



STERLING | MANAGEMENT  
GROUP, INC.

977 Willagillespie Road  
Eugene, OR 97401  
541.684.8141  
541.684.8132 FAX

October 1, 2014

# IMPORTANT NOTICE TO HOMEOWNERS

**Please respond immediately. All owners currently selling their unit and you, as a member of the Association will be affected if you ignore this notice.**

**Re: New rules for Fannie Mae and Freddie Mac Loans**

A significant change in the rules for condo loans using Fannie or Freddie occurred effective July 1, 2014.

This change requires the Association to budget 10% of our total income to the reserve account. Reserve money is used for the common areas of the property, including replacement of roofs, painting and all maintenance shared (common) areas of our property.

The new rules require New Oak Park to budget 10% of our annual **income** to the Reserve account.

When our by-laws were signed in February, 1996, the fixed amount allocated to reserves was adequate, as our total operating budget was significantly less. Due to the increasing costs of goods and services our annual budget has increased, and the fixed amount dictated by our by-laws only requires a savings of 8% as compared to our 2014 budget.

**The current deficit of 2% of the annual budget is prohibiting loan approval for some owners that want to sell their unit and we must resolve this issue immediately.**

**Please review the attached Recommendations and Amendment to our By-Laws from our Attorney.**

If you have any questions please contact Anne Geertsen at Sterling Management. Phone (541)681-8141.

This issue is urgent in the budget process for 2015 and most importantly for your ability to sell your unit.

A return and stamped envelope is enclosed for your immediate response.

Sincerely;

New Oak Park Board  
Sterling Management Group

**KYLE GRANT**  
503.684.4111 x328  
FAX 503.598.7758  
KYLE.GRANT@VF-LAW.COM  
*Admitted to practice in:*  
*Oregon*

P13053-001

October 30, 2014

Owners of Oak Park Townhouses Homeowners Association, Inc.

Re: **Recommendation for Amendment to Declaration**

Dear Owners:

I was recently hired by the Board to represent Oak Park Townhouses Homeowners Association, Inc. (“**Association**”) as legal counsel. Based on my recommendation, the Board has proposed the enclosed Amendment to the Declaration (“**Amendment**”), which requires 75 percent of the owners to approve in order to pass.

As counsel for the Association, I recommend that you vote in favor of this Amendment. Currently, 75 percent of the owners must approve any increase or decrease in assessments for reserves. This approval requirement can make it difficult for the Board to properly plan for future expenses paid for by reserve funds. Factors such as changing prices of materials and labor or unexpected wear on common property may mean that reserve assessments may need to be adjusted from time to time. Most Associations contain provisions in their governing documents which give the Board the sole discretion to set the level of all assessments, both for operating and reserve funds. Our experience has shown this to be the most effective and sensible way to deal with these issues.

In order to control spending by the Board, you will notice that I have recommended adopting additional language that will allow the owners to retain some control over the level of assessments. Under the Amendment, the Board can only use reserve funds for maintenance, repair and replacement of common property. Also, the Board cannot spend more than \$2,500 on any capital improvements (or optional additions) without a vote of a majority of owners. This language (along with other existing language in the Declaration and Bylaws) provides controls on Board spending and, by extension, the amount of assessments that you as owners will be liable for.

Should you have any questions, please direct them to the Board or to the Association’s professional manager, Anne Geertsen.

Sincerely,

**VIAL FOTHERINGHAM LLP**

Kyle Grant

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Northwest HOA Law Center, 17355 SW Boones Ferry Rd. Suite A, Lake Oswego, OR 97035 503.684.4111  
Intermountain West HOA Law Center, 602 East 300 South, Salt Lake City, UT 84102 801.355.9594  
Northwest HOA Law Center, Boise 12828 LaSalle St., Suite 101 Boise, ID 83713 208.629.4567  
Southwest HOA Law Center, 2333 W University Dr. #C103 Tempe, AZ 85281 480.448.1331  
Website: [www.vf-law.com](http://www.vf-law.com)

**NOTICE OF INTENT TO CONDUCT VOTE  
BY WRITTEN BALLOT IN LIEU OF A MEETING**

**Oak Park Townhouses Homeowners Association, Inc.**

**NOTICE** is hereby given that the Board of Directors, pursuant to ORS 94.647, intends to conduct a vote by written ballot in lieu of a meeting. Ballots will be distributed on or after **November 10, 2014**.

**SUBJECT MATTER OF VOTE**

The Board of Directors intends to refer proposed amendments to the Declaration (CC&Rs) to the owners for a vote. The current Declaration requires a vote of 75 percent of the owners in order to increase or decrease the rate of reserve assessments. The proposed amendments would allow the Board of Directors to increase or decrease the rate of reserve assessments without having to obtain approval from the owners. To control the use of funds, the amendment includes new language imposing limits on the use of reserve funds. Further, under the amendment the use of any funds for any capital improvements would require a vote of the majority of owners.

**OWNERS RIGHT TO REQUEST SECRECY PROCEDURES**

**Petition by Owners**

Under ORS 94.647, a vote by written ballot must be conducted by the secrecy procedures specified below if at least three (3) days before written ballots are scheduled to be mailed or otherwise delivered, at least ten percent (10%) of the owners petition the Board requesting that the secrecy procedures be followed.

**Secrecy Procedures**

If not later than **November 7, 2014**, the Board receives a petition signed by at least ten percent (10%) of the owners requesting the secrecy procedures, a written ballot will be accompanied by:

- (1) A secrecy envelope;
- (2) A return identification envelope to be signed by the owner; and
- (3) Instructions for marking and returning the ballot.

WRITTEN BALLOTS RETURNED IN SECRECY ENVELOPES MAY NOT BE EXAMINED OR COUNTED BEFORE THE DEADLINE FOR RETURNING BALLOTS HAS PASSED.

