

**TWIN LAKES VILLAGE PROPERTY ASSOCIATION
BOARD OF DIRECTORS GENERAL MEETING**

Tuesday May 15, 2001
Clubhouse Loft, 7:00 p. m.

Board Members Present: Larry Carlson, Georgeanne Griffith, Ken Degerman, Brody Conklin, Scott Gookstetter and George Potts
Board Members Absent: Jane McGovern
Employees Present: Kevin Klier, Judy Brooks, Tom Colon, Terry Holt and Anita Bedard
Members Present: Approximately 28

President, Larry Carlson, called the meeting to order at 7:03 p.m.

- 1) The agenda was approved after the addition of C. Membership Cards, D. Designation Privileges under **Old Business**, plus under **New Business** C. Signage, D. Rob Reagan, developer.
- 2) **Approval of April 27, 2001 General Meeting Minutes:** Georgeanne moved, Brody seconded, to approve the April 27, 2001, General Meeting Minutes as drafted. The motion was unanimously approved.
- 3) **General Managers Report:**
 - a) Kevin announced that Nikki Potts is the new bookkeeper and getting the books where they need to be. Revenues marked for the correct department needs is being corrected also. Starting May 1st we are very accountable and confident about the future. Kevin went on to say that as we all know there is a time in the spring when revenue is slow and unfortunately the year of 2000 ended with the revenue being in the negative. The months of May through October we'll be working on generating more revenue with a goal of at least \$2,900.00 a day to meet the budget. Additionally we will minimize overhead expense by utilizing management efficiency, which should increase profitability.
 - b) Kevin also reported that the response cards were coming in with some very complimentary comments. He also had the survey response's available to the members to look over. There will be radio advertising on three different radio stations. There hasn't been a favorable response from the presale of the Green Fee passes.
The announcement was also made that the Swimming Pool is now open.
Bob Max, the security person has started patrolling the Village.
Kevin went on to thank the Men's Club for helping clean "Stinky Hollow," fix with the brick planter and raking gravel.
 - c) **Sommarfest** is coming along quite well. Judy Minter and Beth Karita have been working very hard to make this event successful.
 - d) **The Long-range Planning Committee** met and discussed the needs of the village to be presented to the Board.
 - e) It has been brought to our attention there is a need to take better care of your PETS (keep them on leashes and pick up after them) and RECREATIONAL VEHICLES (they need to be moved after 24-hours) according to the CC&R's. Ann Tomlinson also brought up the need for clean up by the Mini-Storage units. Kevin along with Terry agreed to look into this problem.
- 4) **Superintendent's Report:** Terry apologized for the rain and went on to say they were getting prepared for the forthcoming tournaments such as, KMC Best Ball and the Couples Chapman. The course is growing extremely fast. Terry had the piles removed by the Maintenance Shed and they were dumped at the Elkhorn Estates, thanks to Charlie Potts. They are moving the sand to the bunker by the main shop area and then plant grass where the piles were so the area will be presentable.
He thanked Bill Eggers, Jack Schlangan and the rest of the Green Committee for helping with the posts on the Driving Range and reported that it looks 100% better, adding that he would like to put target greens out there also.
The irrigation project needs to be completed on three fairways. There is currently a lot of hand watering being done, so it would be more economic for us to finish this. He expressed the need for a wirepuller

for the distance of 17,000 feet of wire. Larry said he might be able to get one for him. Terry was asked when the net was going up on #4 Tee and his reply was by May 30th. Georgeanne understood that the person who did our snow removal was supposed to haul away the piles for the repair work caused from the snowplowing and Terry said he had underestimated the amount to be hauled away. The inquiry was also made about whether the road to the maintenance shop was going to be oiled. Terry has been trying to keep costs down so the oiling wouldn't be done yet.

Mike Jackson thanked Terry for the Tennis Court clean up and Terry said it was Beth Watson who needed to be thanked for that great job. It was suggested more signs were needed for people to stay on the cart paths and Terry said that ultimately they might have to rope the Par 3 cart paths off.

- 5) **Golf Pro's Report:** Tom thanked everyone for showing up for the Open House and went on to say they had 70 players for the Spring Kick Off. The KMC Best Ball has a full field and it will be a 1:00 p.m. shot gun start. The next Range Clinic will be on the 26th at 11:00 a.m. and will be on teaching aids. The 25th anniversary of the Couples Chapman is June 2nd and 3rd with a \$60.00 entry fee this year. The Dickinson Scramble is the 17th of August and has 180 players and Tom expressed a need for more golf carts for this tournament. He along with Terry is trying to be more efficient with their crew's time, so one person on Tom's crew is spending a shift with Terry, occasionally. Tom made several announcements such as: Mike Mengert will be here June 10th, Jeff Niles shot the course record by 3, in Clarkston with a 60.

