

To: 'mbelcher@sentrymgt.com'[mbelcher@sentrymgt.com]
From: Kenneth Lewis
Sent: Wed 11/3/2010 12:24:32 PM
Importance: Low
Sensitivity: None
Subject: RE: questions

Marlene:

Good question! Thanks for making me think.

Of course your last question about whether I had heard from Lennar lately was also good. I have, and now he's waiting to hear back from me, but the most important part of all that is his feeling and understanding that Lennar should be responsible for the repairs, whether they own the property or not. He also understands that he would need to convince his superiors of that, as well.

So my response will be a "carrot-and-stick" approach: The carrots of what permits can be transferred because they're in compliance and not related to the pipe erosion problem, what permits can't be transferred because of other problems that I can work through with them, and the stick of what permits can't be transferred because they are related to the pipe erosion problem. Another stick is that the rule and the permit state that the permittee is responsible for repair of the system prior to transfer of the permit for that system.

The rule also states the following concerning HOAs in general, and their dissolution in particular:

40C-42.027 Legal Operation and Maintenance Entity Requirements.

(1) The District considers the following entities to be acceptable for meeting the requirements necessary to ensure that a stormwater management system will be operated and maintained in compliance with the requirements of this chapter and other District regulations in Chapters 40C-4 or 40C-40, F.A.C.:

(a) Local governmental units including counties or municipalities, or Municipal Service Taxing Units established pursuant to Section 125.01, F.S.;

(b) Active water control districts created pursuant to Chapter 298, F.S., or drainage districts created by special act, or Community Development Districts created pursuant to Chapter 190, F.S., or Special Assessment Districts created pursuant to Chapter 170, F.S.;

(c) State or federal agencies; or

(d) Duly constituted stormwater, communication, water, sewer, electrical or other public utilities.

So there is no difference between an HOA and the city or the county taking O&M responsibility, as they're both acceptable entities.

As for dissolution:

40C-42.027 Legal Operation and Maintenance Entity Requirements.

(4) Entity Requirements.

(a) If a multimember association such as a Homeowner, Property Owner, Condominium or Master Association is proposed, the owner or developer must submit Articles of Incorporation for the Association, and Declaration of Covenants and Restrictions, or such other organizational and operational documents which affirmatively assign authority and responsibility for the operation or maintenance of the stormwater management system.

(b) The Association shall have sufficient powers reflected in its organizational or operational documents to:

5. Exist in perpetuity. The Articles of Incorporation must provide that if the association is dissolved the stormwater management system shall be transferred to and maintained by an entity acceptable to the District as defined in this section. Transfer of maintenance responsibility shall be effectuated prior to dissolution of the association;

The District would not take responsibility for operation and maintenance, but would allow a transfer to one of the entities in 40C-42.027(1) above prior to dissolution of the association.

So it's not true that the District would take over, but dues or taxes could go up from special assessments by the HOA, or the establishment of an MSTU, drainage or special assessment district, stormwater utility, etc.

Thanks again,

KAL

From: Marlene Belcher [mailto:mbelcher@sentrymgt.com]
Sent: Tuesday, November 02, 2010 8:44 AM
To: Kenneth Lewis
Subject: questions

Hi Ken:

One of the Board's I manage asked why don't they just dissolve the association? I was told years ago that if that would happen SJRWD would take over (because the assn maintained the retention ponds) and the dues would go up. Is this still true? In my subdivision the City of Minneola owns the retention ponds. In the one next to me the assn owns the retention ponds. Is there a difference?



Marlene E Belcher

Community Association Manager

Sentry Management Inc

1645 E Hwy 50 #201

Clermont FL 34711

352-243-4595 ext 219

352-243-4597 (fax)