

**Villas at the Country Club**  
**Minutes of Meeting of the Management Committee**  
**held at 3:00 pm, Wednesday, March 27, 2024**

**Meeting held by Zoom (Zoom Meeting Not Recorded)**

**Attendees:**

**Management Committee Members:** Ken White, Bob Evans, Scott Houston  
**Property Manager:** Rich Wells, Total Property Management  
**HOA members observing:** Robert McChesney, Phil Brysom, Gary Crossby,  
Patricia K., Benjamin Wood, Benjamin Young, Dave Starling, Gwen Evans

**Acting Chairman of the Meeting:** Scott Houston

**Agenda**

**Welcome by Scott Houston, Acting Chairman of the Meeting**

- 1. Approval of prior minutes: Minutes of an executive committee meeting on 12/6/2023 are posted on the website. The 2020 reserve study was also posted to the website earlier this year. An updated reserve study was prepared by the finance committee of the board in anticipation of the 2024 budget report and annual meeting. An action was taken without a meeting by unanimous consent of the Management Committee to post the 2024 updated reserve study to the HOA website.**
- 2. Discussion about recent changes in HOA leadership:**
  - a. The resignation of Sharron Barnum from the Management Committee was acknowledged. Sharron was also serving as Chairman of the Management Committee. There is a need to select a new acting Chairman to serve until annual elections are held and the new Committee is organized within 2 weeks.**
    - i. Motion #1: Vote of appreciation for the service of outgoing Management Committee member, Sharron Barnum.**

**A vote of appreciation called for by Ken White and seconded by Bob Evans. The Committee approved the motion unanimously.**
    - ii. Motion #2: Mr. White nominated Scott Houston to serve as Chairman of the Committee to serve until the annual elections and to conduct the annual meeting. Mr. Evans seconded the motion. Mr. Houston accepted the nomination.**
  - b. There are 4 vacancies on the Management Committee to be filled at the**

upcoming annual elections. Bob Evans has one more year remaining on his term.

- i. Ken White, Scott Houston are standing for re-election. Ben Young is standing for election. These three individuals each submitted their applications within the previously announced notice period. Sharron Barnum's resignation creates the need for fourth committee member. Rich Wells suggested that a short window be opened for applications to fill this new vacancy. Gordon Smith has already submitted his application.
- ii. Motion #3: Rich Wells to notify the HOA that the nomination period for the latest vacancy will remain open until March 29, at which time he will send another notice beginning the election via e-mail balloting. Ballots to be returned and tallied so that the election is completed in advance of the annual meeting.

Mr. Evans made the motion, Mr. White seconded it, and the Committee approved the motion unanimously.

### 3. Discussion of 2024 Proposed HOA Assessments

- a. Mr. Houston reviewed with the Committee the HOA's CC&R's and bylaws to refresh our understanding of the Management Committee's responsibility and authority to provide for the funding necessary to meet the financial obligations of the Association
- b. Rich Wells presented TPM's financial report on the HOA's 2023 Operating budget showing Actual Expenditures Compared to Budget to be published in anticipation of the annual meeting.
- c. Mr. Wells went on to present a proposed Regular Operating Budget and Assessment possible alternatives for 2024 assessments. That report evolved into a discussion about how much the total assessment needs to be to allow for some capital projects to be completed. It was agreed to deferred approval of the operating budget and regular assessments for 2024 until later in the meeting, after the discussion on proposed capital projects and the recommended approach to funding those projects.
- d. Mr. Houston summarize the 2024 Reserve Study, including the 18 proposed capital or deferred maintenance projects that the finance committee has recommended be addressed in 2024. These projects are forecast to cost in excess of \$300,000. He then referred to the 2020 reserve study and pointed out that the HOA was made aware at that time that it had not been building a reserve to fund capital projects and at that time was under-reserved by about \$750,000. During the last 4 years, more and more scheduled refurbishments and capital projects have been deferred with only minimal accumulation of funds for capital projects, resulting in ever-increasing deterioration of the property. Finally, in each of 2022 and 2023,

the HOA members were each given a special assessment of \$3,000 in order to replace the roof on the south building a few other very critical projects. Mr. Houston pointed out that continuing this “pay-as-you-go” approach combined with regular HOA assessments that only barely covered the cost of operations was untenable in the long term and would likely result in further deterioration of the property and increasing special annual assessments unless a new approach was adopted. (The 2024 reserve study says the amount by which the HOA is under-reserved has grown about \$400,000 since the 2020 study and is now at least \$1.1 million.