George Potts also asked Tom to keep track of play on a monthly report and Tom agreed. Then Tom was asked whether a record was kept on who has paid their cart fee and if they were checking to see if everyone had them. Tom said they would have the course marshal check as soon as he starts. Ann Conklin thanked Tom for starting the novice group. She felt there was a very positive response from it.

- 6) **Restaurant Managers Report:** Anita thanked everyone for coming to the Mother's Day Brunch along with the Mother's Luncheon. She announced they were working out all the idiosyncrasies with all the new employees. The P.O.S. System is up and working, all she needs to do is enter all the members. The customer service cards are being turned in, and there has been a very favorable response. She would like to promote the importance of making reservations at the Grill. It would make it easier for her to scheduling her employees. Ken Degerman requested a list of all the banquets to which Anita agreed to make up. He went on to add that North Idaho Seniors would like a bid for this years banquet. Anita also announced that Jimmie Gertsch won the employee of the month, for being such a hard worker and was awarded a dinner for two at the Grill. The board suggested a plaque with his name on it, to hang at the Grill. It was suggested to check at All-Sports in Rathdrum for a price on one.

7) **Committee Reports:**

a) **Activities Committee:** Ann Conklin reported on the "Meet Your Neighbor Day" party, after the Annual Board Meeting, June 16th, 2001. It will be a Western theme, called "Howdy Neighbor," so get your blue jeans and western wear out and we'll have some fun meeting our neighbors. She also announced she had reserved TLV night at a Spokane Indians game August 7 which happens to be a Tuesday night. Don't forget the yard sale in August-please save your junk.

b) **Greens Committee:** Georgeanne inquired about the trimming of the tree by the # 3 Tee and Gale said they weren't going to do anything at this time, except Terry will be trimming the lower part of the tree.

c) **Architectural Committee:** There have been plans for 2-homes approved to be built in the last month.

8) **Old Business:**

a) **Appointment of the finance Committee:** Brody reported that the Finance Committee was approved in 1999, so it now needs to be implemented. There was some discussion about the number of professionals in the Village and how their expertise could be utilized for this committee. The committee's job would be to present financial data to the board. Brody moved to implement the Finance Committee with Lilas Broemmeling as chairperson, with the understanding, a list of the others on this committee would be submitted to the board for approval and Scott seconded, the motion carried. Lilas was asked to meet with Kevin to decide on the appropriate number for this committee.

b) **Legal Review on voting issue:** Georgeanne read a couple of paragraphs on page 3 & 4 from the letter received from Bruce Biohowiak, Attorney of Law. She went on to explain everyone must consent to 1-unit 1-vote. Ann Conklin added that when they purchased homes here, there was a weighted vote with weighted dues as well. Where and when was it eliminated? There was a tiered also membership. The change occurred when the by-laws were changed to 1-unit 1-vote. Frank asked who would be voting for the New Nine, since it may be sold. George had asked Charlie if he would vote for the 1-unit 1-vote and he assured him he would. It was suggested that the by-laws change to say 66 $\frac{2}{3}$ % votes instead of the voting power.

Ken moved the board proceed with the necessary steps to obtain the 100% affirmative vote required due to the 1993 Supreme Court ruling to change the voting rights from percentages based on actual square footage ownership of each member, to the 1-unit 1-vote method. Ken furthermore moved that a vote be taken at the same time to amend the CC&R's to require a 66 $\frac{2}{3}$ % majority of the votes cast, opposed to the current requirement of 66 $\frac{2}{3}$ of the total voting power of the association for passage of issues voted on by the POA members. Georgeanne seconded and the motion carried.

c) **Membership cards:** Kevin reported that they can be incorporated now and we would get them as soon as possible.

d) **Designations:** Georgeanne announced that the CC&R's state a member can designate only two people to golf, not a family, then stressed the necessity of enforcement.

