



Life in the Sunshine

The Towers of Key Biscayne Newsletter

Board of Directors: President: Eleanor Weingast, Vice President: Alison Owen, Secretary: Mario Lopez, Treasurer: Morris Deutsch, Asst. Treasurer Elsa Dominguez; Directors: Olga Robbin & Martin McCarthy

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Amendment to Condominium Declaration

The amendment package regarding procedure for the approval of material alterations to our common areas was mailed to you at the end of May. (If you did not receive a copy, please call the office.) Prior to the mailing a group of owners circulated an email/letter urging a NO vote on the amendment. These two communications have led to considerable concern and a number of questions. The following explanation addresses those questions. Prior to publication the following statement was submitted to Association Counsel Lisa Lerner to be reviewed for accuracy.

Where We Were

Prior to the current year our by-laws constituted the basis for changes in or to the Common Elements. Under the by-laws a 3/5 vote of the Board (5 votes) governed changes in the common areas. However, decorating projects in excess of \$250,000 per year required a majority vote of a quorum present at a membership meeting in person or by proxy (In order to hold a membership meeting a quorum of at least 200 members present in person or by proxy is required.)

What Changed?

The 2004 amendment to the Florida Condominium Law provides that changes in the common elements of a multi-condominium association are governed by the by-laws of the association. (A multi-condominium association is an association of two or more condominium associations. Examples on Key Biscayne are Key Colony and the Commodore Club. The Towers is not a multi-condominium association.)

At the time our by-laws were first drafted and subsequently amended it was normal practice to incorporate the by-laws into the Declaration by reference. That was our situation.

During 2005 an Arbitrator for the Division of Condominiums held that in single condominium associations, such as ours, the provisions of the by-laws no longer govern and cannot be incorporated into the Declaration by reference.

Where are we now?

The statute provides that material alterations or additions to the common elements require a 75% affirmative vote of the members (in our case that is 404 units in agreement with any change) **unless the Declaration provides for an alternative.**

Acting on the advice of counsel the Board has decided to seek an amendment to the Declaration for the following reasons.

The majority of Towers unit owners are non-residents, many of whom live abroad or are corporations who rarely or never vote. Under these circumstances it is highly unlikely that 404 favorable votes would ever be cast for any decorating plan. As a result, necessary repairs to the common elements would be linked to the current décor in perpetuity.

What is the meaning and effect of the proposed amendment?

The proposed amendment allows the majority of the unit owners represented at a unit owners meeting, with a quorum present in person or by proxy to approve material alterations or substantial changes in the common elements.

If only 200 units are represented at such a meeting, 101 votes would be decisive. Based on our recent Board elections we believe it more likely that there would be between 250 and 350 units represented at a meeting on the decorating issue. The number of decisive votes would depend on the number of units present, as illustrated in the following chart:

UNITS IN ATTENDANCE IN PERSON OR BY PROXY	MAJORITY VOTE	MAJORITY AS PERCENTAGE OF TOTAL UNITS
200	101	18.77%
250	126	23.42%
300	151	28.07%
350	176	32.71%

The Board of Directors advises a vote “FOR” the amendment to expedite the decorating process.

Report on decorating workshops

Three meetings of the Decorating Committee have been held. Teams have been assigned to research seven finalist designer/architects. The Committee plans to recommend four. The Board of Directors plans to select two for detailed presentations.

April Board Meeting

Mrs. Olga Robbin, a resident from our beginning, was appointed to fill the one year vacancy created by the resignation of Dr. Joel Garcia.

Our insurance broker, Susanna Sanchez-Armengol, reported the insurable value of our property has increased to \$94,445,251 as compared to our prior coverage of \$76,000,000. While this does increase our property insurance premiums it substantially improves our protection in the event of loss.

Our Auditor, Jeff Ducker, presented our 2004 audit report. Copies of the audited statement are available by written request to the Management Office.

Lou Etlinger, chair of the Enforcement Committee, reported on progress in the revision of the Rules and Regulations.

Restaurant Update

Saturday buffets have ended for the summer and will resume in the fall/winter seasons. Call (305) 365-8580 for information, reservations and service.

Manager's Report

Smart Pass

The Smart Passes for entry to the property and garage have been installed. Effective July 1st the present clickers will no longer provide access.

Hurricane Preparedness

The inspection and repair of shutters has been completed. Please inform Maintenance, (305) 361-9117 if you are leaving for any length of time during the Hurricane season. Be sure to remove all items from you balcony before leaving. There is no fee for routine closing of shutters. There will be a \$100 charge if Towers staff has to remove items from your balcony due to a hurricane warning or alert.

If you park in the lower garage please arrange for someone other than Towers personnel to move your car to the upper garage in case of a storm alert. The Towers does not assume liability involved in moving cars. If your parking space in the upper garage is going to be vacant during the summer, please notify the Management Office so that a car from the lower garage can utilize the space in the event of storm conditions.

Luggage Carts

There are four new luggage carts in the garage. Keys are available from the lobby concierge attendants.

Trash

Please use the trash chutes. Do not leave trash on the floors of the trash vestibules. Trash bags are available at the Management Office without charge.

Laundry Tokens

Laundry machines are located in Upper Garage, Phase 2, Tower E. Tokens are available from lobby concierge attendants and the Management Office. The charges are \$15 for the small machines and \$20 for the large machines. Checks only – no cash – please.

Web Page

A Towers Web Page with current detailed information about the Towers will be up and running in June. The internet address is www.tkbonline.com.

Easter Egg Hunt

The shore side Towers Easter Egg Hunt was a great success with many families in attendance. We hope to make it an annual event.

Car Wash and Air Hose

A water hose is available for car washing at the southeast corner of the Lower Garage. An air hose is located in the southeast corner of the Upper Garage.

Treasurer's Report

As of this writing we are in very healthy financial condition. Our April operating statements are available in the Management Office. Expenses for the year through April are substantially below budget. Excess of funds available over expenses is substantial. Reserve expenses for the year to date have been quite limited.

We are accumulating substantial reserve funds in anticipation of oncoming expenses. Major projects in the near future are the long awaited decorating project in the common areas and the painting and waterproofing of the building exteriors – together with continuing repairs of the eyebrows.

The 2005 updated reserve study is anticipated in time for the June meeting of the Board. As of this writing the draft of the report indicates little or no change in reserve assessments for 2006.

Please note that reserve assessments are independent of and in addition to operating assessments. As of this time we have not commenced work on the 2006 budget and have no way of forecasting the 2006 operating assessments.

Towers Sales

Prices of all models continue to increase, with very few available. Depending on location and condition, prices for an Estoril have gone as high as \$890,000 and \$765,000 for a Biscayo.

Board Meetings

Board meetings are rerun on Channel 64 for three days following each meeting – at 9 AM, Noon, 6 PM and 9 PM.

Suggestions, Comments, Concerns & Communication

The Manager would appreciate receiving fax numbers and/or email addresses from all Towers owners. Email Joe at jmaura@tkbonline.com. This newsletter is prepared by Alison Owen and Eleanor Weingast. Email Eleanor at herbk@aol.com or Alison at aowen310@aol.com with items for our next quarterly edition.