to make major capital repairs instead of paying for ongoing maintenance and customary services.

AB 723 addresses the need for establishing a reserve fund as a mechanism to fund major capital improvements of condominium common areas. In addition, the bill requires a condominium board to prepare and distribute to all unit owners a detailed annual budget, including all revenues and expenditures. A reserve fund provides the flexibility for an association to respond to emergencies as well as to plan long-term for major capital improvements. Most importantly, a reserve fund will help maintain common areas so that current and future property owners' investments will be protected.

I appreciate the opportunity to respond and encourage your support for AB 723.

My name is Matthew Berkowitz. Presently I am employed as the Vice President of Bartlein & Company, Inc, and Accredited Management Organization through the Institute of Real Estate Management. I am a licensed Real Estate Broker within the state of Wisconsin, as well as a Certified Property Manager through the Institute of Real Estate Management and a Certified Manager of Community Associations through the Community Associations Institute.

I have come before this committee to support Assembly Bill 723. **Introduced by Representatives LaFave and Sykora, and cosponsored by Senator Grobschmidt.** I strongly support this legislation for the following reasons:

1. At the present time I feel that Wisconsin Statute 703 is antiquated and needs to be amended to include this bill before you. Many other states have adopted laws similar to this one, including Florida, IL, Michigan, and California and too many other states to mention.
2. As the manager of approximately 36 condominium associations within the southeastern Wisconsin area, I continually find myself faced with the harsh reality that most of my managed associations have inadequately funded, or have not funded themselves at all, for the future cost of capital repairs and replacement.
3. The property values of many condo associations have declined due to lack of capital improvements, created by inadequate funding to undertake these improvements. This has also adversely affected the values of surrounding properties within close proximity to the associations.
4. During the past year, a number of my managed associations have had to special assess themselves over and above their monthly operating association maintenance fees. These special assessments have ranged from a few hundred dollars per unit owner to upwards of \$4000.00 per unit owner.
5. These special assessments have been needed to replace roofs, siding, resurfacing of roadways and sidewalks, pool repairs, gutter replacement, elevator code upgrades and repairs, foundation repairs and, heating and air conditioning equipment.
6. These special assessments have placed a great hardship and burden on many unit owners who are retired, disabled, and living on fixed incomes.
7. My observation is that many Board of Directors and unit owners feel they will not be living in the association long enough to derive the benefits of a Capital Reserve Fund. Many boards, unit owners and developers feel they would rather keep their maintenance fees low for selling purposes. In one instance I manage an association that on an annual basis special assesses the unit owners just to meet their operating budget. This gives a distorted picture to a potential buyer that the fees are lower than what they really should be.
8. This adverse thinking has created tremendous shortfalls within their funds to make the necessary capital improvements needed to protect and preserve the real estate asset and their personal investments.
9. As a professional manager of community associations I strongly believe that the Board of Directors main objectives are:
 - to adhere to the State Statutes,

- to follow the declarations and bylaws of the association,
 - adopt and prepare true operating budgets on behalf of the owners,
 - to protect and Preserve the present and future of the Real Property.
10. Community associations are equivalent to mini-cities, and just like our legislative representatives are elected to preserve and protect the communities in which we live and raise funds via taxation for supplying the essential services within our communities, community association's owners should be required to protect and preserve their mini municipalities.
 11. This bill before you would help eliminate the potential decline in the structural integrity of the asset due to poor fiscal management, and will help eliminate the burden of special assessments for capital improvements. This bill will also insure that associations will have adequate reserves to replace the curable obsolescent items at the end of their life span.
 12. As a point of information is extremely difficult if not impossible to obtain loans from financial lending institutions for condominium associations which then creates the need for special assessments.
 13. The burden for contributing to adequately funded reserve accounts for condominium associations should be spread over the life of the property and among all owners regardless of their length of ownership. Otherwise there exists a real potential for tragedy. The tragedy is that without this legislation, many associations will continue to defer, and defer the funding of these accounts, and will only continue to fund the minimum necessary for the operation of the property, until the dam breaks, and then the burden for paying for the accumulated quantity of the work that has been deferred will fall squarely on the shoulders of the owners left holding the bag, so to speak.
 14. Many of these owners will not be able to bear the sudden weight of a sizeable assessment, especially the retired, the disabled and those living on fixed incomes. Faced with owners that cannot pay, the association's boards will have a grim choice. Either they forgive owners who cannot pay, or they must pursue legal means to obtain it, which can mean ultimately foreclosure. By enacting this bill you will be ensuring that the owners of condominiums within the state of Wisconsin are protected from finding themselves in serious financial straits or even from being forced out of their homes because of the lack of foresight, planning, and fiscal discipline.
By requiring condominium associations to follow the guidelines embodied in this legislation, much will have been done to protect the interests of condo owners, and insure the long term solvency of hundreds of condominium associations, and the thousands of unit owners that represent the single biggest investment in the lives of those who call them home.
 15. Therefore, because of the above mentioned, I strongly support this bill before you, and urge you to try and enact this statute as soon as possible.

Thank you.

Condo buyers must weigh convenience, conditions

9-26-99

BY ELAINE SCHMIDT
Special to the Journal Sentinel

Before you buy a house you take a good look at the neighborhood, arrange financing and check out the house's plumbing, electrical wiring, furnace and a long list of other important items.

It's much the same when you buy a condominium. But purchasing a condo requires an additional checklist covering topics that many condo buyers don't consider until after the moving truck drives away.

Most of all, someone considering buying a condominium better get their reading glasses, starting with the condominium documents.

"These documents include the declarations and bylaws of the condominium," explained Roger Raasch, facilitator for the Wisconsin Condominium Association.

"Too many people buy the unit and move in, and that's when they find out what they can and cannot do."

He cautioned that condo owners do not have the same freedom as owners of single-family, detached homes. Along with condo ownership comes rules and restrictions designed to "preserve the integrity of the area and make sure that owners do things

that are harmonious with the neighborhood," Raasch said.

