

Park Avenue Lofts Condominium Association
Board of Directors Meeting
February 6, 2003

A Board Meeting was held on February 6, 2003, via teleconference call. Members in conference included Jon Franks, Denis Franks, Gordon Franks, Bill Podl, Bob Johnson and David Hale. Mike Madsen was present in person. Chad Christy, Keith Kroepler and Patrice Novak from Great Western Lodging were also present. Items discussed were as follows:

I. Call to Order

Chad Christy called the meeting to order at 9:00 a.m.

II. Association Transfer from Vail Associates (VA)

Funding practices of VA on behalf of Park Avenue Lofts (PAL)

- A. Chad advised that VA fronted the monthly association dues on the 1st of every month to PAL. In essence they were fronting the money to the association and collecting it from the homeowners each month. This created a problem when the management agreement was terminated with VA. VA then collected anything due to them, whether it was from the association or unit balances (ex. Cleaning fee or service to a rental unit in their program) and debited that amount from the association.
- B. Refer to enclosed spreadsheet. This spreadsheet was forwarded to PAL from VA to show the activities regarding the transfer as of 11/25/02. The spreadsheet outlines the monies VA retained from balances VA felt was due to them. The shaded column reflects the amount VA retained from the association as of 11/25/02. VA essentially received payments for dues from owners after management was terminated and distributed those payments amongst the balance they felt was due to them. Mike Madsen pointed out that they were commingling the association accounting with the property management accounting. If the owners sent payment to VA before 11/25/02, those payments were not posted to the individual unit but kept by VA as payment to them, leaving PAL to collect the difference from the owners.
- C. The individual charges that VA posted to each owner within their property management program are not accurate, according to the owners that were in the program. Mike Madsen stated that he was charged \$783 for hot tub repair that was never completed. Mike also stated he found accounting errors within the statements he received from VA. There is approximately \$5000.00 in charges that the

association paid to VA, which had nothing to do with the association, but were property management charges. Mike Madsen suggested each owner should meet with Toni Perringer individually to dispute charges. Upon speaking with Toni and Kent Coleman, Denis Franks had felt that VA was going to be cooperative in this matter. Denis disagreed with Mike regarding having to meet with Toni individually and does not feel that VA has any intention to resolve matters.

- D. Chad Christy and Keith Kroepler had a meeting with Toni Perringer, Kent Coleman and various VA accounting members on January 23, 2003. The meeting lasted 50 minutes and was not productive. Chad believes that the communication between VA and PAL has been compromised due to lack of cooperation from VA.

III. Discussion of VA Management of PAL

VA credited themselves \$22,412.86; VA received \$16,000.00 of that amount after the termination of management. PAL was told that two of the owner's checks would be returned to PAL, however there has not been anything received by the association at this point. Jon Franks suggested having a demand letter drafted by an attorney to VA, Mike Madsen stated he didn't feel that was the answer. Denis Franks felt that if VA was planning on cooperating, they would have by now. Bill Podl also agreed that a demand letter should be drafted. Bob Johnson asked David Hale if he had any success when he spoke with VA. David answered that after he spoke with VA Accounting and Kent Coleman, he felt there was no problem from VA's standpoint. VA was owed money and they kept it, David agrees with VA's accounting practices. Denis Franks did not agree with VA's accounting practices. Chad made the comment that VA was charging PAL for services that should have been included in the monthly management fee. Denis and Mike both agreed that the charges to the association were excessive and commingled the funds. Chad also pointed out that the management agreement states that any line item charge 10% over the budget was to be approved by the Board members and that did not occur. Denis stated that during the time he was Treasurer of the association, VA never contacted him regarding any matters concerning charges exceeding the budget. Jon Franks suggested suing VA. Denis felt a demand letter should be enough.

- A. Jon Franks motioned to have a demand letter drafted by an attorney demanding payment of \$22,412.83 and demanding VA to negotiate in good faith based on the contact and reconciliation of charges, Denis Franks seconded the motion. All were in favor and the motion passed.
(AI)

IV. Association Dues

PAL is in the financial position to have to resolve the issue of unpaid dues. The association has about \$12,000.00 in unpaid bills due as of now.

