

VILLAS OF WINDMILL POINT II POA., INC.

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OFFICIAL NEWSLETTER

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BANKS BEGIN BENDING and BOARD BEGINS BARGAINING

In an amazing reversal of events, some of the banks and foreclosing lenders of villa units who were battling the POA over past due maintenance fees that dated before July 1, 2008, have accepted the POA's argument and position of not being completely subject to "HOA" limitations of 12 months of arrears, due to the "PUD" and attached nature of the units, and more involved exterior maintenance provided than a private HOA with single homes and yards, and, Reserve account funding that most HOA's do not have for owners' privately owned roofs and walls, sprinkler system, as well as all common areas. The POA has now collected \$30k of disputed delinquencies after hitting a peak near \$200K of Accounts Receivable.

With that kind of A/R, and almost 50% delinquency rate, and with 35+ bank foreclosures out of our total 89 units, and only about 17 resident-owners living on site, normal mortgage financing is fairly impossible by a normal lender for a normal buyer, forcing selling prices down to auction-cash levels. So, the Board has implemented the owners' wishes of purchasing the foreclosure units from the banks with the Reserve funds, and seek funding replenishment from private investors after each closing. The POA has bought 3 foreclosure units and 1 First Right of Refusal unit so far with the whole \$100K Reserves, but, has since replenished \$40K of it now, and has financing commitments for another \$60K, to continue to protect the paying owners' interests from what some called '*unscrupulous outside landsharks*'. The POA is prepared to purchase all 35+ foreclosure units as they come around, which, when completed, should make for quite a reward for the other 54 paying owners who have suffered with the financial disaster that hit this POA and stopped many community improvement projects in their tracks. It is the Board's hope that the new rental income cash flow will allow the projects to resume, AND, a significant lowering of quarterly maintenance fees is expected in the years to come for the owners who hung in there, and, someday, the missing '*amenities*' of this Association, may become a reality! Until then, the POA is engaged in major litigation that is sapping time, energy + resources of the volunteer Directors, but, appears to be paying off slowly. After winning Possession as a NON-Owner Landlord of #585, we finally seized #502* on 5/26, after waiting a year!

(*This major setback started with criminal squatters in 502 SW Tamworth St. that most of the community complained about, and when the POA tried to evict them, the County Court ruled that the POA could not, and allowed the squatters to stay for free, and, without utilities. This was in complete violation of our Governing Documents, especially our Board Rules and Regulations, which were indirectly treated as non-binding or enforceable. Also, the court had then stated that the POA cannot rent units without being a licensed realtor, that a Corporate Officer couldn't file a Petition for Eviction without being a lawyer, and that our Not-For-Profit could not rent units without losing our NFP filing status, all of which runs contrary to the Florida Statutes Section 83 and 617 (if you wish to view them yourself, go to "www.leg.state.fl.us") This forced the POA to appeal these rulings, which is still pending a final decision, after racking up over \$25K in legal expenses to reverse it. Then, adding to the Board's challenges, 4 or 5 residents aided and abetted the squatters. Then, a rental unit owner and spouse, who was specially assessed that \$2K/per unit Recall-recovery assessment last year, paid it, then, rented their unit out, then, sued the POA to get it back. If that wasn't fraudulent enough, they happened to be co-originators of the 2006 fraudulent recalls themselves to begin with, causing the whole expense to the POA., instead of waiting for the next regular election. Now, they want ALL the owners to pay for *their* incurrence of the recall expenses. The 72+ owners disagree. Ironically, they, initially attached the squatter's negative case ruling, to support them. Their first complaint was dismissed, but after they filed their amended complaint, the POA finally is fighting back, suing them as part of the 6 or 7 recallers among the 13 who were originally Specially Assessed, after, several of the 13 told the Board about forgery, fraud and illegal notarization of their ballot. So, the POA has begun with 11 Counts against them so far, but it is expected to grow with thorough Discovery, which should finally bring some justice and compensation back to the other 72 (PLUS, now), owners who always supported the Board. We are told that several are even trying to allege the same old '*false allegations*' with authorities against the President, & the Board, again!)

Finally, the County Court had also ruled that the POA could not evict a tenant without being the actual owner of the property which, thank goodness will be corrected by the passage of **SB-1196**, which Governor Charlie Crist signed last week which clearly supports the POA's Board Rule #100 (c.) which was amended September, 2008, and approved to be amended to the DECS at the last Annual Owners meeting in Nov. 2009. The new law adds a Subsection (8) to 720.3085 to allow the POA to demand rents from units owned by delinquent rental unit owners, WITHOUT going to Court at all at first!, and, then, if needed, to file, as "if the association were a Landlord under Part II of Chapter 83!" Thank you Governor Crist!