

## Sierra los Piños Property Owners' Association

950 Forest Rd. 10  
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www.slppoa.org

August 9, 2014

### To All of Our Neighbors in the Sierra los Piños Property Owners Association (SLPPOA):

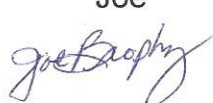
On July 25, 2014 a letter was mailed to all of you by a group of our members consisting mainly of ex-Board members of SLPPOA named the Concerned Members of SLPPOA (CMOS). The group consisted of Suzanne Star, Barbara and Ronald Van Ruyckvelt, Sabine Shurter, Kent Wolford, Jeff and Mary Moore, and Ed and Pauline Tatum. Unlike our conversations at the monthly meetings, this letter required a legal response (see attachment) from your newly-formed 2014 Board, and lots of volunteered time.


The overall allegation was that the Board was shirking fiduciary responsibilities to handle financial matters. CMOS unfounded allegations were that delinquent accounts had increased by 800% since 2009 and are currently at \$24,172. They insisted that the Board turn off the defaulted member's water service as a cheap and effective remedy, then publish their delinquency status in the monthly minutes. They said that no independent certified CPA audit has been conducted since 2009 in spite of the fact that the bylaws call for one every three years. They would like to see a certified audit performed by a CPA for the past four years above what we are currently doing. They claimed that they were denied their privileges/requests to review the books and other financial information, and in fact were scolded for intruding. They demanded quarterly comprehensive assessments of the Associations Books with six factors, including a general ledger.


The implication was then made that it was not important to the Board to provide financial transparency and prompt courteous communication to our neighbors. Please realize that the size of the typical SLPPOA budget is similar in size to what our own family budgets are relative to expensive audits, and recall that the current Board members are volunteers elected by the membership!

The attached more detailed response gives the list of CMOS allegations followed by the membership responses. This was sent to our SLPPOA lawyer and now to each of you and will be posted on our Web page.


The current Board members thank you for your understanding and forbearance. It is our honor and duty to provide courteous communications and be responsible to all of you, the best neighbors in the whole state!


Joe  


Stan  


Judy  


Eleni  


Peter  


Jack  


**Response to July 25, 2014, letter from six Association members addressed to SLPPOA Board and delivered to all Association members regarding delinquencies, transparency of financials, and compliance with Bylaw Process**

1. "Delinquencies have escalated from \$2,963 (2009) to \$24,172 (2014). This is an 800% increase in 5 years and equals at least 25% of our annual dues. "Uncollectable" amounts are currently almost \$7000. Due to the Board's reluctance to promptly and equitably enforce the collection process as per the bylaws, we endanger the financial health of the association. The financial burden of unpaid or uncollected assessments eventually fall on the members in good standing. Fewer funds can affect services and force special assessments."

Response: In 2009, there was no special assessment and the annual assessment was under \$600. Comparing apples to oranges or delinquencies before and after added special assessment is not a valid comparison. To show a more accurate comparison, we compared July 29, 2011, to July 29, 2014. With an annual assessment in 2011 of \$642.40 and just looking at the annual assessment for 2014, since there was no special assessment in 2011, the past due in 2011 was \$7,461.75 compared to \$6,942.51 in 2014. It should also be noted that the 2011 aging report indicated that delinquent members were NOT being charged the accurate, or in some cases, any late interest as required, so in actuality, the delinquent amount should have been higher. The total amount of collectable delinquencies for the 2014 annual and special assessments as of July 29, 2014 is \$14,237.13, not \$24,172.00, with payments still coming in. Six members, out of 155 lots (3.87%), with account balances over \$500 have been referred to the attorney for collections.

According to CNN money news, July 29<sup>th</sup>, 2014, "1 in 3 adults with a credit history – or 77 million people – are so far behind on some of the debt payments that their account has been put 'in collections'". According to Huffington Post, September 21, 2011, "the debt collection industry averages about 20% recovery on delinquent debt."

Our uncollectable amount is currently \$4,138.70, not almost \$7,000.00. This is due to one remaining, of initially four, foreclosures, which we can't do anything about. According to Attorney Hays, we have been very lucky in our foreclosure collections, as most don't collect anything.

2. "The Board has voted to bypass an official audit of the books. No independent certified audit by a CPA has been conducted since 2009 even though the bylaws state "cause an audit of the Association's books every three years or sooner at the Board's discretion."

