

## **A FEW WORDS ON YOUR HOMEOWNERS' FEES**

**Brian Hawrelak, President, Blackburne Creek HOA**

Your annual dues as members of the Blackburne Creek Homeowners' Association (the HOA) will be coming due in July of each year. For those of you who aren't aware of the role and functions of a Homeowners' Association, here is a quick primer.

Without going into a long history, homeowners' associations are an offshoot of the community planning movements that started in the 19<sup>th</sup> century but actually took hold in the latter half of the 20<sup>th</sup>. Essentially, developers wanted to market their new communities as having certain qualities that would not die with a change of ownership of each unit in the development. They would therefore build these communities according to certain 'design guidelines' but don't be fooled by the term 'guideline' as these are much more specific than the word implies. They would then attach restrictive covenants to each property in order to ensure that the quality of the neighborhood would not be compromised by homeowners who liked a different color of fence or a different kind of roof, etc.. These covenants were attached in perpetuity.

Management of the association was then passed onto a Homeowners' Association who had the same rights and responsibilities as the developer did. Generally, although residents of such communities lose some of their individual 'rights', they benefit from higher property values that are associated with planned and controlled neighborhoods.

In order to maintain the quality of the neighborhood, membership dues or fees are assessed on each property. In Blackburne Creek, the HOA strives to keep fees to what is needed to maintain the neighborhood in a condition acceptable to the members. As with any association, money is needed to keep the neighborhood in shape and for this reason, a large portion of our annual budget is spent on beautification (maintenance and projects). We also set aside a sum of money for our playground renewal, front yard contests, neighborhood parties, and of course, administration costs (for web site hosting, meetings, land title searches, insurance, office supplies and postage, and accounting) are always a part of any association's budget.

Nonetheless, as small as these fees are, they are not voluntary nor are they trifling as they have the same force as a mortgage on your property. As the Board firmly believes that responsible members should not be burdened by those who choose not to pay their fees, it has been our practice to vigorously pursue delinquent accounts. We do so through a policy that combines reminder notices, a collection agency, and finally, court action.

Prior to using a collection agency and the Court for overdue accounts, we had a chronic collection problem. This has, for the most part, been alleviated although every year there are still a small number of homeowners who either forget (it's not hard is it?) or refuse to pay their fees for whatever reasons. The forgetful ones are of course forgiven (with interest and costs accrued to date) as soon as they repent but the refusers are a different problem. As the law is quite strict with respect to the 'latitude' (we essentially have none)

that a HOA has in collecting its fees, we must move for recovery within quite a short time.

In this regard, we have sued homeowners in our neighborhood over the past several years, obtaining judgments of close to \$1,000 and even as high as \$2,400 (representing delinquent fees, interest, and legal costs) registered on their titles. These judgments cannot be removed without payment to the HOA as well as the additional costs necessary to remove the judgment. Further ramifications can arise if the homeowners' banks discover that they are now second payees (such judgments may take priority over mortgages), which has triggered foreclosure action in some situations, not to mention the damage to one's credit rating should their banks take that action. Finally it is open to the HOA to institute garnishee, seizure, or other collection proceedings if necessary to collect on the Judgements.

All in all, the Board is baffled when one or two of its members allow a \$90 problem to turn into a \$2,000 problem, and we make no apologies for endeavoring to keep ours a well run and responsible HOA. I trust you will find this article informative and the Board wishes to thank the members of the Blackburne Creek Homeowners' Association for their positive support and timely payment of their obligations as members of our neighborhood.

31 March 2018