

Dear Welbourne Manor HOA Members,

There have been many conversations since the board's last communication about the Welbourne Manor pool project. This letter is an attempt to communicate the current status based on some common questions we have been receiving.

Question 1 – Does the pool project require a neighborhood vote?

In December 2015, a neighbor contacted the Board and expressed a concern over the approach that was being taken to fund the pool project. While the board felt that the approach was allowed by the governing by-laws, it was determined that it would be in the best interest of the neighborhood to have an outside real-estate attorney review our by-laws and provide guidance on how to fund this project. Below is the response:

Response from CUNI, FERGUSON & LEVAY Co., L.P.A

The replacement of the Association's community pool, a capital asset, should be included as part of the Association's Annual Budget and levied as a general assessment.

Under Article IV, Section 4.1 of the Declaration, the Association may create assessments for the payment of Common Expenses incurred by the Association, which include reasonable capital expenses and reserves as may be found to be necessary and appropriate by the Board. Under Section 4.3, the Association is required to adopt an Annual Budget and a Capital Budget each year for these ongoing Common Expenses. The Capital Budget is made up of the repair and replacement cost of replaceable assets on the Common Elements and is included as part of the Annual Budget. The Board is required to adopt an Annual Budget, which includes the Capital Budget, at least 30 days prior to the beginning of the Association's fiscal year. This Annual Budget shall be the basis for computing and levying the annual General Assessment as provided for in Section 4.4. If the Board fails to adopt an Annual Budget in the time provided for in the Declaration, the Association should continue to levy assessments based on the most recent budget until the Board adopts a new Annual Budget.

Here, the projected expenses incurred by the Association for the replacement of the subdivision swimming pool are accounted for as part of the annual Capital Budget, as long as the expenses are reasonable and considered by the Board to be necessary and appropriate. Within the 30 days prior to the beginning of the Association's fiscal year, the Board must adopt an Annual Budget, which includes the projected expenses for the replacement of the subdivision swimming pool. Once the Annual Budget is adopted, the amount budgeted for the current year should be divided and levied upon the Owners as General Assessments pursuant to Section 4.4 of the Declaration.

Simply put, it is appropriate for the Board to include half of the entire cost of the swimming pool's construction in each year's Annual Budget and then levy assessments accordingly without the need for a vote of the Owners.

Question 2 – What about just refurbishing our current pool?

Because most of the major issues at the pool are underground, the only way to address all of them is by removing all of the concrete, along with the pool, and replace everything. So whether you call it a pool replacement or refurbish, there is very little difference.

Question 3 – What is the current status of the Pool?

At the end of the 2016 swimming season the pool was leaking so badly that we had to leave the water running 24/7 just to keep the pool operational. Additionally, we were not able to perform any of the planned leak checks due to the filter failing at the end of the season. It is currently not clear if we will be able to open the pool for the 2017 swimming season.

Question 4 – What are the next steps?

The Board and pool subcommittee have selected an engineering firm to layout the pool design and create a bid pack. This will allow us to get multiple pool companies to bid on the project and should help to drive down the price. The drawings that were shown at the 2015 HOA meeting were preliminary and the exact design will be determined by the engineering firm. The engineering firm will also be responsible for managing the project to make sure the pool company is meeting all of the requirements in the bid pack.

Question 5 – What is the timing of this project?

We hope to get started on the project in September 2017 with the pool opening the following summer.

Question 6 – What is the best way to stay informed about the pool project?

As always, we recommend contacting a Board member or a pool subcommittee member to get the facts. Additionally, we will be communicating updates as progress is made and posting information on the Welbourne Manor website.

The board realizes that this may be a financial hardship for some, and that's why we are trying to give enough of an advanced notice so people can plan their budgets accordingly. We encourage anyone having these hardships to contact the board directly to discuss further options.

Sincerely,

Welbourne Manor HOA Board

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