While the Committee members all agreed that the HOA is facing a financial crisis due to the historical practice of minimizing monthly HOA assessments and not setting aside reserves for major refurbishments and replacements, they are divided on how aggressively to act in order to remediate the problem. Mr. Houston urged the Committee to adopt the finance committee’s recommendations as outlined in the reserve study. Mr. White and Evans argued in favor of less severe measures, suggesting further study and perhaps setting a the monthly assessment amount not to exceed \$550 per month, and then continuing to defer scheduled projects as needed to stay within that budget. They did acknowledge that periodic special assessments would likely also be required to fund the important projects that could not be deferred.

Recognizing that the Committee was so divided on the subject, Mr. Houston asked the Committee to go ahead and formally vote on the following motions in the agenda. He asked specifically for motions to approve the list of capital projects to be addressed in 2024 (Motion #5), to approve a Regular Reserve line item in the 2024 budget in the amount of \$255 per month consistent with the finance committee recommendation from the 2024 reserve study (Motion #6), and to approve a special assessment to fund the proposed capital projects (Motion #7).

Neither Mr. White nor Mr. Evans were willing to make those motions. Mr. Houston asked them to propose a motion they would be willing to act on. Mr. White made a motion to defer the vote on approving the proposed capital projects and any special assessment related to the funding of those projects until the annual elections are completed in the next several days so there would be a full board to consider the motions. Mr. Evans seconded the motion. Upon calling for a vote, Mr. White and Mr. Evans voted in favor and Mr. Houston voted against. The motion was approved.

e. Mr. Houston then directed the discussion back to consider the Operating Budget proposed by TPM along with assessment options illustrated by Mr. Wells. Mr. Houston repeated his strong recommendation for increasing the HOA assessment from \$450 per month to \$470 per month for the operating budget with an additional \$255 per month to fund the reserve account, for total of \$725 per month regular assessment. He also advised the Committee that a special

assessment of \$5,000 per unit to help fund the list of 2024 capital projects was necessary to prevent the financial situation from further deteriorating. Ken and Bob repeated their position that they would not support that recommendation.

Mr. Houston then asked Mr. White to make a motion for an assessment level he would support. Mr. White made a motion (Motion 4), seconded by Mr. Evans, that the HOA fees for 2024 be increased from \$450 per month to \$550 per month, with \$460 per month being allocated to the operating budget and \$90 per month allocated to the reserve account as a line item in the budget. Mr. Houston indicated that, while the motion was not enough to solve the broader financial crisis, in the interest of making some forward progress on the matter, he would join in approving the motion. He promised to bring the finance committee recommendations back to the Management Committee as soon as the elections are complete and the new Management Committee convenes. Mr. Houston called for a vote. Mr. White and Mr. Evans voted in favor. Mr. Houston also voted in favor of the motion, but asked that his concerns that the approved assessments are insufficient to stop the decline in the HOA's financial circumstances be reflected in the minutes.

#### **4. Report on Legal Matters**

- a. **Status of the UALD discrimination complaint brought by the Youngs in #305 North:** This complaint stemmed from the Management Committee's adoption of a rule in 2023 requiring supervision of minor children in the common areas. Upon advice of counsel, the Management Committee reviewed and revised the HOA rules to conform with relevant state and federal anti-discrimination laws. The Youngs reviewed these changes and agreed that they adequately addressed their specific discrimination concerns. The Management Committee has also drafted an anti-discrimination policy affirming our commitment to anti-discrimination and fair housing. A settlement agreement to close the matter was negotiated with the Young's through a UALD mediator but has not yet been entered into because one of the Young's proposed terms of settlement required the Management Committee to take specific steps to improve Management Committee governance, including taking specific actions to remediate the under-funded reserve account referenced earlier in this meeting. Since the remediation recommended by the Finance Committee has not been approved by the Management Committee, the Management Committee cannot enter into the proposed settlement, as drafted. Without a settlement agreement between the parties, UALD will likely proceed to issue a ruling on the matter. With the steps already taken, the Management Committee is confident that it has addressed the specific alleged violations in a thorough and responsible way and believes that the findings of the UALD investigator will concur. Therefore the Management Committee is not planning to spend any further money pursuing a settlement agreement with the Young's on this matter.