9) **New Business:**

a) **July 28th Women's Member/Guest Request (reduced fees):** There wasn't anyone there to speak on this matter so no decisions made.

b) **Cast Catch & Score Tournament:** Mel Pasta informed the Board that the 2nd Annual Cast, Catch and Score Tournament will be held Friday, July 27, 2001. The first year this tournament was held there were 77 participants with 51 being TLV members. The fee for this tournament will be \$70.00 whether you are a TLV member or not. A reasonable amount will go to the building fund. There are sign-up forms in the Pro Shop, so pick one up.

c) **Signage:** Ken said each time the restaurant has been leased, there has been a sign at the entrance saying; Public Welcome or Open to the Public and feels this is very necessary. The suggestion was made to meet with the people who own the Trading Post and see if something can be done. According to the county, there can't be any new signs added. The one we have can be remodeled but not replaced.

d) **Rob Reagan-Developer** Mr. Reagan explained what properties were going to be developed which are located between the 12th and 16th Fairways and borders the 11th. Rob spoke about some trading he was interested in doing with the POA and explained the ideas he had on signage, roadway changes, landscaping etc. He is going to stake out the area he would like to have and assured everyone he didn't want to disrupt anything around the golf course such as causing traffic & noise issues. He stressed the importance of working together with the POA. There will be 15 residential lots and the first two will be townhouses. He mentioned an exchange for golf memberships with the work he would be doing to benefit the whole village. The need was expressed for a letter of recommendation from the board, for the changes at planning and zoning. The board assigned Terry Holt and Kevin to work with Rob on some of the issues and changes. The signs for Prudential (real estate) aren't what has been approved by TLV in the CC&R's, they are custom, something in between 12"X 12" and 2'X2'. It was stressed that in this planning he needed to consider water run off due to problems there have already occurred. Rob assured the board this site would be designed to handle storm water run off, with dry wells, etc.

e) **Sommarfest:** A short report was given by Judy Minter and Beth Karita telling everyone about the advertising by Newsletter, post cards, flyers, TV, and radio. The Prudential Real Estate has sponsored them so they will, in turn, support them.

10) Announcements:

June 2001 Newsletter deadline

Next General Meeting

2001 Annual Meeting

Friday, May 25, 2000

Tuesday, July 17, 2001

Saturday, June 16, 2001

The meeting was adjourned at 9:25 p.m.

Minutes approved by:

Larry Carlson, President

Brody Conklin, Board Secretary

**TLV GREEN COMMITTEE
MINUTES OF 05/8/2001**

The May 8, 2001 meeting of the Green Committee was called to order by Chairman Gale Salo at 12:05 P.M. at Twin Lakes Grill. Those present were Gale Salo, Dean Benson, Ed Stocklen, Bill Eggers, Teresa Underwood, Jack Schlangan and Kevin Klier. Tom Colon, Golf Professional and Terry Holt, Golf Course Superintendent were also present.

The minutes of the April 10, 2001 meeting were reviewed. Minutes were approved as presented.

Jack Schlangan was welcomed as a new committee member.

The Board has given approval for seal coating of cart paths 5,7,10, 12 and also around the clubhouse area. Terry said he has been in contact with the contractor and we are looking at costs of 8 cents per sq. ft. for the cart paths and 12-14 cents per sq. ft. for the clubhouse area. The clubhouse area will be double coated. We are still waiting for warmer weather to get the project done.

Gale thanked Lee for installing the new directional sign going to the #4 tee.

A discussion was held concerning o.b. markers and ground under repair. The following holes were to be addressed:

#10 – put o.b. stakes in behind green and by bushes by maintenance shed. Also stakes in cleared areas, to the right of cart path, especially down by the green.

#11 – check wood chips, left side of fairway, down by green – tabled until next meeting.

#12 – pull stakes to right of cart path and redo o.b. stakes in opening to the right of green.

#13 – left side - designate ground under repair by trashy area until cleaned up. A question was asked as to why there are two drop areas by #13 green. The back one will be eliminated.

Also discussed were o.b. markers by #10 and #11 tee box and rodent control.

A motion was made by Ed and seconded by Teresa to get a bid on the proposed cart path from 8th green to 9th red tee box. Motion passed unanimously.

Trees by the #3 red tee box was discussed. Kevin was concerned about the trees blocking a good visual view from above. Removing trees is always a hard thing to accomplish, but eventually something will have to be done. Terry will see if he can do some trimming for safety of the area.

Under new business Tom and/or his assistants were encouraged to check golf course/greet people once per day if possible. Seen as very good PR. It was suggested that the cart used have some official designation.

Teresa asked Terry about the timers on the fountains being left on all night. They are noisy and consume electricity. Terry will be sure the timers are set correctly.

