

**RIVER PLACE EAST  
BOARD OF DIRECTORS' MEETING  
Tuesday, August 26, 2003  
MINUTES**

**Place of Meeting:** River Place West Party Room  
1111 Arlington Blvd.  
Arlington, VA

**Board of Directors Present:** Mr. Anthony Priest, President  
Mr. Brian Fredericks, Vice President  
Ms. Mary Jean Schmelzer, Secretary  
Mr. William Johns, Treasurer  
Mr. Stevenson Clarke, Director  
Ms. Joyce Newell, Director  
Mr. Thomas Vassar, Director

**Management:** Mr. Joseph Tata, Building Manager

**General Counsel:** Mr. James Zelloe

**Residents/Shareholders:** Mr. Fred Siebold #1209  
Mr. Frank Schmelzer #1210

I. **Call to Order:** Mr. Priest called the meeting to order at 6:10 p.m.

II. **Approval of Minutes.** Minutes were approved as read.

III. **Treasurer's Report:** Mr. Johns reported that the new accounting system is in the process of being implemented. The process of interesting the North and West buildings in joining the East in sharing the new accounting system continues and Mr. Johns has done two demonstrations for them.

IV. **Secretary's Report:** Ms. Schmelzer reported that the list of owners of record and all exclusions will be available August 27, 2003 in the management office.

V. **OA Report:** Ms. Schmelzer reported that the OA meeting August 25 was dominated by questions regarding the fire in the Entertainment Center. The rep from Traveller's Insurance attended and answered questions. Melinda Nichols, OA property manager, reported that the investigation by the fire department was not yet complete and that the insurance company investigations cannot commence until it is. She cautioned that it is unlikely that the EC would reopen before Christmas. Drains will be added to the MP garage to eliminate standing water. The garages were never designed to be carparks.

The lack of drains has led to serious deterioration as standing water freezes and thaws. Painting of the garages will follow the drain project and is likely to happen in the spring. Mr. Johns asked if the broken bollard had been fixed and Ms. Schmelzer replied that it had. Mr. Vassar asked about the status of the insurance claim that was made in February to cover damage sustained in the flood of January, 2003. Ms. Schmelzer replied that to her recollection it should have been paid in June, 2003 and that she would make inquiries. Mr. Vassar also requested a copy of the submission. Ms. Schmelzer will ask Ms. Nichols to provide this information.

## **VI. Management Report:**

**Dishes:** Mr. Tata reported that two dishes have sprouted. One dish is on the balcony of 1214. The shareholder has asked Mr. Tata to contact the tenant and to ask the tenant to either remove the dish or to bring it inside the owner's side of the plane of the balcony. There was discussion of a mystery dish that appeared a couple of months ago on the roof. Mr. Tata traced the wire to an entrance point over the door of Landmark Realty. The day following the discovery of the wire, it was noted the dish had disappeared.

**Shareholder Information Sheets:** Mr. Tata reported that we have 239 returns of a total of 464. There was discussion of how to increase the number of respondents. Mr. Fredericks pointed out that the submission is not voluntary, but mandatory and intended to aid in the good management of the corporation. Mr. Priest requested an electronic copy of the names of those who have not responded.

**Comcast:** It has been two years since Comcast installed digital cable in the building, yet the 11<sup>th</sup> floor trash room remains hazardous to residents. Mr. Tata reported that there have been six appointments in the last six weeks, all of them broken. The old box remains in place with no door and the wires come out 8 to 10 inches into the small space. The next message to Comcast should come from Counsel. Mr. Tata was directed to tell Comcast this is a safety issue and Comcast may have claims against their insurance carrier.

**Insufficient cooling.** Mr. Tata reported that several residents had complained of insufficient air conditioning. The Densel Company has provided a proposal for cleaning the cooling tower, to pull the condenser head and punch the tubes and to provide and install a new condenser water differential pressure control for \$2,549.00. There was discussion of the merits of this work, especially its effect on the ability of the system to cool the building.

