

~ BALLOT ISSUES FOR COUNT ~
April 17, 2010

~ COUNT TOTALS ~
N/V = No Readable Yes or No Vote.

MRMA - Proposal to increase the Mandatory Road Maintenance Assessment (MRMA) from \$85 to \$125.

YES 89 NO 152 N/V 4

Paving - Proposal for a \$100 special assessment for paving, with up to 10% to be used for maintenance of previously-paved roads.

YES 103 NO 140 N/V 2

Community Lot - Proposal for a \$20 special assessment for development of the Community Lot.

YES 107 NO 134 N/V 4

Legal Defense Fund - Proposal that the interest which accrues from the Legal Defense fund be deposited into the Community Lot fund. To clarify, the Legal Defense Fund was a one-time assessment to provide legal defense for the Board of Directors from legal actions brought on by persons that are exempted by our insurance company. Ideally, we will never have to use the fund, so we would like to see the interest from this fund put to good use, rather than the fund continue to grow endlessly. Currently there is about \$75,000 in the fund.

YES 182 NO 61 N/V 2

Bylaws changes

Article III, Membership & Votes, Section 1, line 3. Proposal to delete the following lines: [An honorary membership may be appointed by the BOD. Such membership will be subject to full payment of the annual road maintenance assessment and shall be allowed full voting rights for one lot.] Section 1, line 4. Proposal to insert the word Orchardland: "Owners of Orchardland lots exempt from MRMA's shall be made members upon full payment of the annual MRMA. Some Orchardland properties do not abut Orchardland roads, and the owners of those properties are not required to pay MRMA's. This change is to limit Honorary Memberships to only them, and protect us from outsiders buying votes in our Association. This was the original intent of this bylaw.

YES 216 NO 25 N/V 4

Article IV, MRMA and collection - All owners of lots abutting private roadways shall be assessed MRMA as authorized by the State of Hawaii Court Summary Judgment dated April 3, 1992, and further clarified by the ruling in Civil #06-01-099, OLCA vs. Murakami. Changes in the MRMA shall be recommended by the BOD and submitted for approval to the membership by a simple majority of the votes cast. [delete 'Each assessment shall constitute a lien upon each lot against which it is imposed.'] Upon any lot owner becoming delinquent for more than [delete 'sixty (60) days'] one (1) year after the due date for payment, the BOD may enforce collection by obtaining a judgment against the property owner for the payment of MRMA, and then registering the judgment with an assistant registrar of the Bureau of Conveyances or Land Court of the State of Hawaii. This is to be in compliance with the recent court judgment in OLCA vs. Murakami. The change from 60 days to 1 year was presented and approved by the membership during the first reading.

YES 222 NO 15 N/V 8

Article IV, MRMA & Collection, paragraph 2. Proposal to change "Foreclosure proceedings and/or any other remedy available to the association pursuant to law against seriously delinquent property owners

YES 223 NO 18 N/V 4

and their lots shall be permitted" to: "Foreclosure proceedings against delinquent property owners and their lots shall not be permitted. This shall not, however, bar any other remedy available to the association pursuant to law." This restores this section to its original wording, also in compliance with the court's ruling.

YES 227 NO 12 N/V 6

Article VII, Board of Directors, Section 8. Removal. Proposal to correct a typographical error as follows: "d) A quorum (as defined in Article VI, Section [delete 6, insert 3] is present at a special membership meeting called for this purpose." This is a simple typo correction. There is no Section 6 in Article VI.

The following will be a new Article:

Article XIV, Disputes: Any member of the Association must, before filing a legal action against OLCA, its Board of Directors or any individual director, officer or agent of the corporation, attend mediation with the Board of Directors and the agent, if any. Such mediation will be presided over by an impartial facilitator, and the instigator of the action will cover any cost incurred. This is to persuade Members and Directors to work things out on a personal level and avoid costly litigation.

YES 212 NO 31 N/V 2

Settlement Proposal

The title of the case is "Shikwan Sung, individually and on behalf of all shareholders of Orchidland Community Association, Inc.; Plaintiff, vs. Roger Hawney, an individual; Wes Owens, an individual; Yen Chin, an individual; Andrew Coyne, an individual; and Dawn Spurrel-Robinson, an individual; Orchidland Community Association, Inc., a Hawaii non-profit corporation; and Does 1-10, Defendants, filed on April 24, 2008. All members of OLCA were named as both Plaintiff and Defendant in this case.

YES 157 NO 23 N/V 65

Even a summary of this case would be too lengthy for this newsletter. We have provided all of the relevant documents on our website at www.orchidland.org. There you will find the Complaint, the Answer and Counterclaim, the subsequent filings, the Mutual Release and Indemnity Agreement, and the letters of reconciliation. You can also read about the discussion that took place concerning this issue at the November 2009 membership meeting by accessing the unapproved minutes of that meeting. If you still have questions you can contact us through the website e-mail Help Desk form. This will be the best way to insure that the questions and answers are documented and impartial.

In general, lawsuits are very time consuming, and take away from our real business of fixing the roads, building community, etc. With that in mind, this settlement proposal is worth your consideration. Please research the issue and get a thorough understanding of it before voting.

Bob Bidlem 4/17/10 8 hrs. ; 4/18 - 6 hrs
Barbara Kaha-Tengoa 4/17/10 8 hrs
Richard Red 4/15/10 3 hrs

TOTAL HOURS: 25
NOTE COUNT