- b. **HUD Complaints by Young (#204 S & 305 North): 1<sup>st</sup> complaint - In 2022, the**

management committee previously granted a variance to the CC&R design criteria for carpet and padding in the main living areas of Unit #204 South based on the disability of Karla Young to allow the Youngs to install LVP hard surface flooring in the main living areas of the unit. This approval was reiterated in the December 6, 2023 minutes of a meeting of the Executive Committee. 2<sup>nd</sup> complaint - In 2023, the Management Committee became aware that the Youngs had already installed the flooring in their unit without requesting a variance, and advised the Youngs that their flooring was in violation of the CC&R design criteria. When discussions and efforts by the Youngs and their downstairs neighbor to address the resulting noise problem stalled, and the Management Committee warned the Youngs that a fine may be imposed if not corrected. The Youngs amended their HUD complaint to include the same variance request for their own primary residence (unit #305 North) on the grounds that Karla Young is a frequent guest in their home, so the same ADA accommodations granted for #204 South should extend to their unit, #305 North. Attempts to reach a reasonable settlement with the Youngs with regard to the HUD matter have been unsuccessful. Therefore, the management committee and the Youngs have each separately requested that HUD complete its investigation as quickly as possible and issue a ruling on the matter. Upon advice from Counsel, the following motion is proposed:

- i. Motion #8: In the interest of complying with current interpretations of Fair Housing laws by HUD and the courts, it is proposed that the Management Committee approve the Young's request to grant a variance to the CC&R design criteria for carpet and padding in the main living areas of Unit #305 North to allow LVP hard surface flooring as requested by the Youngs. Any changes to the unit to accommodate Karla Young's disability must be paid for by the applicant. The applicant must comply with Provo City building codes and the work must be performed by qualified and properly licensed contractors with building permits to the extent required by Provo City. The duty to mitigate any resulting excessive noise rising to the level of being a "nuisance" as defined in the CCR's (i.e. excessive noise that prevents other owners from their own right to the peaceful enjoyment of their property) remains with the applicant. At such time as Karla Young is no longer a frequent guest, or upon sale of the unit, whichever occurs first, the applicant has the duty to remove the flooring and replace it with CC&R compliant carpet and padding.

**MOTION TO GRANT EXCEPTION WAS MADE BY KEN WHITE. BOB EVANS ABSTAINED (because he is an interested party). SCOTT HOUSTON AND KEN WHITE VOTED TO APPROVE.**

- ii. Motion #9: Approve the accompanying draft Anti-Discrimination Policy and its inclusion in the annual report.

**MOTION: KEN, 2ND BOB. UNANIMOUSLY APPROVED**

**iii. Motion #10: It is further proposed that the Management Committee and any candidates who will serve on the Management Committee receive training from the UALD regarding anti-discrimination and fair housing laws. In addition, the Association will post in a prominent place and on the HOA website posters regarding our commitment to compliance with Anti-Discrimination and Fair Housing Laws and display the Fair Housing logo.**

**THIS MOTION WAS UNANIMOUSLY APPROVED BY THE MANAGEMENT COMMITTEE.**

- c. Update on a Collection Action against the HOA with regard to #302 South Deck reconstruction: The HOA tendered a payment to the contractor that was discounted below his invoice amount based on work performed outside the agreed upon scope, and poor workmanship resulting in hiring another contractor to complete the job. This matter has not been resolved and the lawsuit is dormant at this time. The contractor has not taken further actions to collect.**

**5. Comment Period for HOA members ( limited to 5 minutes per speaker):**

**Six of the seven HOA members who joined the meeting as observers took occasion to speak during the comment period. The recurring theme of their comments indicated strong support for better maintaining the property to prevent further deterioration of the property and to protect property values. It was generally acknowledged that these priorities will result in increased assessments to the members in order to resolve the financial challenges being faced by the HOA.**

**6. ACTION ITEMS:**

- BOB/BEN TO MEET TO WORK OUT NOISE ISSUE BETWEEN THEMSELVES**
- RICH WELLS TO SEND OUT EXTENSION NOTICE FOR MANAGEMENT COMMITTEE NOMINATIONS, THEN MAIL OUT ELECTION BALLOTS/PROXIES AND THE FINAL ANNUAL MEETING NOTICE.**

**7. MEETING ADJOURNED AT 5 PM**

## **APPENDICES**

**APPENDIX I – Article VIII of the CCR’s: Assessments**

**APPENDIX II – 2023 operating budget – actual results**

**APPENDIX III -- Proposed 2024 operating Budget & Assessment**

**APPENDIX IV – 2024 Reserve Study & Proposed Projects**

**APPENDIX V – Summary of Proposed HOA Assessments**

**APPENDIX VI – Anti-Discrimination Policy**

## **APPENDIX I -- CCR's ARTICLE VIII - ASSESSMENTS**

### **THE SHORT VERSION:**

**Article 8.3 of the ByLaws of the HOA requires the Management Committee (aka the "Board") to "prepare and adopt an annual budget for the Association which shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management and operation of the Association. The budget shall contain a line item for the estimated contribution to the reserve fund of the Association."**

