

MEMORANDUM (2014-2-M)

FROM: THE BOARD OF DIRECTORS FRESHWATER ESTATES PROPERTY OWNERS ASSOCIATION

DATE: March 10, 2014

SUBJECT: Fees Related to the Use of the Common Area Boat Docking System

The Freshwater Estates Property Owners' Association (FEPOA) hereafter referred to as the "Association" Board of Directors (Board) has been actively examining its decision-making processes concerning fees associated with the use of common area docks. The Board's objective is to ensure fees are levied and collected from all FEPOA members in a fair and equitable manner to address: 1) maintenance costs, and 2) maintain an adequate reserve fund for when the decking and pylons reach the end of useful life or sustains a catastrophic event.

This subject matter was first published in the agenda as an item to be addressed by the Board at its working session on July 12, 2013. Subsequent notifications were addressed in agenda's for the August 17, 2013 working session, September 14, 2013 Board meeting, October 19, 2013 working session, November 16, 2013 working session and finally the January 11, 2014 Board meeting. All agendas and corresponding meeting minutes have been available for members to question and/or provide feedback to the Board relative to these endeavors. All of the past two years' agendas and meeting minutes are posted on the Association website at www.freshwater-estates.net. The Board is committed to assure that all FEPOA members are afforded an opportunity to be constantly informed of the Boards activities to establish a dock maintenance fee, learn of the methodology considerations given to establish an annual fee, and present feedback relative to the subject of dock maintenance fees.

The FEPOA Declaration of Covenants, Conditions and Restrictions (Declaration) Section 8, Property Owners' Association, reflects in part the Association shall be responsible for maintenance of all common areas and recreational facilities. The Association has the authorization to establish and collect fees to provide adequate financial resources to maintain the docking system.

The Code of Virginia, Chapter 26, Property Owners' Association Act (POAA) requires compliance, in part, with Title 55, Section 509.3, Association charges. Specifically, except as expressly authorized in this chapter, in the Declaration, or otherwise provided by law, no association may make an assessment or impose a charge against a lot or a lot owner unless the charge is a fee for services provided or related to use of the common area. Section 55-514, Reserves for capital components, requires, in part, the Board to make any adjustments deemed necessary to maintain reserves, as appropriate., Currently, the FEPOA docking system consists of 100 boat slips, a ramp and a boat launch dock. The slips are of two types: seven (7) assigned as guest slips A through G, and 93 slips conveyed by VA Timberline, Real Estate Developer of Freshwater Estates (Freshwater), by means of a Boat Slip Agreement to serve specific purchased lots within

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Freshwater. The use of a boat slip was included in the sales price of the Freshwater lot. The Boat Slip Agreement authorized Timberline to grant and convey to purchasers of specific Freshwater lots the exclusive use of a boat slip for which the lot purchasers agree to maintain in the condition which it was transferred by Timberline. Sellers of Freshwater lots have no rights of ownership or use of the designated boat slip once the lot attached to the slip is sold. The Boat Slip Agreement shall survive the closing of respective lots and shall not merge into the deed conveying said property, but remains as a separate and distinct agreement per lot.

Since 2002, maintenance costs related to the common area docks have been funded solely by annual dues collected from all members of the association in deference to exclusive use of slips assigned to specific FEPOA lot owners. In developing a specific maintenance fee, the Board considered the square footage for the entire docking system which comprised the individual boat slips and the main dock areas. After determining a replacement cost per square foot this was multiplied by the number of square feet and divided by the number of owners assigned boat slips. The Board determined that this replacement cost was the responsibility of the boat slip owners (100%). The Board then determined that the Boat Slip Owners were 50% responsible for maintenance cost of the main dock walkways and that the General Fund would be responsible for the remaining 50% plus the Boat Launch Ramp, Dock and the square footage that comprised the seven (7) Guest slips.

The Board has been conducting a review of the 2009 Common Area Reserve Study (Study) which was last updated in November 2012 in relation to information and costs received concerning the dock system. The Study determined that a reserve funding balance of \$13,800 would be required by July 1, 2012. By July 2017, the Study calculated a \$67,465 balance would be needed to replace the decking with wood. Conversely, if a composite material is considered for replacement, a total of \$96,150 would be required in July 2017.

In November 2013, the Board obtained a second opinion for cost replacement of the decking from a representative from Purcell's Lumber who estimated the replacement cost using a composite was \$51,321.11 for materials alone. In order to achieve its goal the Association then needs to collect and set aside \$19,230 annually from July 2012 to July 2017.

Until such time the Board updates the 2012 Common Area Reserve Study, the following annual maintenance fees will be collected from all FEPOA members effective April 1, 2014:

\$150 per lot having an assigned boat slip. This amount will generate \$13,950 annually from all 93 lots having an assigned boat slip; approximately 10% will be taken from the general funds to maintain 50% of the main docks, the 7 guest slips, and launch dock - this amount will generate \$2,950 annually as a distribution from the General Operating Account. Costs for work on the boat launch ramp were not included in this calculation.

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FEPOA members having an assigned boat slip will be receiving a billing for the Dock Maintenance account in April 2014. The Association will continue to collect funds at the above rate until specific data is obtained to render a decision to raise or lower rates.

If you have questions that you would like addressed by the Board, please attend a special informational session being held prior to the next Board meeting. The informational session will be held from 9:30-10 a.m. prior to the April 12, 2014 regular Board meeting, which is at 10 AM at the Louisa County Library.