

Memo

To: Art Nemiroff
From: Bill Wethe, Chair, Finance Advisory Committee (FAC)
cc: Kim Fuller, Carey Thompson: FAC; Tyler Ingle; Vanessa Ayon
Date: March 9, 2021
Re: Financial Transparency – Condensed Financial Information published monthly in *The View*

Thank you for your email communication dated from March 6, 2021 regarding the referenced subject. A copy of the content of your communication is below:

Hello again, Bill,

I've just received the annual audit report on our HOA from Brabo & Carlson, LLP. It looks like they've done a good job.

I would like to point out that they, appropriately, specify what they opine on and what they don't, in this case supplementary data that they have not applied the same audit procedures as they have to the basic audit of the financial statements.

Included in the basic financial statements, NOT as supplementary data, are both the operating results for the food and beverage, as well as the golf, both of which are material, by any judgement, to the operations of our HOA. The golf revenue represents 17.5% of our total revenue and the expenses represent 31.74% of our total expenses. The food and beverage operations reflect revenues representing 5.8% of our total operating fund revenue and 9.6% of our total operating fund expenses, combined generating a loss of \$2,219,738. Put another way, instead of having an operating profit of \$254,357, without the losses we would have had a profit of \$2,474,095.

Let me be perfectly clear - I am NOT in any way advocating for elimination of these amenities, which I highly value, as I'm sure you do too. Having said that, it is crystal clear to me that our disclosures, on a monthly basis in the View are inadequate to accurately inform the readers of such magazine, as to a material part of our operations on a timely basis. We all know, and in fact I believe you have supporting data based on hits to our website, that the majority of our homeowners read the View far more than they read about our finances on our website. Also, we all know that the View is quite a popular

“sales tool” in the real estate community. I am not a lawyer, but I would not want to have to defend our non-disclosure to a disgruntled buyer or real estate agent.

We should all be proud of the operating results and the reserve funds that have been built up here, certainly with the attention and efforts of the Board and the Financial Advisory Committee. Why continue not to disclose, as a line item, those results on a monthly basis in the View? The numbers absolutely are material to our operating results by any measure.

I hope you will give this the serious consideration it deserves. In fact, I hope you’ll discuss it with our outside auditors.

Once again, I remain respectful and appreciative of all the time you devote to our HOA,

Response:

I have reviewed the content of your communication with the Treasurer and the President of the Association. We reviewed our current policy previously approved by the Board and reaffirmed by the Board in a meeting with them on January 25, 2021. Our conclusion on your suggestions has not changed since my response to you dated February 10, 2021, a copy of which is attached to this memo.

In addition, I wanted to comment on the following other items:

- Adequacy of financial information available to Members of the Association. See **Adequacy** below.
- Availability and timing of monthly financial statements and condensed financial information. See **Timing** below.
- Financial information furnished to potential purchaser of a unit in escrow at Sun City Shadow Hills. See **Info to Seller** below.

Adequacy

As you know, the condensed financial information published monthly in *The View* is not the only financial information available to all Members of the Association. There are substantial additional financial statements and financial reports as noted on pages 2 and 3 of my memo to you dated February 10, 2021 (pages 6 and 7 of this memo). If the condensed financial information was the only financial information available to all Members, then I agree with your suggestion more detailed information would need to be included in what is published monthly in *The View* including the items you note above as well as other significant Operating Fund expenses including but not limited to:

- Landscape maintenance
- Security
- Personnel costs reimbursed to Desert Resort Management, Inc. (DRM)

The condensed financial information published in *The View* is a courtesy to the Members and is not intended to take the place of obtaining and reading the monthly unaudited financial

statements that have been prepared, reviewed by FAC, and approved by the Board. The Member is advised to access all of the financial statements at the website of the Association. Should a Member not have internet access, the Member can request printed copies from the management office of the Association. Complete, unaudited monthly financial statements for all operations of the Association are available to each Member of the Association to review the financial position and results of operations after Board review and approval at a meeting in open session.

Timing

Publishing of the two-page condensed financial information in *The View* occurs:

- After approval of the Board of all of the unaudited financial statements and reports in open session which is usually the fourth Monday of each month during the calendar year.
- As of the first day of the third month following the close of the monthly financial statements assuming the Board approves the report (cut-off for publishing is the fifth day of calendar month preceding the month of publication).