**8.5 Purpose of Assessments.** The Assessments levied by the Association shall be used for carrying out the purposes and obligations of the Association, including, but not limited to: (a) The improvement, maintenance, operation, care, and services related to the Common Areas; (b) The payment of insurance premiums; (c) The costs of utilities and other services which may be provided by the Association for the Community; (d) The cost of labor, equipment, insurance, materials, management, legal and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; (e) The cost of funding reserves established by the Association, including a general operating excess and a reserve for replacements; and (f) Any other items properly chargeable as a Common Expense of the Association.

**8.6 Special Assessments.** In addition to the Annual Assessments authorized in this Article, the Association may levy a special assessment from time to time for the purpose of defraying, in whole or in part, the costs incurred or to be incurred by the Association which cannot be paid for through other types of Assessments (a "Special Assessment"). The Management Committee may authorize a Special Assessment for any lawful purpose provided, however, that any Special Assessment levied within 12 months of a prior Special Assessment, and any Special Assessment greater than Five Thousand Dollars (\$5,000.00) per Owner (based on their Percentage Interest) may only be levied if it is first voted upon by the Owners as follows: (1) a quorum of Owners holding 30% of the total Percentage Interest is present (as provided in the Bylaws); and (2) once a quorum has been established, if the votes cast favoring the Special Assessment exceed the votes cast opposing it. Voting shall be permitted pursuant to any method allowed in the Bylaws.

## **THE LONG, COMPLETE VERSION:**

**8.1 Covenant for Assessments.** Each Owner, by acceptance of a deed conveying any Unit to such Owner, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association the following types of assessments, as provided for and defined below: Annual Assessments, Special Assessments, and Individual Assessments. No Owner may exempt itself from liability for Assessments by abandonment of a Unit or non-use of the Common Areas. No offsets against Assessment amounts shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers.

**8.2 Reinvestment Fee Covenant.** Upon the transfer of title to each Unit, a reinvestment fee, shall be charged and payable to the Association in an amount not to exceed two times the then current monthly assessment. A separate Notice of Reinvestment Fee will be recorded providing additional notice. The parties to the transaction are responsible to negotiate who pays this fee.

### **8.3 Annual Budget and Assessment.**

(a) Adoption of Budget. The Management Committee shall prepare and adopt an annual budget for the Association which shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management and operation of the Association. The budget shall contain a line item for the estimated contribution to the reserve fund of the Association. If the Management Committee fails to adopt an annual budget, the last adopted budget shall continue in effect.

#### (b) Determination of Annual Assessment.

(1) The Management Committee shall fix the amount of the annual assessment ("Annual Assessment") which may be assessed monthly against each Unit for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of the Annual Assessments shall be sent to all members of the Association at least thirty (30) days in advance of the beginning of any assessment period, or thirty (30) days in advance of any increase in the Annual Assessment that is to take effect during any assessment period.

(2) The omission by the Management Committee, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this article or a release of any member from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

(3) If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred by the Association for any reason, including nonpayment of any Owner's Assessments on a current basis, the Management Committee may, at any time, determine the approximate amount of the inadequacy and adopt a supplemental budget which establishes the equitable change in the amount of the Annual Assessment.

**8.4 Apportionment of Assessments.** All Units shall be assessed Annual Assessments and Special Assessments based upon the Percentage Interests of the Units (See Exhibit B). Individual Assessments shall be apportioned exclusively against the Units benefitted or to which the expenses are attributable as provided for below.

**8.5 Purpose of Assessments.** The Assessments levied by the Association shall be used for carrying out the purposes and obligations of the Association, including, but not limited to: (a) The improvement, maintenance, operation, care, and services related to the Common Areas; (b) The payment of insurance premiums; (c) The costs of utilities and other services which may be provided by the Association for the Community; (d) The cost of labor, equipment, insurance, materials, management, legal and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; (e) The cost of funding reserves established by the Association, including a general operating excess and a reserve for replacements; and (f) Any other items properly chargeable as a Common Expense of the Association.