Terry requested some help for a new container box for divot mix located by the pro shop. Jack volunteered to help with this project.

Also needed are some new stakes and ropes for the driving range. Bill volunteered to help on this one.

Next meeting will be June 13th, 2001, 12:00 noon, at the Twin Lakes Grill.

Meeting adjourned 1:45 PM.

Gale Salo, Chairman

05/11/01

TWIN LAKES VILLAGE Balance Sheet

As of April 30, 2001

	Apr 30, '01
ASSETS	
Current Assets	
Checking/Savings	
1000 · US BANK - OPERATING	5,624.65
1010 · WTB - OPERATION	9,268.00
1020 · US BANK MONEY MKT	98.27
1040 · CASH ON HAND	1,100.00
Total Checking/Savings	16,090.92
Accounts Receivable	
1200 · MEMBER RECEIVABLES	38,426.79
Total Accounts Receivable	38,426.79
Other Current Assets	
1210 · INVENTORY-PRO SHOP	36,264.92
1220 · INVENTORY- GRILL	10,868.31
1400 · PREPAID INSURANCE	9,749.00
Total Other Current Assets	56,882.23
Total Current Assets	111,399.94
Fixed Assets	
1500 · ADMINISTRATION FIXED ASSESTS	3,058,999.09
1600 · GOLF COURSE FIXED ASSETS	467,534.27
1700 · PRO SHOP FIXED ASSETS	13,393.19
1800 · GRILL FIXED ASSETS	178,976.24
1900 · ACCUM DEPRECIATION	(1,251,878.00)
Total Fixed Assets	2,467,024.79
Other Assets	
1950 · LOAN FEES	3,809.00
1960 · ACCUM AMORTIZATION	(375.00)
Total Other Assets	3,434.00
TOTAL ASSETS	2,581,858.73
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
2000 · ACCOUNTS PAYABLE	62,188.87
Total Accounts Payable	62,188.87
Other Current Liabilities	
2100 · BUILDING FUND	3,429.65
2150 · MEN'S MEMBER GUEST	1,342.39
2200 · PAYROLL TAXES PAYABLE	1,984.04
2291 · DEFERRED REVENUE/PREPAI...	133,885.44
2300 · SALES TAX PAYABLE	3,223.36
2301 · GIFT CERTIFICATED UNREDEE...	6,428.67
2310 · PRO LESSONS PAYABLE	330.00
2530 · US BANK - CREDIT LINE	30,000.00
Total Other Current Liabilities	180,623.55
Total Current Liabilities	242,812.42
Long Term Liabilities	
2510 · NOTE PAYABLE - US BANK	965,747.60
2520 · US BANK EQUIP LOAN	73,216.75
Total Long Term Liabilities	1,038,964.35
Total Liabilities	1,281,776.77
Equity	
3900 · RETAINED EARNINGS	1,383,535.83
Net Income	(83,453.87)
Total Equity	1,300,081.96

05/11/01

TWIN LAKES VILLAGE Profit & Loss

January through April 2001

	Jan - Apr '01	% of Income
Ordinary Income/Expense		
Income		
4300 · GRILL INCOME	22,693.12	100.0%
Total Income	22,693.12	100.0%
Cost of Goods Sold		
5300 · GRILL COST OF GOODS	11,498.26	50.7%
Total COGS	11,498.26	50.7%
Gross Profit	11,194.86	49.3%
Expense		
6010 · PAYROLL SALARY	5,153.86	22.7%
6020 · PAYROLL WAGES	14,650.32	64.6%
6030 · PAYROLL TAXES	1,917.76	8.5%
6040 · EMPLOYEE BENEFITS	1,448.57	6.4%
7000 · ADVERTISING & PROMO...	702.99	3.1%
7030 · BANK CHARGES	21.42	0.1%
7120 · LEASED EQUIPMENT	543.55	2.4%
7160 · LINEN-CLOTH	681.62	3.0%
7200 · REPAIR AND MAINTENA...	1,460.07	6.4%
7530 · OVER/SHORT	(100.62)	(0.4)%
7600 · STORAGE	307.50	1.4%
7700 · SUPPLIES	3,260.73	14.4%
7800 · TAXES-SALES/USE	61.30	0.3%
7830 · TELEPHONE	789.82	3.5%
7880 · UTILITIES	3,696.64	16.3%
Total Expense	34,595.53	152.4%
Net Ordinary Income	(23,400.67)	(103.1)%
Net Income	(23,400.67)	(103.1)%