For instance and by way of example, the unaudited financial statements as of February 28, 2021 and for the two months then ended will be on the agenda for the Board to approve in open session on March 29, 2021. Assuming the Board approves the unaudited financial statements in open session, the two-page condensed financial information will be published in the May 2021 issue of *The View*. All of the unaudited financial statements including the two-page condensed financial information will be posted to the website of the Association as of April 1, 2021, a full month before the same information is published.

Should a Member in the Association desire current information about the results of operations of the Association including the actual vs. budget results of the golf and F&B operations, there is substantial information that is readily available and accessible well before publishing of condensed financial information in *The View*.

Info to Seller

Your comment, the first full sentence at the top of page 2 of this memo, was of concern to me. So, I want to advise you of certain information that you may not be aware or do not recall related to disclosures of financial and other information to a prospective purchaser of a home. Fortunately, there are laws in effect that afford protection to a seller, a buyer, and the Association.

I followed up with the Assistant General Manager of the Association to confirm the process in place regarding what financial and other information is furnished to a prospective purchaser of a unit for sale in Sun City Shadow Hills (SCSH). The management company, DRM, follows Civil Code Sections 4525, 4530, and 4528. A brief explanation of each section is summarized below together with links to further, more detailed information on each item.

Briefly, Civil Code Section 4525 requires an owner of a property within SCSH (i.e., the Seller) to provide certain information and documents to a prospective purchaser within the specified time frame (see Civil Code Section 4530 below). As I am sure you know, the Association is not a party to a contemplated purchase/sale transaction. However, in order for the Seller to provide the prospective purchaser with the required documents, the Association is obligated to furnish those documents to the Seller or to an authorized representative of the Seller (i.e., an Escrow Agent).

Briefly, Civil Code Section 4530 specifies the timeframe that the Association must provide the requested information and documents (see Civil Code Section 4528 below) to the Seller.

The information and documents required under Civil Code Section 4525 are itemized on the form described in Civil Code Section 4528. Upon the written request of the Seller, the Association is required to furnish all the requested documents. A copy of the one-page form described in Civil Code Section 4528 is attached to this memo.

Included in the information and documents to be provided by the Seller to a prospective purchaser are:

- A copy of the most recent annual budget, including reserve study required by Civil Code Section 5300.
- A copy of the most recent financial statement review required by Civil Code Section 5305. In the case of SCSH, this is the annual audited financial statements.

Both of these financial reports contain the most recent Board approved budget for the current year and the most recent Board approved audited financial statements for the prior calendar year including, among other items, the revenues and expenses of the golf and F&B operations.

The Seller can also furnish to the prospective purchaser interim, unaudited financial statements that are posted on the website of the Association. In addition, the Seller can and has asked questions of DRM or FAC should the prospective purchaser have additional questions. DRM or FAC has responded to those requests in a timely manner.

Links to additional information on Civil Code Sections 4525 and 4530 are below.

See [Civil Code Section 4525. Disclosures to Prospective Purchaser. | FindHOALaw](#)

See [Civil Code Section 4530. Escrow Documents Provided by Association. | FindHOALaw](#)

See attachment for Code Section 4528.

Memo

To: Art Nemiroff
From: Bill Wethe, Chair, Finance Advisory Committee (FAC)
cc: Board of Directors (Board); FAC; Tyler Ingle; Vanessa Ayon
Date: February 10, 2021
Re: Financial Transparency – Condensed Financial Information published monthly in *The View*

Thank you for your email communications dated from January 16, 2021 through January 21, 2021 regarding the referenced subject.

I have discussed the content of your communications with the members of FAC as well as the members of the Board. I have prepared a summary of your suggestions which is included further below in this memo. See **Suggestions** below.

The purpose of this memo is to advise you of the conclusion of the members of FAC at their meeting on January 22, 2021, their recommendation to the Board to January 25, 2021, and the current decision by the Board. At this time, FAC and the Board have concluded that the current format and content of the condensed financial information published monthly in *The View* will remain unchanged.