**8.6 Special Assessments.** In addition to the Annual Assessments authorized in this Article, the Association may levy a special assessment from time to time for the purpose of defraying, in whole or in part, the costs incurred or to be incurred by the Association which cannot be paid for through other types of Assessments (a "Special Assessment"). The Management Committee may authorize a Special Assessment for any lawful purpose provided, however, that any Special Assessment levied within 12 months of a prior Special Assessment, and any Special Assessment greater than Five Thousand Dollars (\$5,000.00) per Owner (based on their Percentage Interest) may only be levied if it is first voted upon by the Owners as follows: (1) a quorum of Owners holding 30% of the total Percentage Interest is present (as provided in the Bylaws); and (2) once a quorum has been established, if the votes cast favoring the Special Assessment exceed the votes cast opposing it. Voting shall be permitted pursuant to any method allowed in the Bylaws.

**8.7 Individual Assessments.** Any expenses benefitting or attributable to fewer than all of the Units may be assessed exclusively against the Units affected or benefitted ("Individual Assessments"). Individual Assessments shall include, but are not limited to: (1) Assessments levied against any Unit to reimburse the Association for costs or attorney fees incurred in bringing the Unit or its Owner into compliance with, or to otherwise defend or uphold, or carry out, the provisions of the Governing Documents and for fines or other charges, including attorney fees, imposed pursuant to this Declaration for violation of the Governing Documents; (2) Expenses incurred by the Association relating to the cost of maintenance, repair, or replacement of the individual Units.

**8.8 Capital Improvements.** In assessing Unit Owners for Capital Improvements (as defined) to the Common Areas for which there are not sufficient funds, there shall be no assessments for a single improvement in the nature of a capital expenditure exceeding the sum of ten percent (10%) of the annual budget without the same having been first voted on and approved by at least a majority of the total voting power of the Association. Capital Improvement Assessments shall be approved in the same manner as a Special Assessment.

**8.9 Reserve Analysis.** (a) Reserve Analysis Required. The Management Committee shall cause a reserve analysis to be conducted at least every six years. The Management Committee shall review its reserve analysis every three years and, if necessary, update the formal analysis to reflect the current condition of the components described herein and in the analysis. (b) Reserve Analysis Defined. "Reserve analysis" means an analysis to determine the need for a reserve fund

and the estimated amount of money needed to reasonably fund the reserve fund. A reserve analysis shall include:

(1) a list of the components identified in the reserve analysis that will reasonably require reserve funds that cannot be reasonably funded from the operating budget and have an estimated remaining useful life between three (3) and thirty (30) years as set forth in the Act;

(2) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(3) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(4) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(5) a reserve funding plan that recommends how the Association may fund the annual contribution described in subsection (4) above.

(c) Reserve Analysis Summary Provided to Owners. The Association shall: (a) annually provide Owners a summary of the most recent reserve analysis or update; and (b) provide a copy of the complete reserve analysis or update to an Owner who requests a copy.

**8.10 Reserve Fund.** The Association shall establish and maintain a reserve fund (also known as “reserve account”), separate from other Association funds, for repairs and replacement of the Common Areas, for any emergency, unforeseen, unusual, or unanticipated expenditure, and for any other purpose determined from time to time by the Management Committee. As stated above, in formulating the budget each year, the Association shall include a reserve fund line item in an amount the Management Committee determines, based on the reserve analysis, to be prudent. The Management Committee may not use money in a reserve fund for daily maintenance expenses, unless a majority of the total voting Percentage Interests of the Owners, vote to approve the use of reserve fund money for that purpose.

The Management Committee’s reasonable determination with respect to the amount of the reserve fund contribution shall be conclusively deemed appropriate absent intentional misconduct or gross mismanagement of Association funds. Except in such instances, individual Management Committee members shall not be held liable for any potential or alleged under funding of the reserve account.

**8.11 Nonpayment of Assessments.** Unless otherwise provided by resolution of the Management Committee, the Annual Assessments shall be levied and due and payable on a monthly basis on the first calendar day of each month and shall be delinquent if not paid within ten (10) days after the due date or such other date established by the Management Committee (the “date of delinquency”). The due date of any Special Assessment or other Assessment shall be fixed in the resolution authorizing the Assessment or in the notice of the Assessment. (a) Interest. Delinquent payments shall bear interest at the rate of eighteen percent (18%) per annum, or such other lower rate established by the Association by Rule, from time to time. (b) Late Charge. Each delinquent payment shall be subject to a late charge in the amount established by the Association, by Rule, from time to time. (c) Acceleration. If the delinquent installments of Annual Assessments and any charges thereon are not paid in full, the Management Committee, or its authorized agent, may declare all of the unpaid balance of the Annual Assessment to be immediately due and payable upon not less than ten (10) days’ written notice to the Owner, and may enforce the collection of the full Annual Assessment and all charges thereon in any manner authorized by

