

## **TC HOA March Board Meeting**

**March 18, 2010 6:15 PM**

**Participants: Daphne Reitz, Don Lickteig, Gerald Clamors, Gayle Voyles, John Clock, and Cynthia Selder.**

The meeting was called to order by President Reitz at 6:15 pm.

### **John – Financials Update Report**

Specific questions? None

### **Delinquent Update –**

1 –court date; April 15<sup>th</sup>

2-middle of bankruptcy and foreclosure

3-passed away; foreclosure

4- late letter sent

5-investigating – 13C

What to do about \$10,000 in dues?

As we know no one has been able to track her down; investigator has been unsuccessful; attorney suggested to John Clock – HOA could foreclose on the unit – entails 4-6 months and cost about \$2,000. Don – How can we foreclose, when we don't hold the mortgage?

John – this is what I've been told –If it is something we want to pursue we should have the attorney come to a meeting to answer questions the board might have. For an HOA to foreclose; they would file a lawsuit –selling home on courthouse steps—when the sheriff is on the steps – the HOA bids the amount they are owed – we would bid \$12,000 – IF NO OTHER BIDDERS –TC HOA WOULD END UP WITH SHERIFF'S DEED – ORIGINAL OWNER WOULD NOT BE THE OWNER. She could claim as a homestead – give her 12 months to pay off the debt and existing dues. Just because we go through the process, we might not end up with the property. Once we knew that there was no homestead claim, we could file, become owner, change locks, and rent unit out to recoup past due hoa dues. We'd incur the costs from the water leak. Probably take \$5,000-\$10,000 to get it ready to rent. The original mortgage company would start the paperwork – waiting list – buried with foreclosures. More reasons to consider this process. After the original lender started their foreclosure – our renter would be asked to leave. The original lender's foreclosure would void our sheriff deed.

John: Bank of America, JP Morgan Chase – We believe hold the mortgages. The law firm that started the original foreclosure process has been called to try to get information. They gave Cynthia a phone number to call; a letter was sent telling them about the problem with the unit and we are doing what

we can to get a response. In KS, if someone lived there not paying dues they could live there for 12 months before we could do anything. We're between a rock and a hard spot.

Can we sue Bank of America (original) or JP Morgan Chase (second mortgage)? The individual is the owner, so not sure if we can go after the bank.

Gerlad – Checking for clarification --We could file lawsuit; sheriff sale, bid the amount of past dues; we would get the deed, but wouldn't own the property. The second mortgage would be voided; can't void the first mortgage company. They should take action and foreclose. Maybe the owner is paying the mortgage; just not the HOA dues.

John: We would then have the right to rent it out and earn rent and hoa dues. The original lender would eventually file a lawsuit – since the mortgage isn't being paid off. We might end up owing the taxes on the property.

John: Owed \$10,000 in back hoa dues; we wouldn't write a check to the Sheriff – so what is the purpose of the bidding at the Sheriff's sale? Because the homeowner owes us this money we don't have to pay that amount. It would allow us to get the deed and change the locks.

Board member question: How did Tom Scanlon get involved?

John, In January Tom Scanlon asked Cynthia if she was aware of the water damage. When a property is listed any realtor can show it. How did the initial real estate agent get involved – we're trying to find out who initiated this action. Bank of America is the real estate agent, but now doesn't want to be involved. He's washing his hands from it. He tried to get the bank to come in and clean it.

Another Board Member Question: What further dealings does Tom have with the property? The realtor said it was fine for Tom Scanlon to go in; Tom showed it again after the sign was removed.

6-late letter – over 90 days – late letter each month

7- late letter sent

8 – lien filed

9 and 10 – trying to file lawsuit ; trouble serving – non served filed on owner – unable to make contact with defendant – certified defendant lives at the address –mail hasn't been picked up for some tie. Attorney said to file alias summons to track down the individual.

11 – late letter sent

12 - lien

Daphne: We have enough on our plate to take on at this time. All board members present did not want to move forward with the proposed action for unit 13C. Keep the lien on it and hope the bank takes care of it.

Monthly dues are \$282; we will contain the mold to protect neighbors, but not to replace the floors.

Don- Why is it our responsibility?

Daphne: Section 10 gives us authority to go in and take care of mold or other issues

Don – If it goes into a neighbors' units they could have their insurance companies take care of it.

Daphne: Unsightly unit for sale on our property could potentially affect our property's value.

Don – It isn't our responsibility.

Gerald – If we go in and repair it we could add it to the lien. No guarantee, but we could do so.

Daphne – I would think doing it would be proactive.

John: Legal issue – It is our attorney's opinion that if the mold was on common walls we would have the responsibility. Since they are not on common walls, we don't (at this point). Word of mouth that HOA doesn't take care of property could reduce property values.

John – mold issues at another condo complex -- mold in crawl space – it is a limited common area – the HOA has spent thousands of dollars remedying their mold issues. I could contact this professional to see if he thinks there is danger that it would migrate into common wall.

Decision: John will contact the company he's worked with before regarding mold remediation to get an estimate on chances of the mold traveling.

#### **Cynthia's Issues/Action Report:**

Daphne: We're running out of time; read and ask questions of Cynthia later.

Revision Vote – Missing about 18 votes – Linda South has a plan.

We'll need to schedule another meeting to discuss other issues; wait until we get more information from John.

John distributed the attorney's letter concerning KS law related to political signs in homeowners' windows; homeowners can post political signs 45 days before and 2 days after the election. After two days afterwards it needs to come down.

The meeting was adjourned at 6:55 pm.