05/11/01

TWIN LAKES VILLAGE Profit & Loss

January through April 2001

	Jan - Apr '01	% of Income
Ordinary Income/Expense		
Income		
4000 · ADMINISTRATION INCO...	1,010.00	5.1%
4100 · GOLF COURSE INCOME	2,026.00	10.3%
4200 · PRO SHOP INCOME	16,605.93	84.5%
Total Income	19,641.93	100.0%
Cost of Goods Sold		
5200 · PRO SHOP COST OF G...	17,761.14	90.4%
Total COGS	17,761.14	90.4%
Gross Profit	1,880.79	9.6%
Expense		
6010 · PAYROLL SALARY	18,565.44	94.5%
6020 · PAYROLL WAGES	441.14	2.2%
6030 · PAYROLL TAXES	1,548.09	7.9%
6040 · EMPLOYEE BENEFITS	190.00	1.0%
7000 · ADVERTISING & PROMO...	993.55	5.1%
7120 · LEASED EQUIPMENT	4,493.00	22.9%
7200 · REPAIR AND MAINTENA...	849.93	4.3%
7510 · MISCELLANEOUS EXPE...	44.68	0.2%
7530 · OVER/SHORT	(319.39)	(1.6)%
7540 · POSTAGE/FREIGHT	565.51	2.9%
7550 · PRINTING	142.16	0.7%
7700 · SUPPLIES	199.27	1.0%
7830 · TELEPHONE	945.18	4.8%
7870 · UNIFORMS	486.91	2.5%
7880 · UTILITIES	513.95	2.6%
Total Expense	29,659.42	151.0%
Net Ordinary Income	(27,778.63)	(141.4)%
Net Income	(27,778.63)	(141.4)%

05/11/01

TWIN LAKES VILLAGE Profit & Loss

January through April 2001

	<u>Jan - Apr '01</u>	<u>% of Income</u>
Ordinary Income/Expense		
Income		
4000 · ADMINISTRATION INCO...	3,411.96	2.2%
4100 · GOLF COURSE INCOME	150,738.64	96.8%
4200 · PRO SHOP INCOME	1,618.76	1.0%
Total Income	<u>155,769.36</u>	<u>100.0%</u>
Gross Profit	155,769.36	100.0%
Expense		
6010 · PAYROLL SALARY	21,653.10	13.9%
6020 · PAYROLL WAGES	13,367.90	8.6%
6030 · PAYROLL TAXES	4,518.27	2.9%
6040 · EMPLOYEE BENEFITS	2,579.50	1.7%
7000 · ADVERTISING & PROMO...	1,923.62	1.2%
7040 · CONTRACTS	500.00	0.3%
7070 · INSURANCE	814.44	0.5%
7100 · LAND	420.95	0.3%
7120 · LEASED EQUIPMENT	7,872.34	5.1%
7160 · LINEN-CLOTH	38.12	0.0%
7200 · REPAIR AND MAINTENA...	17,130.56	11.0%
7510 · MISCELLANEOUS EXPE...	190.00	0.1%
7540 · POSTAGE/FREIGHT	15.99	0.0%
7700 · SUPPLIES	2,752.94	1.8%
7830 · TELEPHONE	345.63	0.2%
7840 · TRAVEL	44.00	0.0%
7880 · UTILITIES	2,906.88	1.9%
Total Expense	<u>77,074.24</u>	<u>49.5%</u>
Net Ordinary Income	<u>78,695.12</u>	<u>50.5%</u>
Net Income	<u>78,695.12</u>	<u>50.5%</u>

