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REVISED FROM MAY 7, 2024

Board of Directors
Pine Ridge North Village IV Condominium Association, Inc.
c/o JDM Managers, LLC
11199 Polo Club Road
Wellington, FL 33414

Re: Power to Borrow Funds and Levy Special Assessments

Dear Board of Directors:

Inquiry was made as to the following:

ISSUES:

1. Does the Association have the power to borrow funds?
2. Does the Association have the power to levy special assessments for roofs, gutters, resurfacing/repainting pool deck and tennis court, repairing bocce and shuffleboard courts and repairing electrical closets?

ANSWERS:

1. Yes, the Association has the power to borrow funds pursuant to 617.0302(7) of the Florida Statutes. The Board of Directors acting on behalf of the Association has the authority to borrow funds. Please see reasoning below.
2. Yes, the Association has the power to levy special assessments for roofs, gutters, resurfacing/repainting the pool deck and tennis court, repairing bocce and shuffleboard courts and repairing electrical closets provided that they are:
 - A. Necessary; and
 - B. Unanticipated expenses which cannot wait and be deferred to regular budget meeting. Please see reasoning below.

REASONING:

1. Please be advised that the undersigned reviewed the Association's Declaration, Articles of Incorporation, Bylaws and Amendments thereto; the Florida Condominium Statute, the Florida Not-For-Profit Statute and Amendments thereto. The Association documents fail to address the Association's ability to borrow funds. The Florida Condominium Statute also fails to address the Association's ability to borrow in normal circumstances. The Florida Condominium Statute only addresses the Association's ability to borrow in the context of emergency powers in response to a state of emergency being declared. The Association is not facing a state of emergency, therefore the emergency powers would not apply.

The Florida Not For Profit Statute in Chapter 617.0302(7) provides as follows:

"Every corporation not for profit organized under this chapter, unless otherwise provided in its articles of incorporation or bylaws, shall have power to:

(7) **Make contracts and guaranties, incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure obligations by mortgage and pledge of all or any of its property, franchises or income."**(Emphasis added)

Based on Chapter 617.0302(7) of the Florida Statutes, the Association is authorized to borrow funds as the Articles of Incorporation and Bylaws fail to address the issue.

2. Section 8.1 of the Declaration provides:

"The Association shall administer the operation and management of the Condominium Property and undertake and perform all acts and duties incident thereto in accordance with the provisions of this Declaration and Condominium Act." (Emphasis added)

Section 8.4 of the Declaration gives the Association the power to levy and collect assessments.

Section 10.1 of the Declaration provides:

"The Association, at its expense, shall be responsible for and shall maintain, repair and replace all of the Common Elements, Limited Common Elements (except as indicated herein to the contrary); and other areas as indicated in the Condominium and related documents." (Emphasis added)

Section 14.1 of the Declaration authorizes the Association to make, levy and collect special assessments.

Section 14.3 of the Declaration requires that the specific purpose of a special assessment must be provided in the notice of assessment sent to each owner and that special assessment funds shall be used only for that purpose.

Section 4.11(d) of the Bylaws provides:

“It is understood that assessments must be sufficient to provide for payment of all anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Accordingly, the **Board is given the power to adopt special assessments provided that procedures for notice as set forth in F.S. 718 are followed** as to any special assessment providing for any previously unanticipated expenses. **Special assessments shall be limited to those items which are necessary and all other items which can reasonably be deferred to regular budgetary meeting shall be deferred.**” (Emphasis added)

Based upon these provisions, all items being considered in this opinion would be classified as proper common expenses. As they are proper common expenses, the Association has the power to levy special assessments for roofs, gutters, resurfacing/repainting the pool deck and tennis court, repairing bocce and shuffleboard courts and repairing electrical closets located on the exterior of the buildings provided that they are:

- A. Necessary; and
- B. Unanticipated expenses which cannot be deferred to the regular budget meeting.

If the Association will be obtaining a loan, most banks will require a special assessment. If you have any questions concerning same, please do not hesitate to contact me.

Very Truly Yours,



Natalie C. Chin-Lenn