I appreciate your input and suggestions. I have also included other relevant information below in this memo which was considered by FAC and discussed with the Board including the following items:

- A discussion on what condensed financial information was published monthly in *The View* and when and why that changed. See **Current Process** below.
- A review of what additional financial reports are prepared and posted to the website of the Association after approval by the Board. See **Other Financial Statements** below. FAC is of the opinion that there are substantial financial reports available to owners should they desire more detailed information on the condensed financial position of the Association or the condensed results of operations of the Association.
- A review of the financial reporting requirements applicable to the Association as set forth in the Davis-Sterling Act. See **Financial Reporting Requirements** below.

Suggestions

Summary of suggestions from your communications to report additional information in the unaudited Statement of Revenues and Expenses included in the Condensed Financial information published monthly in the Treasurer's Report section of *The View*:

- Report golf revenues and F&B revenues as separate line items vs. including them in the category all other revenues. These amounts are material and require full disclosure in *The View*.
- Report golf expenses and F&B expenses as separate line items vs. including them in the category of operating fund expenses excluding depreciation expense. These amounts are material and require full disclosure in *The View*.
- Report results of operations for both the current year and the prior year.

Current Process

In December 2017, the Board requested FAC to make a recommendation on what financial information was to be published monthly in *The View* as that information was not only available to resident/owners but also on the internet. The statement of revenues and expenses previously published in *The View* reported unaudited actual results as compared to budget for the current year to date (YTD) with computation of variance and variance percentage. FAC discussed the matter and concluded on the content and format currently being disclosed in the two-page report that was published most recently in the February 2021 issue of *The View*. FAC concluded that the condensed financial information was sufficient as there were substantial other financial reports easily available to owners on the website of the Association. The Board agreed with the recommendation of FAC.

The new process was implemented with the March 2018 issue of *The View* reporting the condensed financial information as of November 30, 2017 and for the eleven months then ended. For the past three years, FAC routinely reviews what is published in the two-page report and has added a number of items including more line items on the condensed balance sheets, a statement of changes in fund balance, and a summary of the components of the monthly assessment.

Other Financial Statements

Readers of the condensed financial information published monthly in *The View* have access to substantial additional financial information on the resident's only access to the Association website including but not limited to:

- Monthly financial statements of golf operations including current month actual, budget, and prior year actual; YTD actual, budget, and prior year actual; with results of operations reported for each golf course and combined.
- Monthly financial statements of F&B operations including current month actual, budget, and prior year actual; YTD actual, budget, and prior year actual.
- Monthly financial statements of all other operations of the Association for both the Operating Fund and the Replacement Fund with current month and YTD actual and budget.
- Monthly financial statements of all other operations of the Association for both the Operating Fund and the Replacement Fund with current month and YTD actual and prior year actual.

- Combining financial statements of the Association prepared by the General Manager/Controller with totals for the Operating Fund, the Replacement Fund, and the total of the two funds.
- Combined financial statements of the Association prepared by the General Manager/Controller.
- Treasurer's report which includes the Condensed Financial Information published in *The View* together with additional schedules including:
 - Statement of revenues and expenses (including all major categories) with YTD actual, budget, variance with comparison to YTD actual for the prior year and YTD actual through the prior month end.
 - Summary of G&A expenses (including all major categories) with YTD actual, budget, and variance with comparison to YTD actual for the prior year and YTD actual through the prior month end.
 - Summary of personnel cost incurred in the Operating Fund other than from the golf and the F&B operations with YTD actual, budget, and variance with comparison to YTD actual for the prior year and YTD actual through the prior month end.
 - Highly summarized statement of revenues and expenses for both golf and F&B operations including YTD actual, YTD budget, and YTD prior year.
- Troon monthly written report to the Board with summary of golf operations for the current month and YTD with comparisons to budget and prior year.
- Troon monthly written report to the Board with summary of F&B operations for the current month and YTD with comparisons to budget and prior year.

Financial Reporting Requirements

In one of your communications you mentioned that you are unfamiliar with the financial reporting and disclosure requirements for the Association. Below is a brief review of some of the California Civil Code sections that apply to what information is prepared and provided to owners in the Association.

Section 5300, annual reports including the budget, reserves and other required disclosures. See [Civil Code Section 5300. Annual Budget Report. | FindHOALaw](#)

Section 5305, annual review of Association financial statements by CPA. See [Civil Code Section 5305. Review of Financial Statement. | FindHOALaw](#)

Section 5320, Right to distribute either full or summary of reports. See [Civil Code Section 5320. Delivery of Budget Report to Members. | FindHOALaw](#)