

## **Minutes of March 26, 2008 CSCA Meeting on the Litigation**

Present: Phil Rider, Christine Uzzell, Sandy Dembski, Jennifer Manner and Tom Hilton

Christine called the meeting to order and provided a synopsis of the litigation. She also explained the purpose of the evening; to hear from the community.

The attorney reviewed the decision that was issued including the settlement order for the community.

Another issue addressed was why there was a settlement without community input. The attorney said he recommended a settlement since the judge was not inclined to remove any of the concerned items. So, the attorney felt it was imperative to reach an agreement; and had Board members present and the Board was empowered to reach settlement. Christine added that she felt that the system was not in our favor and that a settlement was in the best interest of the community.

An issue was raised whether the lawyer questioned the judge's standard for determining increased value vs. architectural integrity. Jack explained his rationale. Jack also explained that the judge did not discount the aesthetic value of the property; but did not agree with the CSCA's views on this.

There was a question on the settlement dollar amount and how that was chosen. It was based on the legal fees since the May 2007 agreement and changes to the house.

A question was asked about the mound of dirt at the Stone Trail property and whether it could be moved. There was a consensus that there is a covenant that would require ARC review.

A question was raised on whether the covenants mean anything. The view is that the community is supportive of the covenants.

Question on whether the covenants can be made more binding when people purchase houses or to increase the power of the covenants. Phil Rider committed that the Board wants to make the covenants more binding. Several board members discussed the contribution a legal defense fund could make.

Question on giving the CSCA the authority to make mandatory assessments; each household would need to agree to legal changes to the applicable covenant. If they agreed, it would carry with the property.

Question was asked whether the Stone Trail property was still considered out of compliance with the covenants. The attorney agreed.

Question on the ARC and why its actions are not public. Tom responded that we are now posting all decisions of the ARC. **The Board took as an action item putting in a more proactive process.**

A comment was made that we should be looking at a litigation fund, including one that is large enough to go to appeal; which means a substantial fund.

Another question was made whether there should have been an injunction. CSCA did seek a n injunction in 2007; the May 2007 settlement was agreed to at the injunction hearing – which didn't take place because of the settlement . The judge viewed that the May settlement as substantially complied with. Thus, the CSCA didn't pursue the motion to enforce settlement, but agreed to a judicial order enforcing new settlement terms.

Question was asked on where the membership fees go? Did they go to litigation? The board spent the legal fund and some general membership fees to pay for the litigation.

Question was asked how to defend against violations of guidelines or covenants; they are not enforceable at the end of the day; the best approach is that the community tends to support conformity. Malcolm responded that the lack of a legal fund would not help. Statements supporting a legal fund were made from the floor.

Question is what are the next steps on the legal defense fund. The Board will discuss this issue and get back to the community.

There was some concern about whether a legal defense fund would be useful; would prefer a more proactive approach, such as revising covenants to pay for litigation or other types of approaches. Wants to have dues separate from legal fund.

Phil made the comment that to protect covenants; need a legal fund with flexibility.