This means that pink flamingos or illuminated snowmen on the lawn are usually prohibited. In most cases landscaping, reconfiguring the interior of a unit and even

some simple improvements are also prohibited.

Michael Holloway, an exclusive buyer agent with Homebuyer Associates, added, "Review of the condo documents by the buyer is one of the contingencies of purchase." But many owners do not take the time to read the documents, he said.

"Who reads directions these days?" asked Raasch. "But you have to read the declaration to see what you own and what you are responsible for. You can't rely on the broker. Sometimes the brokers are not as informed as they could be.

"It's a time-consuming thing. Sometimes I suggest that people hire an attorney who handles a lot of real estate transactions to read everything and put it into laymen's terms."

These documents will describe what the buyer is expected to do, and allowed to do, in areas of maintenance and gardening and so on. The documents also will define areas within the condominium complex, as common areas or limited common areas.

Common areas include the swimming pool or tennis courts, which are designated for use by everyone in the complex, while limited common areas include balconies and other areas designated for use by an individual owner.

If the documents describe a situation that seems either too restrictive or too uncontrolled, the buyer should look at a different condominium complex.

The prospective buyer's reading does not end with declarations and bylaws.

Buyers should also take a close look at the condominium association's financial statements.



JEFFREY PHELPS/STAFF PHOTO

Terry R. Handel (left), senior property manager with Hunt Management Inc., discusses driveway repairs and road construction with condominium residents at Oak Brook Village, 3820 S. Oak Drive, Greenfield.

These statements will indicate the amount the association is charging owners for monthly maintenance fees. It will also detail the operating expenses of the complex, and what is held in reserve for future repairs.

"Look for 10- to 20-year studies on reserves and capital replacement items," said Terry R. Handel, senior property manager with Hunt Management Inc. "By looking at these you can tell how well run and prepared they are."

Holloway said: "If it would cost \$100,000 to replace roofs, you would want to know that enough was being set aside to pay for it after 20 years. If it was last roofed five years ago, then look to see if they are putting enough in escrow for replacement in 15 years."

If funds are not being set aside for future repairs and replacements, the cost will inevitably be passed on to owners in the form of special assessments.

Just as home buyers look for owner-occupied homes in a prospective neighborhood, Holloway suggests prospective condo buyers pay close attention to the condo association's rules regarding rental of units.

"I would avoid a condo that allows unlimited rentals. Conversely, see if they allow rentals at all, and what type. See if they will allow a rental for up to a year or simply won't allow rentals."

Holloway also advises prospective buyers to investigate the sales history of condo complex.

"Find out if people are bringing money and how long it takes to resell a unit," he suggested, adding that resale is particularly important when looking at an apartment building that has been converted into condos.

In new developments, of course, there will be no history.

Raasch added: "A neighborhood that has been allowed to build, waiving set-back rules and other things in favor of density, which improves the base. You give up some in condos and you gain things. In general the rules the better off you are."

He said the same 28-question condition report the state requires the seller to provide to the buyer before sale of a family house is required in a condo purchase as well.

"There is a little part that pertains to condominiums. That should disclose any terms of changes — add a pool or what not."

The reading and research involved in a condo purchase seem like a weighty task, can prevent a number of pleasant and expensive surprises, he said.

Bill would require reserve accounts for condo groups

Lawmakers want to make them set aside money for major capital expenses

By GRETCHEN SCHULTZ
of the Journal Sentinel staff

Concern that condominium associations are not looking enough to the future is prompting legislators to consider a bill that would require condo associations to set aside enough money for a rainy day to get leaky roofs fixed.

If enacted into law, the bill, sponsored by state Rep. John La Fave (D-Milwaukee), would require condominium associations to establish reserve accounts that would pay for major capital expenditures on things like roofs, foundations and other items not considered the responsibility of individual unit owners.

"North Meadows never would have gotten into the financial trouble that it did with its water bills if this statute would have been in place," Assistant City Attorney David Halbrooks said.

The condominium association used money meant for the \$100,000-plus water bill to make foundation repairs instead, he said.

The city last month issued a disconnect notice to the 576-unit complex on Milwaukee's northwest side. The potential shut-off was avoided, however, when the complex was able to come up with about \$70,000 as a partial payment, Halbrooks said.

"If there is a reserve requirement then they would have to have a separate fund for things like roofs and foundations," he said. "There is definitely a connection for North Meadows."

A city-affiliated organization called the Neighborhood Improvement Development Corp. bought 38 North Meadows units earlier this month out of bankruptcy.

La Fave said the bill, which is set for a public hearing on Wednesday, "is just a small part" of a needed revision of the state's condominium law. Members of a work group studying the issue felt that the reserve requirement was the most important aspect, he said.

The hearing before the Assembly Housing Committee will begin at 10:30 a.m. in Room 225 NW in the Capitol.

State Rep. Tom Sykora (R-Chippewa Falls), the committee chairman, joined in introducing

the bill in the Assembly. Sen. Richard A. Grobschmidt (D-South Milwaukee) co-sponsored the bill.

Matthew Berkowitz, manager of 36 condominium associations and vice president of the real estate management firm of Bartlein & Co. Inc., said that residents of condo complexes that do not set aside enough for major capital repairs can be rudely surprised when the repairs can't be delayed any longer. They could be confronted with special assessments in the thousands of dollars, he said.

When they get those megabills, "They're screaming, 'How can they do this?'" he said. Berkowitz emphasized he was speaking for himself, not his firm.

The special assessments can hit the elderly and others living on fixed incomes especially hard, he said.

In some instances, condo associations may not levy the special assessments and just let the buildings slide into disrepair until they become "a sty in the neighborhood," he said.

"They need some type of (regular) assessment to fund themselves just like municipalities fund themselves, because they are mini-municipalities," he said.

John Poehlmann, a principal in Reserve Advisors Inc., which provides engineering and financial advice to condominium associations, said the state is a little bit behind others in the country in considering some sort of reserve requirement. Illinois, Michigan, Minnesota and others already have them, he said.