- A. Transfer the unit maintenance charges from unit accounts and create a receivable on the balance sheet. Upon creating the receivable, PAL would then use that amount to negotiate with VA. Denis Franks motioned to remove the unit maintenance charges and move them to a receivable. Mike Madsen seconded the motion. All were in favor and the motion passed. *(AI)*
- B. PAL accepts the balances as of October 18, 2002 as presented by VA. Bill Podl motioned to accept and Denis Franks seconded the motion. All were in favor and the motion passed. *(AI)*

Implementation of late fees and penalties

- A. A decision was made at the Annual Meeting to implement late fees, but none were recorded. Denis Franks motioned to charge a 1.5% interest charge and a \$25 per month fee for late payments. Mike Madsen seconded the motion. All were in favor.
- B. Dues payments will be due on the 1st of every month and will be assessed a late fee if payment is not received by the 10th of every month. Mike Madsen motioned to accept and Denis Franks seconded the motion. All were in favor and the motion passed. *(AI)*
- C. Penalties: Mike Madsen motioned to approve the following and Denis Franks seconded.
 - a. 60 days behind in dues: a lien will be placed on the unit
 - b. 90 days behind in dues: utilities will be shut off to the unit
- D. It was decided that the above-mentioned fees/penalties will be effective beginning March 1, 2003.
- E. Automatic Dues system
 - a. ACH banking or automatic withdraw eliminates trips to the bank, late dues and will eventually cut down on total accounting costs for the association.
 - b. Denis Franks motioned for the ACH Banking to be set up for the association. *(AI)*
 - c. Chad stated that a letter explaining how ACH Banking works and the necessary forms would be sent to all owners who opt to be set up on ACH. In the future, the association would like ACH Banking to be mandatory. See enclosed letter and form.

V. Filing of Building Deficiencies Suit against Developer

Chad Christy asked Denis Franks to update all attending regarding this issue. One year ago, the previous Board of Directors authorized David Fisher, an independent architect and engineer, to walk through the building. Kaiser and Siegel, the developers, had refused to correct many of the issues with the building; therefore a walk through was scheduled. The Fisher report was presented to the association in early May of 2002. Steve Letofsky, Esq. had sent out a Notice of Impending Litigation to all of the owners and had asked any owner who had issues regarding the problems with the building to contact Gordon Franks. After the owners' meeting last April, Denis attempted to contact David Kaiser one more time

regarding the pending building issues. David initially stated that the LLC was closed out and there was no money left; David also stated that the association had refused to allow them to come out to correct the issues during the 2002 ski season. Denis asked David Kaiser to speak to Steve Letofsky, and never heard back from him. In September, Denis called David to request the insurance information. After an extensive search, Denis Franks found a reputable law firm in Englewood that would take on the case, as Letofsky hadn't pursued the issue. The new lawyers took on the case without any monies from the association and they will not charge the association even if the case is lost. Bob Johnson stated that this particular law firm would not accept a case that they could not win. The Fisher report was conducted for the residential portion of the building only. The Town of Breckenridge cannot be held responsible.

- A. Denis Franks feels that a lawsuit is the way to go in order for the building issues to be resolved. Denis believes strongly in the Fisher report and feels that there is a solid case.
 - Denis Franks agreed to write a letter to each owner disclosing all of the information regarding the lawsuit. *(AI)*
 - David Hale suggested that the association should receive a letter in writing from the retained lawyer stating that the association will not be charged any legal fees if the case is lost.
- B. Mike Madsen does not agree that a lawsuit is the correct choice. Mike feels that the developers will find their own engineers to have their own reports completed and that the developer's reports will refute the Fisher report. Mike feels that a lawsuit will only hurt the property and the re-sale value of the units. Mike also fears the association will be charged legal fees if the suit goes forward.

AI It is noted that Gordon Franks disconnected from the line as he had a 10:30 AM appointment.

VI. Terms of the Board of Directors

- A. Term lengths were not recorded during the last Annual Meeting.
 - a. It was decided that term lengths would be determined at the Annual Meeting in April 2003.
 - b. It was also decided that a new vote would be held during the next Annual Meeting.

VII. McMahon and Associates Financial Audit

- A. The audit was ordered to review the transition from Discover to VA
 - a. Shedd Webster had been quoted as stating it was Colorado law for the association to hire accountants to perform an audit.
 - b. There was much disagreement regarding the cost of the audit, who approved it and how much of this issue was

communicated to the rest of the board. The audit was over budget per McMahon and Associates.

- B. Denis Franks motioned to send the remainder of the McMahon and Associates bill to Kaiser and Siegel.
 - a. A portion of the bill was for Tax Returns for the association
 - b. The association has already paid \$2000 of the \$6652.00 bill.
 - c. It was decided that the association should try to negotiate the remainder of the invoice with McMahon and Associates.
- C. One unit has yet to pay one of the assessments, dating back to when Discover Resorts managed the association.
 - a. Unit #204 is said to have not yet paid the assessment, however there is some confusion on the matter. The owner stated that he would research his records.
 - b. The amount of the assessment was \$1232.52.

VIII. Meeting adjourned

- A. Bill Podl motioned to adjourn the meeting at 11:00 AM and Denis Franks seconded, all were in favor.