

TO: MEMBERS OF SEAWAY COLLECTION HOMEOWNERS ASSOCIATION

FR: STANLEY FELDSOTT OF FELDSOTT & LEE, a Law Corporation

RE: MID-YEAR ASSESSMENT INCREASE

Dear Members of Seaway Collection:

I serve as general counsel for your Association. Enclosed you will find a Notice of a Mid-Year increase in the amount of \$20.00 per month, bringing your regular monthly assessment to \$210.00 effective July 1, 2010.

The sole purpose of this increase is to reimburse your Association's reserve fund which was borrowed against in 2007 and is currently under-funded. This under-funding not only impacts the Association's ability to meet its obligations under the Covenants, Conditions and Restrictions, but also negatively impacts the salability of a home as well as the availability of financing.

Back in 2007, the then Board of Directors transferred \$126,879.00 from the Association's reserve account to cover operating expenses. The Davis-Stirling Common Interest Subdivision Act (ACT) empowers Boards to temporarily transfer monies from the reserve fund to meet short-term cash flow requirements. However, the ACT imposes a number of requirements that need to be met before any such transfer takes place. None of the requirements for making such a transfer would appear to have been met. Specifically, a repayment plan was never created.

This reserve borrowing, while noted in footnotes of earlier audits, came fully to light in the 2009 financial audit of the Seaway Collection Association. The ACT imposes upon your current Board of Directors a fiduciary duty and responsibility to the Association to remedy this problem. Mindful of current economic conditions, a lot of time was spent examining the different ways to pay back the reserve fund monies in a manner least burdensome to the homeowners. The final decision was this temporary monthly assessment increase of \$20 per month, per household. Please note that this increase is solely for the purpose of reimbursing the Association's reserve fund and will be used to repay past borrowing. It will not be used for other purposes. This debt repayment will be carefully tracked on the financial statements of the Association.

I hope each of you will understand that the current Board is doing the very best it can to resolve this in the best possible manner. If you have any further questions or concerns, please contact Lisa Weber, MERIT Property Management at 949-448-6115 or [lweber@meritpm.com](mailto:lweber@meritpm.com).

Very truly yours,

FELDSOTT & LEE