The proposed bill would require each condo association board of directors to develop and annually evaluate a long-range plan to determine the amount that must be contributed to the reserve each year. The board would be required to consider such things as the estimated life of the major building elements and the cost of repairing or replacing them.

"The whole purpose of this is to educate these boards," said Poehlmann, who with business partner Ted Salgado was part of the group that worked on the bill. "They are running a non-profit business with money going in and going out. They really should have a long-range plan for the success of that business."

WHISPERING HILLS OWNERS ASSOCIATION, INC.

8731 NORTH 72ND STREET
MILWAUKEE, WISCONSIN 53223-2765
(414) 355-3271
FAX (414) 355-3284

October 1999

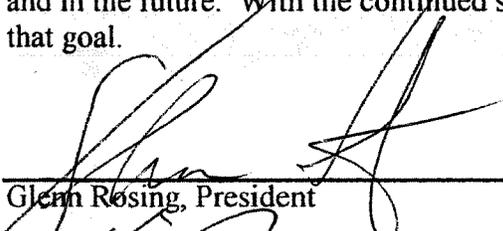
Dear Unit Owner:

The Board of Directors of the Whispering Hills Owners Association, Inc., is pleased to present the annual report for the fiscal year ended September 30, 1999.

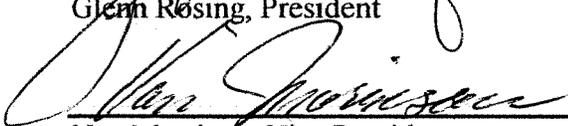
During the past year the Board has continued to prepare for the future financial needs of the Association by funding specific reserve accounts. These reserve accounts have a cumulative balance of \$172,178.

The Board feels that these reserve accounts, in addition to our regular repair and maintenance programs, are the best way to preserve our property values and eliminate the need for special assessments.

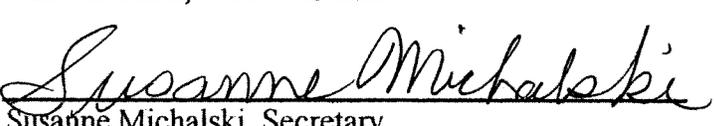
The goal of the Board of Directors is to make Whispering Hills a good place to live, now and in the future. With the continued support of the unit owners we will continue to meet that goal.



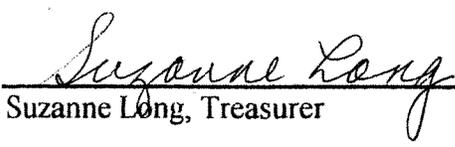
Glenn Rosing, President



Van Morrison, Vice President



Susanne Michalski, Secretary



Suzanne Long, Treasurer

WHISPERING HILLS OWNERS ASSOCIATION, INC.

FINANCIAL STATEMENTS

September 30, 1999

RICHARD E. NELSON, S.C.
CERTIFIED PUBLIC ACCOUNTANT
SUITE 202
4141 WEST BRADLEY ROAD
BROWN DEER, WISCONSIN 53209
(414) 354-4117

October 19, 1999

TO THE BOARD OF DIRECTORS
WHISPERING HILLS OWNERS ASSOCIATION, INC.
8731 North 72nd Street
Milwaukee, Wisconsin 53223

I have reviewed the accompanying balance sheet of **WHISPERING HILLS OWNERS ASSOCIATION, INC.** (a non-stock, non-profit Corporation organized under provisions of Wisconsin law) as of September 30, 1999, and the related statements of support, revenue and expenses and changes in Fund Balances, Statement of Cash Flows, Schedule A: Supplemental Schedule of Restricted Funds/Replacement Funds, and Schedule B: Comparative Supplemental Schedule of Actual Owners' Support Revenue and Expenses and Expenses and Provisions Compared to Budget Amounts-All Funds, for the period then ended, in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. All information included in these financial statements is the representation of the management (and the Board of Directors) of **WHISPERING HILLS OWNERS ASSOCIATION, INC.**

A review consists principally of inquiries of Company personnel (and the Board of Directors) and analytical procedures applied to financial data. It is substantially less in scope than an examination in accordance with Generally Accepted Auditing Standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, I do not express such an opinion.

Based on my review, I am not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with Generally Accepted Accounting Principles.



Richard E. Nelson S.C.

REF: WP6\FILES\WHOA\WHOAFS99

MEMBERSHIPS: AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
WISCONSIN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
COMMUNITY ASSOCIATIONS INSTITUTE
INSTITUTE OF BUSINESS APPRAISERS, INC.

**WHISPERING HILLS
OWNERS ASSOCIATION, INC.**

**BALANCE SHEET
AS OF SEPTEMBER 30, 1999**

ASSETS

<i>Operating Fund</i>		
<u>Current Assets:</u>		
Cash - Checking	\$ 10,303	
Cash - Money Markets	53,103	
Cash - Petty Cash	<u>75</u>	
Total Cash Available for Operating		\$ 63,481
Assessments Receivable	1,652	
(No provision for Allowances)		
Federal Tax Overpayment	818	
Security Deposits	<u>0</u>	<u>2,470</u>
TOTAL CURRENT ASSETS		\$ 65,951
<u>Equipment, At Cost: (See Note 1)</u>		
Equipment	\$ 51,394	
Less: Accumulated Depreciation	<u>(36,939)</u>	<u>14,455</u>
TOTAL OPERATING FUND ASSETS		\$ 80,406
<u>Restricted Funds</u>		
Replacement Reserve	\$ 172,178	
Less: Amount Due Operating Fund	<u>0</u>	
TOTAL RESTRICTED FUND ASSETS		\$ 172,178
TOTAL ASSETS		<u>\$ 252,584</u>

LIABILITIES & FUND BALANCES

<i>Operating Fund</i>		
<u>Current Liabilities:</u>		
Accounts Payable	\$ 2,003	
Payroll Taxes Payable	1,552	
Sales Tax Payable	9	
Assessments Paid in Advance	<u>2,117</u>	
Total Operating Liabilities		\$ 5,681
<u>Restricted Funds</u>		
<u>Current Liabilities:</u>		
Accounts Payable (See Note 1)		\$ 0
TOTAL CURRENT LIABILITIES		\$ 5,681
<u>Fund Balances:</u>		
Operating Fund	\$ 74,725	
Replacement Funds	<u>172,178</u>	
TOTAL FUND BALANCES		\$ 246,903
TOTAL LIABILITIES & FUND BALANCES		<u>\$ 252,584</u>

WHISPERING HILLS
OWNERS ASSOCIATION, INC.