TWIN LAKES VILLAGE Profit & Loss

January through April 2001

	Jan - Apr '01	% of Income
Ordinary Income/Expense		
Income		
4000 · ADMINISTRATION INCO...	46,669.38	93.7%
4100 · GOLF COURSE INCOME	1,168.74	2.3%
4200 · PRO SHOP INCOME	1,980.00	4.0%
Total Income	<u>49,818.12</u>	<u>100.0%</u>
Gross Profit	49,818.12	100.0%
Expense		
6010 · PAYROLL SALARY	11,817.24	23.7%
6020 · PAYROLL WAGES	10,083.06	20.2%
6030 · PAYROLL TAXES	3,390.89	6.8%
6040 · EMPLOYEE BENEFITS	2,151.76	4.3%
6050 · WORKER'S COMPENSA...	6,656.00	13.4%
7000 · ADVERTISING & PROMO...	1,545.41	3.1%
7030 · BANK CHARGES	488.85	1.0%
7040 · CONTRACTS	7,053.00	14.2%
7060 · DUES AND SUBSCRIPTI...	66.48	0.1%
7070 · INSURANCE	6,030.45	12.1%
7100 · LAND	1,347.46	2.7%
7140 · LICENSE & FEES	40.80	0.1%
7200 · REPAIR AND MAINTENA...	8,260.13	16.6%
7510 · MISCELLANEOUS EXPE...	2,501.02	5.0%
7520 · MUSIC-ENTERTAINMENT	150.00	0.3%
7530 · OVER/SHORT	723.74	1.5%
7540 · POSTAGE/FREIGHT	1,280.83	2.6%
7550 · PRINTING	247.65	0.5%
7570 · PROFESSIONAL FEES	4,052.50	8.1%
7700 · SUPPLIES	2,612.32	5.2%
7800 · TAXES-SALES/USE	(61.30)	(0.1)%
7830 · TELEPHONE	2,870.35	5.8%
7880 · UTILITIES	9,572.85	19.2%
Total Expense	<u>82,881.49</u>	<u>166.4%</u>
Net Ordinary Income	(33,063.37)	(66.4)%
Other Income/Expense		
Other Expense		
8020 · DEPRECIATION	44,000.00	88.3%
8030 · FINANCE CHARGES	5.81	0.0%
8040 · INTEREST EXPENSE	32,909.36	66.1%
8050 · PENALTIES	.991.15	2.0%
Total Other Expense	<u>77,906.32</u>	<u>156.4%</u>
Net Other Income	(77,906.32)	(156.4)%
Net Income	<u>(110,969.69)</u>	<u>(222.7)%</u>

05/11/01

TWIN LAKES VILLAGE

Profit & Loss

January through April 2001

	Jan - Apr '01	% of Income
Ordinary Income/Expense		
Income		
4000 · ADMINISTRATION INCO...	51,091.34	20.6%
4100 · GOLF COURSE INCOME	153,933.38	62.1%
4200 · PRO SHOP INCOME	20,204.69	8.1%
4300 · GRILL INCOME	22,693.12	9.2%
Total Income	247,922.53	100.0%
Cost of Goods Sold		
5200 · PRO SHOP COST OF G...	17,761.14	7.2%
5300 · GRILL COST OF GOODS	11,498.26	4.6%
Total COGS	29,259.40	11.8%
Gross Profit	218,663.13	88.2%
Expense		
6010 · PAYROLL SALARY	57,189.64	23.1%
6020 · PAYROLL WAGES	38,542.42	15.5%
6030 · PAYROLL TAXES	11,375.01	4.6%
6040 · EMPLOYEE BENEFITS	6,369.83	2.6%
6050 · WORKER'S COMPENSA...	6,656.00	2.7%
7000 · ADVERTISING & PROMO...	5,165.57	2.1%
7030 · BANK CHARGES	510.27	0.2%
7040 · CONTRACTS	7,553.00	3.0%
7060 · DUES AND SUBSCRIPTI...	66.48	0.0%
7070 · INSURANCE	6,844.89	2.8%
7100 · LAND	1,768.41	0.7%
7120 · LEASED EQUIPMENT	12,908.89	5.2%
7140 · LICENSE & FEES	40.80	0.0%
7160 · LINEN-CLOTH	719.74	0.3%
7200 · REPAIR AND MAINTENA...	27,700.69	11.2%
7510 · MISCELLANEOUS EXPE...	2,735.70	1.1%
7520 · MUSIC-ENTERTAINMENT	150.00	0.1%
7530 · OVER/SHORT	303.73	0.1%
7540 · POSTAGE/FREIGHT	1,862.33	0.8%
7550 · PRINTING	389.81	0.2%
7570 · PROFESSIONAL FEES	4,052.50	1.6%
7600 · STORAGE	307.50	0.1%
7700 · SUPPLIES	8,825.26	3.6%
7800 · TAXES-SALES/USE		
7830 · TELEPHONE	4,950.98	2.0%
7840 · TRAVEL	44.00	0.0%
7870 · UNIFORMS	486.91	0.2%
7880 · UTILITIES	16,690.32	6.7%
Total Expense	224,210.68	90.4%
Net Ordinary Income	(5,547.55)	(2.2)%
Other Income/Expense		
Other Expense		
8020 · DEPRECIATION	44,000.00	17.7%
8030 · FINANCE CHARGES	5.81	0.0%
8040 · INTEREST EXPENSE	32,909.36	13.3%
8050 · PENALTIES	991.15	0.4%
Total Other Expense	77,906.32	31.4%
Net Other Income	(77,906.32)	(31.4)%
Net Income	(83,453.87)	(33.7)%