**MOTION: Ms. Schmelzer moved to approve the Densel proposal in the amount of \$2,549, seconded by Ms. Newell. Motion passed unanimously.**

**Vacation:** Mr. Tata requested three weeks of vacation, beginning September 1, 2003 with him returning to work on September 22, 2003. There was no objection to this request. William Johns agreed to look into Mr. Tata's accumulated leave and sick time to

zero out his accrued vacation. His vacation time, sick leave and health insurance were reconciled.

VII. **Unit Sales:** Mr. Priest presented units 511, 543, 723, 942. Paperwork for three of the units was filled out properly.

**MOTION: Mr. Fredericks moved that the board approve 511, 543 and 723, seconded by Ms. Newell. Sale for 942 was approved contingent upon completion of proper paperwork.**

Mr. Fredericks suggested that the manager provide a matrix of the pertinent information for the proposed sale: the unit, the buyer, the price and so on. Mr. Vassar suggested we need a check list.

### VIII. Old Business

#### A. **Bylaw Change:** Sect. 3.1 – Qualifications to Serve on Board.

(2) For purposes of this subsection only, notwithstanding the number of shares owned or how they are owned or the number or units for which the Shareholder has proprietary leases, no Shareholder may hold more than one (1) position on the Board of Directors at any one time. Shareholder means a natural person or non-natural , legal entity (for example, but not limited to partnership, corporation, limited liability company). A non - natural , legal entity includes any and all affiliate(s). All affiliates includes , but are not limited to a person , estate, trust, corporation or other legally -created entity that directly or indirectly is owned or controlled by the shareholder (the shareholder has the power to vote direct , or in any way control the affiliate).It also includes an entity that operates or controls the shareholder or the property of the shareholder pursuant to the terms of a lease or other contract. A spouse, significant other, partner, or family member of a Shareholder may not serve on the Board at the same time. This provision is intended to provide the broadest possible participation in the management of the business affairs of the Corporation.

There was discussion of the meaning and intent of this Bylaw change. Counsel provided guidance on the intent: that only one person from a marriage, a relationship or a corporation may have a seat on the board. Mr. Vassar questioned the legality of the Bylaw. Mr. Zelloe affirmed it, stating there is no violation of Virginia code. Mr. Vassar suggested that the strictures concerning affiliates violates the co-op act and the judicial corporation act.

**MOTION: Call the question by Mr. Johns, seconded by Ms. Schmelzer. Call for question passed (4-3). Amendment passed four to three with Mr. Vassar, Ms. Newell and Mr. Clarke voting against.**

B. Executive Session to discuss the audit from 7:22 p.m. to 7: 34 p.m.

C. **Penthouse HVAC.** The schedule of HVAC replacement was agreed to as attached. Notably, corner units are replace with 3-ton units and non-corner units with 2.5-ton units.

**MOTION: It was moved by Mr. Clarke that the HVAC policy be approved as written but that 1202 be replaced in FY 2003/04 rather than FY 2004/05. Motion passed unanimously.**

D. **HVAC/Riser update.**

Mr. Tata said that two more risers need to be replaced this fiscal year. Mr. Fredericks and Mr. Johns requested a summary of what has been done for riser repair and replacement. Mr. Fredericks stated that he believes we have completed insufficient riser replacement and that an accelerated program of replacement might make the air conditioning work better.

E. **Letter to Shareholders – Annual Meeting Change of Venue**

Mr. Priest presented a letter to shareholders announcing the change of venue for the Annual Meeting September 10, 2003, due to the Entertainment Center fire. The letter includes a quick update of the audit status, maintenance projects of the board and bylaw amendments. Mr. Vassar made editorial suggestions.

IX. **Annual Meeting:** There was discussion of how to configure the party room in the West for those attending the annual meeting.

X. **New Business**

A. **Inspection Charges**

The amounts charged for the inspections which were required by the Housing Corporation are in dispute. Inspections of some units for wiring and plumbing workmanship was required as part of the efforts of the Priest Commission to settle multiple issues in 2002/2003. No record was kept by the Housing Corporation of the time spent to inspect each unit. A system to average these costs was spread throughout the units. However, some owners kept a record of the time spent in their individual units and these charges did not tally with the bill presented to these shareholders by the corporation. A strategy to settle the issue of unsubstantiated totals was presented by Corporation Counsel, James Zelloe.