(W.H.O.A.)

STATEMENT OF OWNERS' SUPPORT, REVENUE AND EXPENSES
AND CHANGES IN FUND BALANCES
FOR THE YEAR ENDED SEPTEMBER 30, 1999

Owners' Support & Revenue: (See Note 1)

	Operating Fund	RESTRICTED Replacement Funds
Assessments <i>Monthly fee \$140 x 12 (months) x 207 units =</i>	\$ 264,560	\$ 83,200
Interest Earned	2,557	4,681
Other Income	10,503	
TOTAL OWNERS' SUPPORT & REVENUE	\$ 277,620	\$ 87,881

Expenses:

Bad Debts (See Note 1)	\$ 0
Depreciation (See Note 1)	4,758
Electricity	15,850
General Repairs & Maintenance	31,567
Income Taxes	582
Insurance	27,031
Landscaping	31,649
Natural Gas	11,218
Office, Postage & Telephone	6,833
Pest Control	1,824
Pool & Recreation	4,831
Professional	12,595
Property Taxes	459
Salaries, Wages, & Payroll Taxes	59,956
Snow Plowing/Removal	31,700
Water & Sewer	27,110

- W.H.O.A. has 207 condo units
- Monthly 'condo fee' of \$140
- \$106.52 for operating fund
- \$33.48 for RESERVE

Road	\$ 0
Gutters	0
Roof	0
Painting	18,300
Town House Siding	0
Emergency Lighting	3,768

TOTAL EXPENSES	\$ 267,963	\$ 22,068
Excess (Deficit) Revenue over Expenses	\$ 9,657	\$ 65,813
Beginning Fund Balances	65,068	106,365
ENDING FUND BALANCES	\$ 74,725	\$ 172,178

WHISPERING HILLS
OWNERS ASSOCIATION, INC.

STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED SEPTEMBER 30, 1999

	<u>Operating</u> <u>Fund</u>	<u>RESTRICTED</u> <u>Replacement</u> <u>Funds</u>
<u>Cash Was Provided By: (See Note 1)</u>		
Excess (Deficit) of Owners'		
Support & Revenue Over Expenses	\$ 9,657	\$ 65,813
Add Back:		
Items Not Requiring Cash Outlay-		
Depreciation	4,758	
Increase in Assessments Receivable	(891)	
Decrease in Accounts Receivable		
Decrease in Accounts Payable	(847)	(23,980)
Increase in Payroll & Sales Taxes Payable	648	
Increase in Assessments Paid In Advance	125	
Increase in Income Tax Payable	<u>376</u>	
TOTAL CASH PROVIDED	\$ 13,826	\$ 41,833
<u>Cash Was Applied To:</u>		
Equipment Purchase	<u>(6,192)</u>	<u>0</u>
NET CASH INCREASE (DECREASE)	\$ 7,634	\$ 41,833
Beginning Cash Balance	55,847	130,345
ENDING CASH BALANCE	<u>\$ 63,481</u>	<u>\$ 172,178</u>
<u>Summary of Funds:</u>		
Cash - Checking	\$ 10,303	\$ 0
Cash - Money Markets	53,103	172,178
Cash - Petty	75	0
Certificates of Deposit	0	0
Amount To Be Transferred	0	0
Interest Earned (Accrued)	<u>0</u>	<u>0</u>
TOTAL FUNDS	<u>\$ 63,481</u>	<u>\$ 172,178</u>

WHISPERING HILLS
OWNERS ASSOCIATION, INC.

SCHEDULE A

SUPPLEMENTAL SCHEDULE OF RESTRICTED FUNDS
REPLACEMENT FUNDS
FOR THE YEAR ENDING SEPTEMBER 30, 1999

DESCRIPTION OF COMPONENT	FUND BALANCE 10/1/98	INCREASE	DECREASE	FUND BALANCE 9/30/99
1. Roof	\$ 69,371	\$ 49,956	\$ 0	\$ 119,327
2. Road Resealing	2,350	5,163	0	7,513
3. Gutter	641	1,223	0	1,864
4. Town House Siding	38,978	3,000	39,218*	2,760
5. Painting	10,203	20,603*	18,300	12,506
6. 5-Plex Bldgs	8,802	11,585	0	20,387
7. Elevator Bldg.	0	7,558	0	7,558
8. Emergency Lightng	0	4,031	3,768	263
TOTAL REPLACEMENT FUNDS	\$ 130,345	\$ 103,119	\$ 61,286**	\$ 172,178

* In May, 1999, \$15,238 was transferred from the Town House Siding Fund to the Painting Fund (per the Board). Also, \$23,980 was paid for the prior fiscal years siding project completed in September, 1998. See Note #1.

** Of the \$61,286 decrease in the funds, \$15,238 was a transfer between funds, the remaining \$46,048 was disbursed from the funds in payment of approved expenditures.

8

WHISPERING HILLS
OWNERS ASSOCIATION, INC.