05/11/01

TWIN LAKES VILLAGE
Balance Sheet

As of April 30, 2001

	<u>Apr 30, '01</u>
TOTAL LIABILITIES & EQUITY	<u>2,581,858.73</u>

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1993 OPINION NO. 86

IN THE SUPREME COURT OF THE STATE OF IDAHO

S. Ct. No. 19134

TWIN LAKES VILLAGE PROPERTY
ASSOCIATION, INC., a non-profit
Idaho corporation,

Plaintiff-Counterdefendant-
Respondent,

and

TWIN LAKES INVESTMENT,

Intervenor-Counterdefendant-
Respondent,

v.

ERIC AUNE and CAROL AUNE, husband
and wife, GIB BRUMBACK and SUSAN
BRUMBACK, husband and wife,
BUCK BRUMBLAY and BARBARA
BRUMBLAY, husband and wife, GARY
CRANDALL and DIANNE CRANDALL,
husband and wife, PHYLLIS HARDY, a
single person, JIM LOWMAN and CHERYL
VAUGHN, husband and wife, HARRY
STOWELL, a single person, CHARLES
STRANG, a single person, SHERMAN
BLAKE and BETTY CHASE BLAKE,
husband and wife,

Defendants-Counterclaimants,

and

JOHN CROWLEY, a single person, JASON
DAY and LEORA DAY, husband and wife,
DON DICKSON, a single person, STAN

North Idaho Term
October 1993

Filed: July 29, 1993

Frederick C. Lyon, Clerk

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MOORE and INA MOORE, husband and wife, FERMAN PASOLD, a single person, UDO ZEIDLER and PAM ZEIDLER, husband and wife, AUGIE KLAUE and MAY KLAUE, husband and wife, Defendants-Counterclaimants-Appellants.

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. The Honorable Richard G. Magnuson, District Judge.

Homeowners appeal from an order requiring them to pay certain assessments for improvements made by their homeowners' association. Affirmed in part and reversed in part.

Witherspoon, Kelley, Davenport & Toole, P.S., Coeur d'Alene, Idaho, for appellants. Edward J. Anson argued.

Paine, Hamblen, Coffin, Brooke, & Miller, Coeur d'Alene, Idaho, for respondent Twin Lakes Village Property Association, Inc., and Lukins & Annis, Coeur d'Alene, Idaho, for respondent Twin Lakes Investment. Mary M. Palmer, Spokane, Washington, argued.

BISTLINE I.

The stipulated facts and documentary evidence submitted to the trial court show that the Twin Lakes Village Property Association, Inc., ("the association") is a non-profit corporation. In July of 1973, Pack River Properties, Inc., a Washington corporation, created the Twin Lakes Village Subdivision in Kootenai County, Idaho. The subdivision originally had a nine-hole golf course, a clubhouse, tennis courts, and a swimming pool, as well as other amenities, for the use of the association members. Members paid a separate annual fee in order to use the golf course.

In 1985, Pack River gave notice that it would cease to operate the properties at Twin Lakes Village. After the announcement, the membership of the association explored ways

to continue the operation of association's amenities and other necessary services.

In 1986, Twin Lakes Investments ("TLI") purchased the Pack River properties. After the acquisition, meetings were held about the future operation of the amenities and services. By September, the association board of directors had developed, for submission to the membership, a plan which included the acquisition by the membership from TLI of the existing nine-hole golf course, together with additional property for the construction of nine more holes of golf course, and all other of the existing membership amenities. The plan was submitted to the membership. The association's board of directors drafted proposed amendments to the articles of incorporation, the bylaws, and the protective covenants in order to accommodate the purchase of the golf course and to provide for its future development and operation, as well as the other services and amenities. These proposed amendments: 1) changed the voting structure of the membership from a weighted system based upon square footage of property owned within the village to a one lot-one vote system; 2) eliminated provisions which forbid any amendment to the bylaws which would (a) deprive a member of a then existing right or privilege or (b) effect a fundamental change in the policies of the association; and 3) permitted the acquisition and improvement of the golf course.

