

Discussion Item

Contracts and Reserves

From: Ken Chadwick <kechadwick@chadwickwashington.com>
Sent: Friday, November 15, 2019 11:16 AM
To: Mark Miller <mmiller@parkfairfax.info>
Cc: Wil Washington <wwashington@chadwickwashington.com>
Subject: RE: AR4

Members of the Board and General Manager Miller:

It is our understanding that an issue has been raised regarding the Association's reserve accounts and cutting checks for repair or replacement expenses out of the reserve account. Specifically, as we understand it, there is a question as to whether for every reserve check cut there is a requirement for a written contract to exist for back-up purposes related to that expenditure out of reserves. Based on our review of the Association's recorded condominium instruments and applicable law, although there should be back-up for every expenditure made by the Association regardless of the source of the funds (operating or reserves), in order to prove the actual expenditure and the reason for same, there is nothing in the Association's condominium instruments, of which we are aware, or related to AR-4 that requires, mandates, or otherwise limits the Association to supporting the Association's expenditures solely by means of a written contract. Please note that in addition to written contracts, other acceptable back-up documentation for reserve, or other, expenditures might include, but are not necessarily limited to, invoices, receipts, separate payment authorizations by authorized party (architects/engineers, etc.), billing statements and vendor bills. Obviously, any expenditures out of reserves are intended and should be made for the repair or replacement of the capital components of the Association.

Please note that pursuant to Article III, Section 2.(l), the Association is responsible for keeping "books with detailed accounts in chronological order of the receipts and expenditures affecting the Property and the administration of the Condominium, specifying the expenses of maintenance and repair of the Common Elements and any other expenses incurred....All books and records shall be kept in accordance with at least good and accepted accounting practices and the same shall be audited at least once each year...." In addition, and especially with respect to reserves, Article V, Section 1. (d.) mandates that the Board shall "buildup and maintain working capital, operations, contingencies and replacements." Finally, the Treasurer of the Association, pursuant to Article IV, Section 7, working with the Managing Agent and the General Manager of the Association, is responsible for "keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data and be responsible for the deposit of all monies and other valuable effects....in such depositories as may from time to time be designated by the Board....

I hope and trust that I have been responsive to your inquiry. Obviously if the Board wishes to further designate further reporting requirement or standards on itself, it certainly can do so consistent with the condominium instruments; however, at this time there is nothing in the condominium instruments or in AR 4 that we have seen which requires expenditures from the reserve accounts to be backed up solely by a written contract.

Please feel free to call or e-mail me if you have any further questions.

BEST REGARDS,

KEN CHADWICK

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PARKFAIRFAX CONDOMINIUM UNIT OWNERS ASSOCIATION

ADMINISTRATIVE RESOLUTION NUMBER FOUR

CASH ACCOUNT PROCEDURES

**RELATING TO THE DEPOSITING, TRANSFER, AND
DISBURSEMENT OF ASSOCIATION FUNDS**

WHEREAS, Article III, Section Two, of the Parkfairfax Condominium Unit Owners Association Bylaws assigns the Board of Directors with " . . . all of the powers and duties necessary for the administration of the affairs of the Unit Owners Association," and further states that the Board of Directors " . . . may do all such acts and things as are not by the Condominium Act, The Declaration or by these Bylaws required to be exercised and done by the Unit Owners Association"; **AND**

WHEREAS, Article III, Section Two E of the Parkfairfax Condominium Unit Owners Association Bylaws requires the board to "collect the assessments against the unit owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors, and use the proceeds to carry out the administration of the property"; **AND**

WHEREAS, the Board of Directors deems it necessary to establish procedures for the handling of Association cash accounts;

NOW THEREFORE, BE IT RESOLVED THAT the following policies and procedures shall generally control the cash handling activities of the Association:

1. All cash receipts shall be deposited to the Association's credit in an interest-bearing account. The account shall be known as the "Parkfairfax Condominium Operating Account."
2. An account to be known as the "Parkfairfax Condominium Operating Account" shall be maintained from which the Association's obligations shall generally be paid. The account shall be funded by the Association from the Parkfairfax Condominium Operating Account on the basis of duly executed requests for funds from the Managing Agent which stipulate the authority, fund amount requested, and purposes. The account shall generally be maintained with a minimum operating balance of \$5,000.00, more or less.

All Checks drawn upon Association operating accounts, excluding any on-site checking account, shall be drafted by the Managing Agent. In addition to a representative of the Managing Agent, the Treasurer shall be an additional signatory on all checks over \$8,564.00 (two-tenths of one percent [.002%] of the total annual assessment for common expenses for Fiscal Year 1999). In the

absence of the Treasurer, the President shall be designated to sign all such checks and in the absence of both the Treasurer and the President, the Vice President shall be so designated. All Association accounts will, in any case, contain the names of the President and Treasurer as persons enabled to receive reports directly from the depository on such accounts.

3. An account to be known as the "Parkfairfax Condominium Imprest Account" shall be maintained with a maximum balance of \$5,000.00. The purpose of this account shall be to provide funds for C.O.D. deliveries, minor miscellaneous purchases, and for sudden unexpected needs. The signatory shall be as determined by the Managing Agent.
4. An account, to be known as the "Parkfairfax Condominium Capital Reserve Account" shall be maintained. No funds may be transferred from this account without the assent of a majority of the Board of Directors present and voting at a regular board meeting.

All checks drawn upon Association reserve accounts shall be drafted by the Managing Agent. In addition to a representative of the Managing Agent, the Treasurer shall be an additional signatory. In the absence of the Treasurer, the President shall be designated to sign all such checks and in the absence of both the Treasurer and the President, the Vice President shall be so designated. All Association accounts will, in any case, contain the names of the President and Treasurer as persons enabled to receive reports directly from the depository on such accounts.

5. Each Officer and/or Director having signatory authority with respect to cash accounts shall be bonded at the Association's expense in an amount at least equal to one-half the total annual condominium assessments for the current year, or the current amount required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greatest. The same shall apply with respect to the Managing Agent.