SCHEDULE B

COMPARATIVE SUPPLEMENTAL SCHEDULE OF
ACTUAL OWNERS' SUPPORT REVENUE AND EXPENSES AND PROVISIONS
COMPARED TO BUDGET AMOUNTS - ALL FUNDS
FOR THE YEAR ENDED SEPTEMBER 30, 1999

	<u>ALL FUNDS</u>		
	<u>Budget</u>	<u>Actual Results</u>	<u>Variance</u>
<u>Owners' Support & Revenue:</u>			
Assessments	\$ 347,760	\$ 347,760	\$ 0
Interest Earned	500	7,238	6,738
Other Income	<u>9,696</u>	<u>10,503</u>	<u>807</u>
TOTAL OWNERS' SUPPORT & REVENUE	\$ 357,956	\$ 365,501	\$ 7,545
<u>Expenses:</u>			
Bad Debts (See Note 1)	\$ 0	\$ 0	\$ 0
Depreciation (See Note 1)	0	4,758	4,758
Electricity	19,839	15,850	(3,989)
General Repairs & Maintenance	27,967	31,567	3,600
Income Taxes	1,050	582	(468)
Insurance	26,750	27,031	281
Landscaping (See Note 1)	36,323	31,649	(4,674)
Natural Gas	14,629	11,218	(3,411)
Office, Postage & Telephone	8,100	6,833	(1,267)
Pest Control	2,000	1,824	(176)
Pool & Recreation	7,300	4,831	(2,469)
Professional	9,927	12,595	2,668
Property Taxes	500	459	(41)
Salaries, Wages, & Payroll Taxes	59,953	59,956	3
Snow Plowing/Removal	32,318	31,700	(618)
Water & Sewer	28,100	27,110	(990)
Provisions/Reserve Usage	<u>83,200</u>	<u>22,068</u>	<u>(61,132)</u>
TOTAL EXPENSES & PROVISIONS	\$ 357,956	\$ 290,031	\$ (67,925)
EXCESS OF SUPPORT & REVENUE OVER EXPENSES & PROVISIONS	\$ 0	\$ 75,470	\$ 75,470

**WHISPERING HILLS
OWNERS ASSOCIATION, INC.**

NOTES TO FINANCIAL STATEMENTS
SEPTEMBER 30, 1999

NOTE #1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Nature of Organization

The financial statements of WHISPERING HILLS OWNERS ASSOCIATION, INC. (a non-stock, non-profit corporation organized under the provisions of Wisconsin Law) have been prepared on the accrual basis of accounting. The Association was established in December of 1972, and has been in operation since. Its main purpose is to maintain and protect the areas owned by the owners in common, such as the building exterior, recreational areas, landscaping, etc. All policy decisions are formulated by the Board of Directors. The significant accounting policies that follow are to enhance the usefulness of the financial statements to the reader.

Assessment of Maintenance Fees

Maintenance fees are recognized as support in the appropriate period that the fees apply. Likewise, interest income is recognized in the period it is earned. It is the Board's policy that interest earned on the restricted funds (replacement and general operating) is retained in the appropriate fund to which it applies.

Restricted Funds

The Board of Directors of WHISPERING HILLS OWNERS ASSOCIATION, INC. restricted the use of \$83,200 for special purpose use for the fiscal year ended September 30, 1999. This figure represents an increase of \$2,122 restricted as to replacement use over the prior year. During the current year, \$46,048 was paid out of the replacement funds. The cost of the projects completed was \$22,068. The differences in cash paid and cost are the following: For the prior year's Town House Siding project with a cost of \$26,980, a down payment of \$3,000 was paid in the prior fiscal year; the remaining \$23,980 was paid in the current fiscal year (October, 1999). Since the Siding project was completed in September, 1999, the amount due was considered an accrual as of last years Balance Sheet date. See Schedule A.

Allowance for Doubtful Accounts

WHISPERING HILLS OWNERS ASSOCIATION, INC. has not provided any provision for the collection of doubtful accounts. It is estimated by the Board that uncollectible accounts for the next fiscal year, if any, will be negligible. There was no bad debt expense during the current period. Last year was the first time WHISPERING HILLS OWNERS ASSOCIATION, INC. had to foreclose any units. The Board does not foresee a foreclosure on another unit in the next year.

WHISPERING HILLS
OWNERS ASSOCIATION, INC.

NOTES TO FINANCIAL STATEMENTS
SEPTEMBER 30, 1999

NOTE #1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont'd)

Equipment and Depreciation Expense

Depreciation of equipment was computed under straight-line methods over the estimated useful lives of the respective assets. However, it is the policy of WHISPERING HILLS OWNERS ASSOCIATION, INC. not to use depreciation in the annual budget tabulation process.

Capitalization Policy

Equipment purchased with Association funds is capitalized at cost and depreciated over its useful life. If replacement equipment is purchased from the replacement revenue, it is the policy of the Board to transfer the cost of the equipment out of the replacement reserve into general operations for depreciation and accounting for the equipment. In addition, expenditures which result in the enhancement of the value of an asset and have a life of more than one year are capitalized in the appropriate asset account. In the current year \$7,559 was capitalized. This was the purchase of a snow blower, gas furnace & evaporator (for the North Club House) and a MPC Pentium III Computer, Monitor and Printer.

Provision for Replacement & General Operating Reserves

WHISPERING HILLS OWNERS ASSOCIATION, INC. has segregated a budgeted portion of the homeowners' monthly maintenance fees for anticipated replacements and general operating reserves.

The replacement reserve has been increased in the fiscal year ended September 30, 1999, by \$87,881 through assessments and interest income. During the fiscal year ended September 30, 1999, \$46,048 was paid out of the replacement reserve. See Schedule A.

During the fiscal year ended September 30, 1986, thirteen fiscal years ago, an inspection was conducted by an architectural / engineering firm of the complete Whispering Hills area. The inspection report issued by the firm reviews the replacement items (such as roofs), as well as, the on-going normal maintenance / repair items. It would appear that the cost estimates and the timing of the cost outlays by the architects of the major replacement items are reasonably provided for by the funds set aside to be used for such replacement items under the circumstances. However, unforeseen circumstances could have an effect on the liquidity of these reserves and, therefore, the ability to meet large obligations should they arise above and beyond the reserve level of funding. The normal maintenance and repair items, as outlined by the architectural firm, are part of the on-going maintenance plans of the Association. Implementation of the plan was begun in the fiscal year ended September 30, 1986.