In order to set the matter to rest, Mr. Zelloe suggested that the most equitable resolution would be to give a credit to those who paid for the inspections.

There ensued a spirited discussion of the issues leading to the inspections, the legality of the inspections, the court case, the global settlement, the findings of the Priest Committee and the nature of good faith arrangements.

**MOTION: Mr. Johns made a motion that the Housing Corporation issue credits back for all the inspections made in 2003, seconded by Ms. Schmelzer.**

After some discussion it was deemed prudent that Mr. Fredericks abstain from such a vote until Mr. Zelloe has had time to inspect the global agreement at greater depth. Mr. Johns removed his motion from the table.

**B. Bylaw Change, Art. 2, Sect. 2.7 – Fictitious Name**

(d) In the event a Shareholder owns a business at River Place under a name other than their personal name(s) or under an assumed, trade or fictitious name, such Shareholder (s) shall not be included on the voting list and shall not be entitled to be a candidate for election to the Board of Directors unless by no later than the Remedy Deadline, the Shareholder(s) has duly filed a Certificate of Assumed or Fictitious Name as required by the laws of the Commonwealth of Virginia.

The intent of this provision, according to its author, Tom Vassar, is to require non-corporate entities to operate according to the same requirements as identities as corporations, like trade names. Mr. Zelloe gave the example of Doctor's & Associates which trades as Subway. Under this provision, Doctor's & Associates would need a fictitious name certification saying that it trades as Subway. In the case of a person we should know if a shareholder owns units under his/her name and under a company name at the same time.

**MOTION: Mr. Vassar moved that we adopt the Fictitious Name Bylaw change, seconded by Ms. Newell. Motion failed.**

**ByLaw Change Art. 11, Sect 2. Approval of Unit Transfers.** Proposed By-law Amendment: The following sentence is to be added at the end of the existing paragraph: The President of the corporation, or the Vice -President or Secretary if the President is unavailable , shall have the authority to approve and sign any applications for the transfer of shares.

This provision is intended to simplify and speed unit transfers. The need for more expeditious unit transfers was discussed. Members of the board expressed their desire for collective visibility on unit transfers. Ms. Newell made the point that we have been the furthest thing from a coop for 20 years, having sprung from a rental property. Other board members believe that we are a coop in law and need to be a coop in practice. Mr. Johns stated that we need to know who is living in our building. Ms. Newell said that if we are going to go to trouble ourselves to know a shareholder, should we not do the same for tenants. Many agreed that the Board needs to organize itself to review tenants. Others stated that this process might be cumbersome for the Board. The amendment failed.

**C. ByLaw Change Art 3, Section 3.8 – Waiving of Bylaws by the Board of Directors of the Housing Corporation.**

(e) Notwithstanding any other provision of these Bylaws, the Board of Directors may, for good cause , waive a requirement of these Bylaws on a case by case basis by a majority vote of the Directors present at a meeting of the Board of Directors.

There was discussion of the potential for abuse of such a provision. However, judgement on the legality of this Bylaw is reserved for an opinion by Counsel. Counsel Jim Zelloe recommends against passage stating that a Corporation may not violate its own Bylaws. Amendment failed.

**XI. New Business**

**A. Damage to Apartment 1215 from water intrusion.**

Damage to this unit was caused by water intruding into the unit from the outside closet wall. The water entered thorough the closet and pooled in the bedroom floor under the rug. One estimate is in the amount of \$5,000 to repair the interior of the unit. Mr. Johns volunteered to work with Ms. Newell to spec out the job and get more bids.

**MOTION: Ms. Schmelzer moved that up to \$5,000 be spent to repair #1215 with the selection of a final bid by Mr. Johns. Seconded by Ms. Newell. Motion passed.**

The next Board of Directors meeting will be Thursday, September 25 at 6:00 p.m.

**Meeting adjourned at 9:44 p.m.**