

President's Report December 2020

-Collections. I recommend the following properties be submitted to our attorney for collections.

1947 Empress; 1974 Countess Ct.; 2208 Regal. 2205 Noble Court. Each have been contacted and either failed to live up to their promise, failed to make a promise or simply ignored us. Each was called by me.

-Political signs and flags. This issue came up at the last board meeting. We asked the complaining party at that time to report the issue to the county if they so desired. The election is certified. The electoral college voted December 14th confirming the outcome and Congress counts the votes on January 6th. I am of the opinion this falls under 7.7 and the signs and flags are now a nuisance. Do we have a motion and second to consider the signs and flags a nuisance and have an email blast sent requesting they be taken down?

-Notice regarding the front gate. Tom drafted a letter and I sent same to the 14 homeowners without front gate passes. Vesta mailed the same letter to the 3 homeowners without an email address.

-Other front gate. Sandcastle has a person onsite three days a week to assist with gate access issues and stickers. Nyree of Sandcastle has been also working with registering all owners who left prior to the June transition to the new software.

Statewide also had two guards replaced onsite that were not performing to the standards the GIB established.

According to Sandcastle, complaints have dwindled. They did however receive a complaint regarding vendors being onsite prior to 7:00 a.m. Apparently a cement truck and two construction workers gained access at approximately 6:30 a.m. Allegedly, they were going to the new construction on Princess Court.

I think the best thing we can do is reeducate the community how the front gate works. We want to everyone to enter efficiently, but keep out those not authorized to enter. I have requested data on the operation of the gate and have asked them to report the data and when and how breakdowns in entry occur. If you have other ideas or suggestions, by all means let me know.

Back gate. We received a call from an 85 year old resident whose health is not well. He would like barcodes for his two daughters. Vesta explained the regulations of the back gate and that we are not able to provide the barcodes. Only residents of IGE, school buses and emergency vehicles can use the gate as a result of a binding legal settlement.

-Annual meeting update. We have 6 candidates running. Dan Castalini, Stephanie Hardy, Tom Harruff, John Mickelson, Gale Schwartz, Karen Vincent

-Easements. We asked our attorney for an opinion regarding the Access Easement recorded on December 7, 1998 at Official Records Book 2488, Page 1579, Collier County Public Records. This is the access easement given by Imperial Racket Club of Naples, Inc. as Grantor, to Sunbird Realty Trust, Ltd., as Grantee. IGE is now the Owner of the parcel that was previously owed by Sunbird Realty Trust, Ltd., and that as a result, the Association now has the easement rights in the Access Easement. The question is, whether the Access Easement is subject to being extinguished pursuant to the Marketable Record Title Act (MRTA).

The Marketable Record Title Act, set forth in Chapter 712, Florida Statutes, provides that interests in real property are extinguished after thirty (30) years, with limited exceptions, unless preserved through compliance with MRTA. If MRTA applies to the Access Easement, the Association would need to take action by no later than December 7, 2028, to ensure that the Access Easement is not extinguished.

There are limited exceptions to MRTA. Specifically, Section 712.03(5), Florida Statutes, provides that MRTA shall not affect or extinguish the following rights: (5) Recorded or unrecorded easements or rights, interest or servitude in the nature of easements, rights-of-way and terminal facilities, including those of a public utility or of a governmental agency, so long as the same are used and the use of any part thereof shall except from the operation hereof the right to the entire use thereof.

It is the opinion of our attorney that Section 712.03(5) provides an exception to MRTA for the Access Easement. In *White Sands Inc. v. Sea Club V Condominium Association, Inc.*, 581 So.2d 589 (Fla.2d DCA 1990), the appellate court found that a fifteen foot easement had not been extinguished by MRTA because it was "in use." In that case, a dispute arose over an express easement and an agreement creating a separate private access road. The private road was contiguous to, and the

easement traversed, Sea Club's property. White Sands complained of the obstruction placed upon the easement by Sea Club, and argued that these obstructions interfered with White Sands' access to its property, a sandy beach area, and that Sea Club's actions prevented the use of the easement. Because the easement was in use, the court found that it was not extinguished by MRTA.

Based on the foregoing, it is our attorney's opinion that it is not necessary to file a notice to preserve the Access Easement per Chapter 712, the Marketable Record Title Act.

-New School.

The School board requested another continuance to address the following:

- The roadway easement vacation along the western boundary, and
- The surface mineral rights reservation to Collier Enterprises.

The proposed conservation easement documents have received sign off by all interested parties. The documents are scheduled for the January 12, 2021 Collier County School Board hearing for final approval and signature. Once signed, the agreement will be returned to the title company to revise the opinion of title, which will take approximately 1-week. The underlying Mineral Rights reservation is on a similar path.

-Veterans Road.

The county wishes to meet with us to discuss a privacy wall, I am awaiting our acoustic engineers report. Also, I am securing an engagement proposal from an attorney to represent us in discussions with the county to protect our inverse condemnation rights.