**WHISPERING HILLS
OWNERS ASSOCIATION, INC.**

**NOTES TO FINANCIAL STATEMENTS
SEPTEMBER 30, 1999**

NOTE #1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont'd)

Special Budgetary Footnote

Landscaping: In preparation of the fiscal 1998-1999 Budget, it was determined and approved that an additional \$5,000 should be budgeted for major tree trimming and replacement. Those expenses were to be incurred and paid starting the fiscal year ending September 30, 1999 and continuing through the next fiscal year ending September 30, 2000. This major project, while budgeted for the year ending September 30, 1999, will not be started until the coming fiscal year. The \$4,674 underspent this fiscal year will be carried over to the next year and spent, but not budgeted, as a result of not being included in the prior fiscal year's budget, as noted earlier.

Income Taxes

WHISPERING HILLS OWNERS ASSOCIATION, INC. is subject to taxation on its non-exempt function income. The income tax expense for the year ended September 30, 1999 consisted of the following:

Tax payable to:	
Federal Government	<u>\$ 582</u>

This tax was paid throughout the year with quarterly estimated payments. There remains an overpayment/prepayment of next year's tax on the books after deduction for the current year's expense of \$818. Deferred Income Taxes are reported using the Liability Method. There are no deferred tax assets that would recognize any temporary differences between future taxes and current taxes. As noted, the tax liabilities are recognized for taxes payable currently.

Wisconsin tax law does not provide for the taxation of Homeowner Associations. Accordingly, there is no provision for Wisconsin state income taxes.

Management Responsibility

WHISPERING HILLS OWNERS ASSOCIATION, INC.'s Board of Directors and Management have the responsibility for proper recording of transactions in the books of account, the safeguarding of assets, and the substantial accuracy of these financial statements.

Use of Estimates

The preparation of the Financial Statements, in conformity with generally accepted accounting principals, requires the WHISPERING HILLS OWNERS ASSOCIATION, INC. to make use of estimates and assumptions that effect certain reporting amounts and disclosures. Accordingly, actual results could differ from those estimates, specifically, in the budgetary forecast of the use of maintenance fees and special assessments, coupled with the assessment of those fees to the unit owners.

**WHISPERING HILLS
OWNERS ASSOCIATION, INC.**

NOTES TO FINANCIAL STATEMENTS
SEPTEMBER 30, 1999

NOTE #1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont'd)

Cash and Equivalents

For the purpose of reporting cash flows, the WHISPERING HILLS OWNERS ASSOCIATION, INC. considers all general operating cash accounts which are not subject to withdrawal restrictions or penalties, to be cash equivalents. The restricted funds (replacement reserve) are not considered to be cash equivalents for the operating fund. These funds have been reserved for specific major replacements, as noted in "Provision for Replacement and General Operating Reserves".

Advertising

WHISPERING HILLS OWNERS ASSOCIATION, INC. has no advertising policy, as it is not necessary to the nature of their activity.

Pension Benefits

WHISPERING HILLS OWNERS ASSOCIATION, INC. does not have any Pension or Retirement Plans.

Debt

WHISPERING HILLS OWNERS ASSOCIATION, INC. has no long-term debts. The only liability would be the current liabilities which are considered a normal part of its operations and are specifically shown under current liabilities.



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone: (608) 266-1304
Fax: (608) 266-3830
Email: leg.council@legis.state.wi.us

DATE: February 17, 2000
TO: INTERESTED LEGISLATORS
FROM: Mary Matthias, Senior Staff Attorney
SUBJECT: 1999 Assembly Bill 723, Relating to Condominium Budgets and Reserve Accounts

This memorandum describes 1999 Assembly Bill 723, relating to condominium budgets and reserve accounts. The bill was introduced on February 8, 2000 by Representatives La Fave and Sykora; cosponsored by Senator Grobschmidt. The bill was referred to the Assembly Committee on Housing which has scheduled a hearing on the bill on February 23, 2000.

A. CONDOMINIUM BYLAWS

Current law provides that the affairs of every condominium shall be governed by a condominium association. The membership of the condominium association consists of all of the unit owners of the condominium. Current law grants condominium associations various powers, including the power to adopt budgets and collect assessments for common expenses from unit owners.

Current law further provides that every condominium must be governed by bylaws and that the bylaws must contain certain provisions, including a provision setting forth the manner of assessing against and collecting from unit owners their respective shares of the common expenses of the condominium association.

The bill specifies that condominium bylaws must also set forth the manner of assessing against and collecting from unit owners amounts for deposit in the reserve account of the condominium association.

B. REQUIREMENT TO PREPARE AND ADOPT AN ANNUAL BUDGET

Current law authorizes, but does not require, a condominium association to prepare and adopt an annual budget. The bill provides that beginning no later than six months after the

effective date of the bill, the board of directors of every condominium association must annually prepare and distribute to all unit owners a detailed annual budget setting forth all of the following:

1. All anticipated common expenses and common surpluses of the condominium association.
2. The amount and purpose of each anticipated expenditure from reserves.
3. The amount and source of all anticipated contributions to reserves.
4. The amount in the reserve account.
5. The total amount of assessments to be levied against unit owners.
6. The amount and source of any other income of the condominium association.
7. The amount and purpose of any other anticipated expenditure by the association.

C. REQUIREMENT TO PROVIDE FOR REASONABLE RESERVES IN THE ANNUAL BUDGET

The bill provides that the annual budget adopted by the board of directors of a condominium association, described above, must provide for "reasonable reserves" in the reserve account, in accordance with the long-range reserve account plan described below.

D. REQUIREMENT TO ESTABLISH A RESERVE ACCOUNT

Current law does not clearly require a condominium association to establish a reserve account. The bill provides that no later than the first day of the fourth month beginning after the effective date of the bill, the board of directors of every condominium association must establish a reserve account for the association, to hold all reserves. The reserve account must be an interest-bearing, federally insured account at any bank, savings bank, savings and loan association or credit union.