law and this Declaration. If, however, the Assessment is accelerated and an Owner subsequently files bankruptcy or the Management Committee otherwise decides acceleration is not in its best interest, the Management Committee, at its option and in its sole discretion, may elect to decelerate the obligation. d) Rent Payments by Tenant to Association. If the Owner of a Unit who is leasing the Unit fails to pay an assessment for more than sixty (60) days after the assessment is due, the Management Committee may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly other periodic payment, until all amounts due to the Association are paid. Such demand to the tenant shall be made in accordance with the law and the written procedures of the Association. The Management Committee, or its agent, shall give the Owner written notice of its intent to demand full payment from the tenant and such notice shall be made in accordance with the law and the written procedures of the Association. (e) Termination of Common Service and Facility Use. If an Owner fails or refuses to pay an assessment when due, the Management Committee may, after giving notice and an opportunity to request a hearing in accordance with the law and any written procedures of the Association, terminate an Owner's right: (1) to receive any service paid as a common expense, including but not limited to utility services; and (2) of access and use of recreational facilities. If a hearing is requested, utility services or right of access and use of the recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been rendered by the Management Committee. In the event that the Association incurs costs to terminate any such utility service, the defaulting Owner shall be responsible for all such costs. Upon payment of the assessment due, including any interest, late charge, and costs of collection, the Management Committee shall immediately take action to reinstate the terminated utility services to the Unit.

(f) Remedies under the Act and Other Law. The Association shall have each and every remedy for collection of assessments provided in the Utah Condominium Ownership Act, and Utah law.

**8.12 Lien.** All Assessments and charges imposed, together with damages, fines, interest, costs of collection, late charges, and attorneys' fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by the Act, Utah law, or awarded by a court for enforcement of the Governing Documents shall be a charge and continuing lien upon each of the Units against which the Assessment is made and shall be construed as a real covenant running with the land. The recording of this Declaration constitutes record notice and perfection of the lien established herein. If an assessment is payable in installments, the lien is for the amount of each installment as such becomes due and this provision shall be deemed a notice of assessment.

**8.13 Personal Obligation and Costs of Collection.** Assessments imposed under this Declaration, together with interest and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof (whether or not a lawsuit is initiated), shall also be the personal obligation of the Owner holding title to any Unit and in a voluntary conveyance, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the latter up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.

**8.14 Appointment of Trustee.** By acceptance of a deed for a Unit, each Owner as trustor conveys and warrants to trustee in trust for the Association, as beneficiary, with power of sale, the Owner's Unit and all improvements thereon for the purpose of securing payment of all Assessments (including basis of collection) provided for in this Declaration. For purposes of this

Section, the Act, and Utah Code Ann. §§57-1-19, et seq., as amended from time to time, the trustee shall mean the attorney for the Association, and the Association may provide notice and disclosure of the trustee, or substitution thereof, by recording an appointment or substitution of trustee in the records of the local County Recorder. Each Owner hereby also grants to the Association and trustee all powers and rights of non-judicial trust deed foreclosure provided for in Utah Code Ann. §§57-1-19, et seq.

**8.15 Enforcement of Lien.** The lien provided for in this Article may be enforced by the Association by causing a Unit to be sold through non-judicial foreclosure as though the lien were a deed of trust, or by foreclosing the lien through a judicial foreclosure, all in the manner provided by the Act and by the laws of the state of Utah for the non-judicial foreclosure of deeds of trusts or the law for the foreclosure of a mortgage, as the case may be. The Association shall have the power to bid on the Unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, the defaulting Owner shall be required to pay the reasonable rental value of such Unit during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner, and an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Unit, the costs and attorney fees associated with which shall be awarded to the Association or the purchaser, as the case may be. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

**8.16 Subordination of Lien to Mortgages.** The lien provided for in this Article has priority over each other lien and encumbrance on a Unit except a first or second security interest on the Unit secured by a mortgage or deed of trust that is recorded before a recorded notice of lien by or on behalf of the Association, or a lien for real estate taxes or other governmental assessments or charges against the Unit. The sale or transfer of any Unit pursuant to mortgage or deed of trust foreclosure (but not a proceeding in lieu thereof) shall extinguish the lien provided for herein as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Unit from liability or lien for any Assessments or charges thereafter becoming due and shall not relieve any Owner of his or her personal obligation for such amounts.

