



dale herrick <drhajh01@gmail.com>

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**RE: Walden Woods - Reallocation of Management Fees -  
My File #612.000.E.1**

2 messages

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**Matt Perlstain** <mnp@ctcondolaw.com>

Sun, Feb 24, 2013 at 5:01 PM

To: dale herrick <drhajh01@gmail.com>

Dale,

When you and I spoke, after you sent me the email set out below, you told me that the amount to be reallocated was approximately \$8,000.00 out of a combined budget for the Conservancy and its councils that is between \$600,000.00 and \$800,000.00. Even if the amount to be reallocated were larger, I can see no reason why the board of the Conservancy could not vote to authorize it.

Association budgets, or in the case of the Conservancy, budgets for both general common expenses and council common expenses, are not fixed immutable commitments to spend or not spend association funds. They are projections of what the association expects to spend on various portions of its activities during the coming year which are used as the basis for calculating assessments. There is nothing in most documents, including yours, that locks in each line item of the budget. In fact, some line items can never realistically be locked in. Snow removal varies from year to year based on the weather. Utility rates may change. If the association's current insurance policies must be renewed during the year, the rates at the time of renewal may be higher or lower than predicted. Because of this, associations regularly spend more or less on particular line items than they projected at the time they adopted their budgets.

The only time an association requires more than a vote by its board to address changes to individual line items, is when the board wishes to impose additional assessments on the unit owners. These assessments are ordinarily made in the form of special assessments, although they could be made as mid-year adjustments to the current budget. These special assessments are addressed by Section 19.7 of your declaration and, since 2010, by Subsection 47-261e(b) of the Common Interest Ownership Act.

Both of these provisions permit the association to make moderate increases in monthly charges imposed on unit owners with no more than a board vote. They only require that special assessments be submitted to a vote of the unit owners if the special assessment or assessments exceed 15% of the association's current budget. Based on the figures you have given me, even if the board decided to impose an additional special assessment to cover the increase in the Conservancy's share of the management expenses, nothing would be needed beyond a vote of the board. The \$8,000.00 at issue would constitute less than 1.5% of the total budget - nowhere near the 15% increase that would trigger a unit owner vote.

Given how small the reallocation is in light of the entire budget, and given that other line items in the budget will probably fluctuate by even more than \$8,000.00, I can see no reason why the board would want to consider any special assessment at all. Just take a vote to reallocate the management expenses among the Conservancy budget and the council budgets. Then reallocate the management fees you have already paid during the current fiscal year and, as you pay the management company each month during the rest of the year, allocate the payments in accordance with the new formula. Nothing further is required.

I trust this answers your question. If you need anything further, please let me know.

Regards,

Matt Perlstein

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-----Original Message-----

From: dale herrick [mailto:[drhjah01@gmail.com](mailto:drhjah01@gmail.com)]

Sent: Monday, February 04, 2013 3:22 PM  
To: Matt Perlstain  
Subject: Management fees

Hi Matt

It has come to the board's attention that the management fees were not allocated properly. The conservancy was undercharged and the councils were overcharged. Because we already passed the 2013 budget, can the board reallocate amounts. We would like to credit or refund the councils and transfer the amount to the conservancy. Can the Board vote to do this?

Dale

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**dale herrick**<drhjh01@gmail.com> Mon, Feb 25, 2013 at 4:37 PM  
To: warren <warrenruth@comcast.net>

Hi Warren

This is what Matt sent me regarding reallocating management fees from the councils to the conservancy. After reading this I will be making a motion to go ahead with what I proposed last month. Let me know if you agree with what Matt sent me and any problems with proceeding.

Dale

[Quoted text hidden]