E. REQUIREMENT TO ANNUALLY ASSESS UNIT OWNERS FOR CONTRIBUTIONS TO THE RESERVE ACCOUNT

The bill requires the board of directors of every condominium association to: (1) annually determine the amount that is necessary to be contributed to the reserve account for the needs of the condominium and assess unit owners a sufficient amount for contributions to a reserve; and (2) deposit the assessments collected into the reserve account.

F. REQUIREMENTS TO DEVELOP AND ANNUALLY EVALUATE A LONG-RANGE RESERVE ACCOUNT PLAN

Current law contains no requirements regarding the development of a long-range reserve account plan. The bill requires the board of directors of every condominium association to develop and annually evaluate and revise, as necessary, a long-range reserve account plan. In developing and evaluating the plan, the board of directors must take into consideration all of the following:

- a. The results of any independent professional reserve study conducted on behalf of the association.
- b. The estimated cost of the repair or replacement of all major common elements that have a remaining useful life of less than 20 years and that the condominium association has the duty to repair or replace. (The phrase "common elements" refers to all of a condominium except its units.)
- c. The estimated remaining useful life of all major common elements.
- d. The amount of interest or other earnings attributable to the reserve account.
- e. An estimate of the total annual contribution to the reserve account that is necessary to meet the obligations of the association to repair and replace common elements.
- f. A comparison between the amounts held in the reserve account and the anticipated costs to repair and replace, as necessary, the common elements.

G. USE OF RESERVE ACCOUNT

1. Generally May Be Used Only for Major Repairs and Replacements of Common Elements

The bill provides that except as provided below, the funds in the reserve account of a condominium association, including any accrued interest, may be used only for major repairs and replacements of common elements. Funds in the reserve account may not be used for routine expenditures such as normal or routine repair or maintenance of common elements or customary services such as snow or trash removal.

2. Special Withdrawals or Transfers From Reserve Account

The bill authorizes the board of directors of a condominium association to withdraw or transfer funds from the reserve account for a purpose other than one specified above, if all of the following conditions are met:

- a. The amount and specific purpose of the withdrawal or transfer from the reserve account is approved by a special meeting of the association ~~by the affirmative vote of at least 51% of units owners having 66% or more of the votes.~~

AMENDMENT:
by a majority vote of unit owners entitled to vote.

b. The board of directors creates a repayment schedule that specifies the time period for repayment of the withdrawal or transfer and that contains a schedule of periodic amounts for the repayment of the withdrawal or transfer.

c. The term of the repayment schedule is not longer than seven years.

d. The amount of the withdrawal or transfer is not greater than 40% of the total value of the reserve account at the time the withdrawal or transfer is approved.

e. No other withdrawal or transfer from the reserve account is outstanding.

H. REPORTING REQUIREMENTS

The bill provides that beginning in 2001, the board of directors of every condominium association must, by March 31 of each year, record in its minutes ~~and with the Register of Deeds of the county where the condominium is located~~, a report on the reserve account of the association, setting forth all of the following:

AMENDMENT: delete Reg. of Deeds requirement

1. A statement of the amounts held in the reserve account at the beginning and at the close of the previous one-year period.

2. The amounts and sources of funds added to the reserve account during the previous one-year period.

3. The amounts expended from the reserve account during the previous one-year period and a description of the purposes for which the amounts were expended.

I. AUDIT OF RESERVE ACCOUNT

The bill provides that upon the written request of any unit owner, the board of directors must contract with an independent certified accountant to audit the reserve account and must provide the results of the audit to the requesting party. The board of directors may require the requesting party to pay the reasonable costs of the audit.

J. DISCLOSURE REQUIREMENTS IN THE SALE OF A CONDOMINIUM UNIT

Current law sets forth a list of items which the seller of a condominium unit must provide to the purchaser before closing the sale of the unit. One of the items which must be provided is "a copy of the projected annual operating budget for the condominium." The bill provides that the copy of the budget provided must set forth all of the following information: (1) all anticipated common operating expenses; (2) all anticipated expenditures from the reserve account for repair or replacement of common elements; (3) the amount in the reserve account; and (d) the estimated monthly contributions to the reserve account which are anticipated to be required by the purchaser.

Please contact me at the Legislative Council Staff offices if you have any questions or would like more information. My direct telephone number is 266-0932.

MM:tl;wu

HORTON LAW OFFICE, S.C.

SUITE 7
222 NORTH MIDVALE BOULEVARD
MADISON, WISCONSIN 53705

(608) 231-3220
FAX (608) 231-3720

WM. PHARIS HORTON
ATTORNEY AT LAW

MAILING ADDRESS
P.O. BOX 5621
MADISON, WISCONSIN 53705

February 19, 2000

Chair Tom Sykora and Members
Assembly Committee on Housing
State Capitol
Madison WI 53708

Dear Representatives:

Re: Assembly Bill 723

I regret that conflicts on February 23 may prevent me from attending that portion of the Committee's hearing dealing with Assembly Bill 723. If I am not able to be there at the time it is heard, please accept this letter as my testimony on it.

This bill addresses a real problem in a number of condominiums. I have had the chance to exchange some thoughts on it with Representative La Fave and I applaud his efforts to bring this up for consideration. The fact that I may offer some different approaches to solving this problem should not be taken as opposition to legislation in this area or an argument that no problem exists. I sincerely hope that you can find a way to solve the problem that exists in the most effective way.

Over the course of my career I have been deeply involved in condominium law. I have represented developers, associations, and individual unit buyers and sellers. I have taught condominium programs to attorneys, Realtors and the general public. I believe I am well acquainted with the concepts and concerns of condominiums and condominium living. This bill addresses one of those concerns: the failure of some condominiums to create and maintain adequate reserves for capital repairs and restoration of common elements. I have seen these situations arise, and I am sure instances will be described in the hearing. They are unfortunate and I do not make light of the financial problems they can cause.