**8.17 Statement of Unpaid Assessment & Payoff Information.** The Association shall, upon demand at any time, furnish to any Owner liable for assessment a certificate in writing signed by an officer of the Association setting forth whether Assessments have been paid. The certificate shall be conclusive evidence of payment of any assessment therein stated as having been paid. A reasonable charge, determined by the Association, or the Act, may be levied in advance by the Association for each certificate so delivered. The Association may charge a fee for providing Association payoff information needed in connection with the financing, refinancing, or closing of an Owner's sale of the Owner's Unit up to the maximum amount allowed by the Act.

**8.18 Application of Payments.** Payments upon an Owner's account shall be applied first to costs and attorney fees, then to the oldest charges (regardless of type) on the Owner's account.

**APPENDIX II – 2023 operating budget – actual results**

**APPENDIX III -- Proposed 2024 operating Budget & Assessment**

## **APPENDIX IV – 2024 Reserve Study & Proposed Projects**

In 2020, the HOA board first commissioned a “Reserve Study” in order to comply with a change in state law regulating Home Owners Associations. The purpose of the study was to inform members of the HOA (the homeowners) of the projected costs to replace and/or maintain the common area components of the property as they reached the end of their useful lives. The 2020 Reserve Study found that the amount of money the HOA should be planning for (and ideally setting aside as reserves) each year for such replacements / major maintenance projects was approximately \$120,000 per year, which is about \$3,000 per unit per year, or about \$254 per unit per month. Because the HOA has not been regularly accumulating such a reserve, the study found that our reserve account in 2020 was under-funded by about \$750,000, or about \$20,000 per unit.

No action was taken at that time to cure that deficiency by implementing a regular assessment for capital reserves. Instead, capital and maintenance projects have been de-prioritized & deferred in an effort to keep monthly HOA fees low.

Over the past 4 years, the effect of deferring capital and maintenance projects has become increasingly evident. For example, the roof on the south building began to fail 3-4 years ago, resulting in roof leaks affecting multiple units. The situation reached such a critical stage that the HOA had no choice but to impose special assessments of \$3,000 per unit in both 2022 and 2023 respectively in order to re-roof both the flat and pitched roof sections of the building. The majority of other regularly scheduled replacements/improvements have likewise been deferred due to lack of funds. With the south building turning 20 years old and the north building reaching 15 years old, deferred capital and maintenance projects will take an increasingly visible toll on the property. In order to finally address deferred projects and to begin building up a healthy reserves account, the Board directly its Finance Committee to update its reserve study and recommend a course of action. A copy of this updated 2024 reserve study is posted to the Association webpage at <http://tpmhoa.com> and will be emailed to all owners with the annual report,

The 2024 Reserve Study highlights the projects that are scheduled to be funded and completed in each of 2024 and 2025 and forecasts reserve requirements for the next 50 years.

According to the 2024 Reserve Study, using the low end of the estimated cost ranges, the minimum annual reserve accrual rate should be \$255 per unit per month per year. Because we have not regularly plan for and fund this reserve requirement, our reserve account is now underfunded by at least \$1.1 million, which is about \$27,500 per unit.

## **APPENDIX V – Summary of Finance Committee Recommendations’ effect on HOA 2024 Assessments**

With regard to building up an appropriate reserve for capital improvements and paying for this years unfunded capital projects, it is the STRONG recommendation of the Finance Committee that the Board take the following two actions as soon as possible:

- 1) Assess each unit \$255 per month to begin accumulating a reserve fund as directed by Article 8.3 and 8.5 of the CCR’s.
- 2) Assess each unit a special assessment of \$5,000, for 2024 capital projects which is the maximum amount of special assessment annually allowable within the Board’s authority under Article 8.6 of the CCR’s.
- 3) Solicit approval from the HOA general membership to assess of the full \$27,500 shortfall now, but make it payable in annual installments of \$5,000 per year until the reserve account is 100% funded.

## **APPENDIX VI – Anti-Discrimination Policy**

### **THE HOME OWNERS ASSOCIATION OF THE VILLAS AT THE COUNTRY CLUB Proposed Policy Resolution 2024-01 (Anti-Discrimination Policy and Requests for Reasonable Modifications and Accommodations)**

WHEREAS, Title VIII of the Civil Rights Act of 1968, as amended, (42 U.S.C. 3601 et seq.) (Fair Housing Act or Act) prohibits harassment in housing and housing-related transactions because of race, color, religion, sex, national origin, disability and familial status; and

WHEREAS, the case law interpreting the Fair Housing Act, state, and county fair housing statutes has declared that handicapped parties who reside in community associations have the right to: a) receive reasonable accommodations in connection with the association's rules, policies, practices, or services, and b) make reasonable modifications to their dwelling or common areas at their own expense if those modifications are necessary to afford the handicapped party full enjoyment of his or her dwelling; and

