

The board had an emergency meeting to discuss the debt due from 36 Primrose Trail over the past 10 years and how to proceed. All board members were present except Nick Stires :

### **History:**

In 2006, John McCafferty of 36 Primrose Trail stopped paying his dues and shortly thereafter his mortgage and his income tax. The bank, the IRS and MKL all had liens on his property to secure these debts. The bank began foreclosure proceedings, but these were disrupted/delayed by the 2008 crash, the foreclosure moratorium of 2008 and the resultant glut of foreclosure properties. The house was abandoned, the bank "owned" it (by virtue of owning the mortgage), but the deed remained in McCafferty's name. We continued to bill him for dues and late fees.

In 2012 – 2015, he resolved his debt w/ the IRS. Then in 2015 he declared bankruptcy, wiping out any debt between us and him between 2005 and 2015. Bankruptcy doesn't wipe out his debt to the mortgage company/bank. Over the years the mortgage has been sold from one bank to another. In 2016, this and other mortgages were sold to a new bank in a bulk sale

The new bank (MTGLQ) proceeded more aggressively to complete the foreclosure. They offered us about \$3000 for our lien (\$11K at the time) associated w/ the post-bankruptcy debt. We countered that there was a larger old debt and we wanted \$50K to release our lien. They ignored us and proceeded to a Sheriff's Sale that transferred the deed from McCafferty to them. We got nothing. The Sheriff's Sale wipes out our remaining lien and any real ability for us to collect anything from McCafferty.

Because there is a new holder of the deed, we have a new member. We've billed them for a New Member Fee and for all the dues since they took over the deed and for late fees – about \$6K. They are complaining about the late fees but have paid the dues and NMF. We have ensured that the Real Estate listing includes the obligation for the next owner to pay yet another New Member Fee and \$3100 annual in dues. So good news! The house is back on a paying basis and the current owner is trying to sell it to what we hope will be a caring and attentive resident owner.

Our attorney advises us that we can go after the bank as the new owner to get some of the old debt. Our bylaws indicate that a new owner is responsible for any unpaid fees of a prior owner. NJ Supreme Court decisions support the ability of a home owners association to collect such fees in some cases. The process would be for our attorney to send a “demand letter” for the debt. MTGLQ has a right to ask for an accounting of the debt (and to contest it). After 30 days if there is no action on the part of MTGLQ, we file for a lien. There’s no way to know how much we could get, if anything, but if we don’t do this, we could be leaving a significant amount of the community’s money on the table.

The hope is that the bank will negotiate w/ us quickly. But they have other options. They can contest the debt, requiring legal action on our part – maybe extensive – they can ignore us, stop paying the current dues, take the house off the market and leave us w/ an abandoned property again. Even w/o the complication of the additional debt to settle, there do not appear to be a lot of interested buyers.

Either way, there are risks. Clearly, we all want to collect as much of the old debt as possible w/o jeopardizing the quick sale of the property to a caring and attentive resident owner.

**Conclusion:** After extensive discussion the majority of the Board was uncomfortable with the size of all the billings to date, \$100K. This amount represents more than 10 years of past dues, late fees and legal fees from both Lakeshore and MKLA. Most members of the Board were concerned that at that size our demand would be too large a portion of the total sale potential and would stall any subsequent sale of the property. Charlie called for a vote on whether to have the attorney send out the demand letter for a reduced amount (approximately \$40,000 – which would still cover past dues) and Joyce seconded the motion. The board voted 7 to 2 to send the letter. However, our original offer was for \$50,000 and the majority of the board members want to ask for that number. If we are unable to negotiate a settlement with the bank after 30 days (the time required before being able to put a lien on the property) the board will then vote on placing the lien on the property or permitting an unencumbered sale, so we can get a resident owner into the home as quickly as possible.

Postscript – The attorney by law must demand the full \$100,000 however the board agreed via email to send a second letter stating that we would accept \$50,000.

**Water update** – Next week the pipes for the 5-minute contact time should be started. The state is requiring that all 3 wells be tested to see if there is any influence from the lake or the stream or and, if there is, expensive remediation may be necessary to use any of these wells

**Beach update** – Chris Allen is working on the waiver and Alex Conte will assist when she comes back in September. Newton White is working on getting information on the cost and maintenance of lifeguards. We have plans and specifications for a new float that should exceed the health departments expectations, but Austen asked Fred to please send it to the