I have some problems with the bill as drafted and would hope that either through amendments or some further study of this entire situation these problems could be resolved and a more effective law adopted. These problems include:

1. The procedure established in the bill is complicated and potentially costly. Smaller condominiums simply do not have the resources or management skills to comply with it and it is questionable public policy to enact a law which is beyond the practical ability of many of those it regulates to follow.
2. Many condominiums have few common elements which these reserves would be created to protect and this would be an unnecessary administrative burden for them. For example, Wisconsin has many campground and other recreational condominiums where reserves are not really needed.

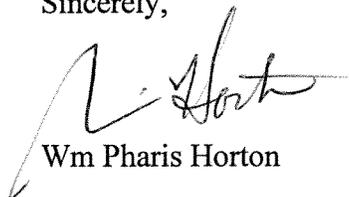
Assembly Committee on Housing
February 19, 2000
Page Two

3. It is the conscious choice of some condominiums not to maintain reserves for these purposes. After all, few individual homeowners create a reserve account to repave their driveways or reshingle their roofs. They dip into personal savings or get home improvement loans if needed. And some condominiums follow that pattern. It is a valid choice, so long as the unit owners are aware of it when they buy into the condominium.
4. The creation of reserves has income taxes consequences for condominium associations. This bill could put associations that did not elect to file under sec. 528 of the Internal Revenue Code at risk for serious tax liability.
5. This bill could be used to establish a standard of care for associations and their directors in private lawsuits. It is easy to visualize an action by one or more disgruntled unit owners against their condo association directors (who, after all, are really just neighbors and co-owners) for failure to have some particular analysis done or reserve created. Or alternatively for having wasted the association's money in having the analysis done or the unit owners' money in creating the reserve. I believe there should be serious consideration of the liability potentials that the bill may open.

I would prefer a law built on advance disclosure to unit purchasers of whether reserves exist and in what amount, giving the purchaser the information on which to decide whether to purchase and what to pay for a unit. Elements of this bill would fit into that structure and might serve as a backstop for it in particular situations. As mentioned earlier, I do not oppose the bill but would hope that with further thought it could be made more effective.

If there is anything further that I could provide for the Committee to assist it in its consideration of this issue I would be pleased to do so.

Sincerely,



Wm Pharis Horton

Jonathan B. Levine

A T T O R N E Y A T L A W

757 NORTH WATER STREET
MILWAUKEE, WISCONSIN 53202-3508
(414) 271-0400
FAX (414) 271-6623

JONATHAN B. LEVINE
CERTIFIED CIVIL TRIAL SPECIALIST
NATIONAL BOARD OF TRIAL ADVOCACY

DIANE M. STARK
LEGAL ASSISTANT

February 22, 2000

VIA FACSIMILE

608/282-3667

Members of the Committee on Housing
c/o Assemblyman Thomas Sykora, Chairman
8 North
P.O. Box 8953
Madison, WI 53708

Re: 1999 Assembly Bill 723 Should Be Put Over
For A Separate Hearing

Dear Members of the Committee:

1999 Assembly Bill 723, which imposes substantial reserve funding and reserve reporting requirements on condominium associations, affects thousands of homeowners in Wisconsin --- not "condominiums," not "boards," --- but homeowners who happen to enjoy the condominium form of ownership. Reserve funding is a prudent and safe way to fund capital improvements, but it is not the only way. This bill imposes unnecessarily burdensome requirements. It ignores the experience in other states. It leaves important questions unanswered.

I represent many condominium homeowners. These views are my own, but they are based on discussions I have had with dozens of condominium association officers. I respectfully suggest that the committee move slowly, and hold hearings specifically on this issue. Hearings could consider the following:

Look at other states. A study of 41 states (including Washington, D.C.) by the Community Association Institute found that only 12 states had reserve funding requirements. And of those 12, most of the states required that reserve funding be *considered* by the association but reserve funding was not required if the association addressed the issue and voted not to assess for reserves. Some states required studies, but not funding. Few states had laws as lengthy, burdensome or as intrusive as this bill.

Members of the Committee on Housing
February 22, 2000
Page 2

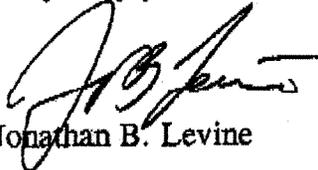
Why treat condominium homeowners differently? There are several ways that an association can fund capital improvements, including reserve funding, special assessments at the time of replacement and borrowing. Other homeowners, including multi-unit landlords, have these options. If a homeowner association decides, after deliberation, to opt-out of reserve funding, and it has a rational reason, why not allow this option? The Legislature should not impose requirements on condominium homeowners based on the experience of the worst condominiums in the state.

Is this the right bill? Even assuming that mandatory reserve funding is appropriate, this would be an extremely complex law. The bill requires an annual six-point report [Bill, page 4, line 10 through page 5, line 5] of substantial complexity and the probable need to hire a professional study writer [and this is practically mandated at Bill, page 4, lines 18 and 19.] If an association with 100 members saves \$5,000.00 a year, is the elaborate reporting/recording effort necessary? Chapter 703 imposes disclosure requirements to condo members and buyers: Why record a report with the Register of Deeds? Is this a tool for salesmen?

Unanswered questions. How much must an association collect, and how do you enforce it? These questions are unanswered and an irresponsible board could, theoretically, collect little and evade the intent of the reserve requirement. Meanwhile, burdensome requirements are imposed on condominium boards which plan carefully in any cvcnt.

Please don't rush. A separate hearing devoted to this subject will allow this committee to hear from more volunteer board member homeowners. A bill can be drafted which addresses the issue of funding for capital improvements; but it should not read like the Internal Revenue code.

Very truly yours,



Jonathan B. Levine

JBL/dms/2222000128.wpd
cc (via facsimile):

Senator Richard A. Grobschmidt
Representative John LaFave