WHEREAS, the Fair Housing Act and its implementing federal regulations, define "quid pro quo harassment" and "hostile environment harassment" as conduct prohibited under the Fair Housing Act, and specify the standards to be used to evaluate whether particular conduct creates a quid pro quo or hostile environment in violation of the Act; and

WHEREAS, the Board has concluded that it would be in the best interest of the Association to: 1) confirm its long-standing informal policy against discrimination of residents and employees/agents of the Association, as prohibited by the federal and Utah State fair housing acts, and 2) adopt certain procedures related to the receipt and processing of reasonable accommodation and modification requests made by protected classes of persons to the Association;

NOW, THEREFORE, the Board adopts the following policy:

1. Definitions: The following definitions are applicable to this Policy:

A. Handicap – The law does not provide a singular definition for this term; therefore, the term generally means significant physical or mental impairments which substantially limit one or more of the person's major life activities. Any person who wishes to qualify as handicapped may be required to submit documentation to the Association from a third party which reasonably establishes the handicap and the nexus between the requested accommodation/modification and the handicap, if the handicap is not readily apparent or already known to the Association. Not all physical or mental impairments are recognized as handicaps under the applicable law. For example, the applicable law states that common allergies are not handicaps. In cases where the staff of the Association is not

certain about any aspect of a request for handicapped status, the staff will check with the Association's counsel.

B. Reasonable Accommodation – This term generally means creating the narrowest exemption from a rule, policy, procedure or practice for a handicapped person in situations where the handicapped person cannot comply with the rule, policy, procedure or practice because of the handicap.

C. Reasonable Modification – This term generally means the most minimal addition, alteration or improvement to an existing dwelling, occupied or to be occupied by a handicapped person, and/or the common areas necessary to afford the handicapped person the same rights to enjoy his dwelling as non-handicapped persons enjoy. It remains the duty & financial responsibility to assure that and such accommodation or modification will not result in depriving another resident or residents from peaceful enjoyment of their dwelling or the common areas.

D. The definitions described in this Section 1, as well as any other terms stated within this Policy, shall be subordinate to and have the same meaning as all definitions described in the applicable federal or Utah State fair housing acts and/or any implementing regulations thereof (hereinafter referred to as "Fair Housing Act Laws")

2. Anti-Discrimination Policy. It is hereby acknowledged that the Association has a firm and emphatic antidiscrimination policy regarding the treatment of all residents, employees, staff, agents, committee members, directors, officers and guests of the Association. The Association hereby pronounces its commitment to adherence to all applicable Fair Housing Act Laws which relate to the operations and affairs of the Association. The Association desires to foster an inclusionary environment for all residents, employees, staff, agents, committee members, directors, officers and guests, and its governing body, the Board of Directors, shall take appropriate and required steps to remedy violations of Fair Housing Act Laws that the Board is notified of or reasonably should know of. Information is critical to aid the Board in enforcement of this policy and therefore the Board encourages reporting of perceived discriminatory acts against protected persons under the Fair Housing Act Laws.

3. Requests for Reasonable Accommodations and Reasonable Modifications:

A. Persons who want to qualify for handicap status and exercise their legal rights related to making a reasonable modification or accommodation request are encouraged, but not required, to make their request in writing and deliver it to the Association's property manager.

B. Contents of Requests –Requests should include the following information at a minimum:

(1) The name of requesting party.

(2) The address or future address of the requesting party, as well telephone number and email address.

(3) The reasonable details related to the requested accommodation and modification, including, an explanation as to how the accommodation or modification assists the owner in obtaining equal use and enjoyment of the Common Areas.

(4) If the request is for an exemption from a particular rule or policy of the Association, the applicant should cite the specific rule or policy in question.

(5) Any other information the applicant deems relevant or reasonable to assist the Board in making its decision on the request. The Association reserves the right to request additional and permitted information under the Fair Housing Act Laws, if it is necessary to respond to the request. Such requests shall be processed in a prompt matter, even if the response of the Board of Directors requires additional information from the applicant.

C. Review and Decision: Once the Board of Directors has sufficient information to process a reasonable accommodation or modification request, it will do so in a prompt manner and pursuant to the Fair Housing Act Laws. All decisions of the Board of Directors shall be issued to the applicant in writing. All discussions pertaining to a reasonable modification or accommodation request shall occur in executive sessions of the Board's meetings.

This Resolution was duly adopted by the Board of Directors this 27th day of March, 2024.

Scott Houston

acting Chairman of the Management  
Committee of the Villas at the  
Country Club HOA