Response: The Board did not vote to bypass an audit of the books, we voted to accept Sunland Management to provide quarterly reviews. See Article 7, Section 8. Sunland Management pulls the actual data file to perform their reviews. They can then see how money flows and ascertain the correctness of postings. They study the Balance Sheet and Profit and Loss Statements to make sure there are no items of concern that require discussion with the treasurer. As we've been informed, their study of our bookkeeping is complete and "painstakingly accurate." Sunland Management president has an MBA, has been in business since 1982, has 11 employees on staff, including CPAs, and has national client contracts.

Our bylaws do not require a "certified" audit by a CPA. Sunland Mgt. has stated that quarterly reviews are all we need since we're a simple "cash-in/cash-out" entity. A certified audit would be a large expense (\$7,000 – \$10,000) that isn't necessary because our current audits comply with state and federal law and with the Association Bylaws.

It should be noted that within the Bylaws, one section refers to "audit" and another refers to "review."

Article 6, Section 2(g) – "It shall be the duty of the Board of Directors to cause an audit of the association books every 3 years or sooner at the board's discretion."

Article 7, Section 8, Duties of Treasurer: "The treasurer shall cause and prepare a review of the Association books to be made at the completion of each fiscal year or at the completion of his/her term by (1) committee members appointed by the President from the membership at large, exclusive of board members, or (2) a public accountant."

It should also be noted that the Board of Directors has the authority to interpret the bylaws as stated in Article 6, Section 1(e) – "The Board of Directors shall have power to interpret the Restrictive Covenants and these Bylaws".

3. "We have attended board meetings to voice our concerns, and attempted to exercise our rights to review the books. We have received no satisfactory compliance from the Board to accommodate these member privileges/requests for financial information and have been ignored or scolded for intruding."

Response: We have provided review of books, and are following our Bylaws which state: "The books, records, and papers of the Association shall at all times during reasonable business hours be subject to inspection by any member." On three (3) occasions in the past year, members made the request to review the books and all were granted that request. On two of these requests, the member requested copies of records but were not allowed to get hard copy of documents that contained personal account information. This is compliant with our Bylaws and Attorney Hays' legal interpretation. Minutes from January 14, 2014: "The aging Summary is not an official record and in fact contains very private information. " A member asked what is classified as proprietary and suggested that the bylaws do not specify proprietary limitations. Another member requested a legal opinion on the matter, specifically whether the bylaws state that members have access to all records of the association and if there is anything as far as individual records considered as proprietary that would put the association at risk. Our attorney agrees that Personal Identifiable Information (PII) may be withheld.

Members of the community are encouraged to attend meetings and welcome to bring forth issues. Procedures include contacting the board to be put on the agenda and then are given 5 minutes to discuss the issue, and according to the Bylaws "will have no vote and may speak to the Board only upon invitation by the President." The president does have the authority to terminate disruptive commentary.

4. "Initiate remedy(s) in a timely manner as provided in the bylaws when a member is in default of payment of any assessment levied by the Association. We are not aware of any case where water service has been turned off even though the bylaws allow this cheap and effective remedy. Provide in the monthly minutes an update on collections progress and process for those unable to keep up with their obligations."

Response: Yes, our Bylaws need to be revised, but we are following them. In the monthly Board Meeting minutes we provide information on delinquencies, BUT NOT PII. Water service has been turned off in unoccupied properties which are delinquent. As per our attorney, the Board has the option to not use the water shutoff option. We will not disregard basic human needs of water.

5. "Employ an independent CPA to provide a certified audit for the last 4 years of our financial management."

Response: See comment under response number 2.

6. " Provide in the minutes (at least quarterly) an attachment with comprehensive overview of the Association's books which includes: delinquency report, statement of income and expenses, cash disbursement ledger, general ledger, comparison of actual and budgeted cash flow, and quarterly reviews from our accountant."

Response: On our NEW website, we, in early July, posted the following documents: Budget & Expenditure Worksheet, which includes a page with monthly income and bank account totals (which covers your request for statement of income and expenses, cash disbursement, actual and budgeted cash flow), with monthly and year-to-date totals broken out by budget categories. Also posted is the Profit and Loss Statement and Balance Sheet. We cannot provide general ledgers as they contain PII. We already include a delinquency report in the monthly minutes. We did not post to the old website as there was a tremendous loss of information and we are working to get the new website up and running.

**It is our honor and duty to provide transparency and courteous communication to our SLP members.**

Very truly yours,  
SLPPOA Board  
Cy: Attorney Brad Hays