**Delivery of Petition**

Any petition must be received by the Board of Directors by **5:00 p.m. on Friday, November 7, 2014**, at the following address:

**Oak Park Townhouses Homeowners Association, Inc.**

c/o Anne Geertsen  
Sterling Management Group, Inc.  
977 Willagillespie Rd  
Eugene, Oregon 97401

**BALLOT**

**For vote by written ballot in lieu of a meeting pursuant to ORS 94.647**

**Oak Park Townhouses Homeowners Association, Inc.**

**PROPOSAL:** That the Declaration of a Planned Community (ORS 94.580) Oak Park Townhouses be amended as set forth in Proposed Amendment to Declaration.

**CHECK ONE BOX ONLY:**

**YES** I am in favor of the above Proposal.

OR

**NO** I am not in favor of the above Proposal.

**EACH OWNER HAS ONE VOTE FOR EACH LOT OWNED. IF A LOT IS OWNED BY MORE THAN ONE OWNER, ONLY ONE VOTE MAY BE CAST FOR EACH LOT. IN ORDER FOR THE AMENDMENT TO PASS, 75 PERCENT OR MORE OF THE OWNERS MUST VOTE IN FAVOR OF THE PROPOSED AMENDMENT.**

**LOT:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
(Insert Lot No.)

**OWNER:** \_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE (PROXY HOLDER)

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE (PROXY HOLDER)

Please complete and sign this ballot and return it to the following address by **DECEMBER 10, 2014**. The Board may extend the deadline for receiving ballots by delivering notice to all owners.

**Oak Park Townhouses Homeowners Association, Inc.**  
c/o Anne Geertsen  
Sterling Management Group, Inc.  
977 Willagillespie Rd  
Eugene, Oregon 97401

1 **PROPOSED AMENDMENT TO DECLARATION**

2  
3 Oak Park Townhouses Homeowners Association, Inc.

4  
5  
6 The Oak Park Townhouses Homeowners Association, Inc. hereby proposes the following amendment to  
7 the *Declaration of a Planned Community (ORS 94.580) Oak Park Townhouses*, recorded on April 5, 1996  
8 as document number 96-22258 in Lane County, Oregon ("**Declaration**"). Additions are indicated in **bold**  
9 **text**. Deletions are indicated in ~~strikethrough text~~.

10  
11 **It is proposed that Article VI, Section 4 of the Declaration be amended in its entirety as follows:**

12  
13 Section 4. ~~Until the commencement of the second year after the Association has assumed~~  
14 ~~administrative responsibility for the planned community pursuant to the turnover meeting as set forth in~~  
15 ~~the Bylaws, the maximum monthly capital assessment shall be based upon the schedule attached hereto as~~  
16 ~~Exhibit "D" and designed as Reserves. Pursuant to said schedule, the initial maximum monthly capital~~  
17 ~~assessments are as follows:~~

- 18 Type A ~~— \$12.59~~
- 19 Type B ~~— \$12.94~~
- 20 Type C ~~— \$14.63~~
- 21 Type D ~~— \$16.95~~
- 22 Type E ~~— \$15.77~~
- 23 Type F ~~— \$16.95~~
- 24 Type G ~~— \$17.67~~
- 25 Type H ~~— \$17.67~~
- 26 Type I ~~— \$13.72~~

27  
28  
29 ~~Following the second year after the Association has assumed administrative responsibility for the planned~~  
30 ~~community pursuant to the turnover meeting as set forth in the Bylaws, if owners of lots representing 75~~  
31 ~~percent of the votes of the planned community agree to the action, they may vote to increase, reduce or~~  
32 ~~eliminate future assessments for the account.~~

33  
34 ~~In the event that the owners of the lots vote to increase or decrease capital assessments, the owners shall~~  
35 ~~determine which of the items designated as Reserves set forth in the schedule attached as Exhibit "D" are~~  
36 ~~the basis of the increase or decrease (using the Annual Expense column). The increase or decrease shall~~  
37 ~~then be apportioned among the unit types in direct proportion to the initial capital reserve assessment as~~  
38 ~~set forth in the Schedule, which, except for roof replacement and exterior paint, shall be uniform.~~

39  
40 ~~In the event that an increase in the monthly capital assessments is caused by an item not designated on the~~  
41 ~~schedule, then the increase in the monthly capital assessment shall be apportioned uniformly amongst all~~  
42 ~~types of units.~~

43  
44 **The Board of Directors shall have the authority to increase or reduce the rate of reserve**  
45 **assessments based on the annual budget adopted by the Board and any reserve study obtained at**  
46 **the discretion of the Board.**

47  
48 **Reserve funds are to be used solely for replacement of common property. The Board of Directors**  
49 **may not use any funds of the Association to spend more than \$2,500 on any Capital Improvement**  
50 **without a vote of at least a majority of all owners.**

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- (1) **Capital Improvement Defined.** For the purposes of this Section 4, the term “Capital Improvement” means the use of Association funds to construct or build an addition to the common property, where such use of funds is optional under the Declaration and Bylaws, rather than mandatory, and is not otherwise required by law.
  
- (2) **Exclusions from Capital Improvement.** The maintenance, repair or replacement of improvements to the common property shall not be considered a “Capital Improvement,” (notwithstanding that such expenditure or improvement may be considered a capital expenditure or capital improvement for tax purposes) if:
  - (i) The Association is obligated to maintain the improvement; and
  - (ii) the Association uses materials:
    - (A) Of similar kind;
    - (B) That are required, either due to changes in building or fire codes or due to discontinued fabrication or unavailability; or
    - (C) That have substantially similar cost over the useful life of the material.