These proposed amendments were passed by the membership on January 24, 1987. After the approval of the amendments, the issue of the property purchase from TLI was submitted to the membership for vote, and was accepted and passed by the majority. This vote was in accordance with the provisions of the newly adopted amended bylaws. TLI, as owners, did not exercise their rights to act, vote or participate in the voting action to approve the purchase by the association.

The board thereafter levied a new assessment on all memberships for the purposes of acquiring, developing and operating the property and for the further development of the golf course by an additional nine-holes. This assessment was in addition to the regular annual assessment previously paid by the members before January 24, 1987. The association and TLI entered into an agreement of purchase on April 6, 1987.

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The association instituted a declaratory judgment action against those association lot owners who had failed to pay the assessments. The defendant lot owners counterclaimed, arguing that the actions taken by the association were invalid under the original corporate documents. They also sought a declaratory judgment as to the effect of the assessments.

TLI was allowed to intervene in this matter.

The defendants asserted at trial that they were not required to pay the assessment, in part, because the amendments to the bylaws which permitted the purchase of the golf course and amenities were void because they violated Article 8 of the original bylaws (hereinafter "the protective covenants"), which places limitations on the members' ability to amend the bylaws. The protective covenants provide:

* These By-Laws may be repealed or amended by a vote representing two-thirds of the assessable lands held by the members present at any regular meeting of the association, or at any special meeting of the association called for that purpose, except that the members shall not have the power to change the purposes of the association so as to decrease its rights and powers under the laws of the State, or to waive the requirement of bond or other provision for the safety and security of the property and funds of the association and its members, or to deprive any member of rights and privileges then existing, or so to amend the By-Laws as to effect a fundamental change in the policies of the association. . . .

(Emphasis added.) Further, the members argued that the extraordinary assessment imposed to finance the purchase did not pass by the required super-majority of votes as required by the amended bylaws.

The district court, sitting without a jury, ruled for the property association. The court held that:

1. The articles of incorporation, the bylaws, and the original protective covenants were properly and lawfully amended.
2. The amendments to these documents did not effect a fundamental change in the policies of the Association.
3. While the original voting system was changed as a result of the amendments, the defendants did not assert or show that the new "one ownership-one vote" system affected the outcome of the vote or that their rights were prejudiced.

by this change.

4. The assessments were lawfully imposed upon its members.
5. The plaintiff was entitled to judgment and prejudgment interest against the defendants.

Some but not all of the defendants appealed from the district court's ruling. (The appellants are hereinafter referred to as the members.)

DISCUSSION

The members make four arguments on appeal:

1. That the amendment of the bylaws that eliminated the protective covenants violated those same covenants.
2. That the protective covenants were violated when the bylaws were amended to change member voting rights to a one lot-one vote system from the previous system, which allotted voting strength on basis of the amount of property owned within the village.
3. That the amendments to the bylaws that permitted the purchase of the golf course violated the protective covenant that forbids any amendment that changes the fundamental policies of the association.
4. That the assessments imposed against the members in order to purchase and operate the golf course did not pass by the required number of votes.

In order to resolve these issues, we must construe the bylaws. Because corporate documents are equivalent to contracts among the members of the association, the normal rules governing the interpretation of contracts apply. See *Black v. Glass*, 438 So. 2d 1359, 1367 (Ala. 1983); *American Center for Educ. Inc. v. Cavmar*, 26 Cal. App. 3d 25, 32, 102 Cal. Rptr. 575, 580 (1972). The objective in interpreting contracts is to ascertain and give effect to the intent of the parties. See *Luzzar v. Western Sur. Co.*, 107 Idaho 693, 697, 692 P.2d 337, 341 (1984). The intent of the parties should, if possible, be ascertained from the language of the documents. *Suchan v. Suchan*, 106 Idaho 654, 660, 682 P.2d 607, 613 (1984). The determination of a contract's meaning and legal effect is a question of law when the contract

is clear and unambiguous. *Bondy v. Levy*, 121 Idaho 993, 996-97, 829 P.2d 1342, 1345-46 (1992).

We conclude, for the reasons expressed below, that: 1) the amendment which eliminated the protective covenants is invalid; 2) the change in voting structure is invalid; 3) the purchase of the golf course did not effect a fundamental change in the policies of the association; but 4) the members are not required to pay the assessments because of the irregularities in the voting on those measures. Consequently, we affirm the order of the district court in part and reverse it in part.

1. The Amendment of the Bylaws Which Eliminated the Protective Covenants is Void.

When the bylaws were amended, the prohibition against depriving any member of their existing rights and privileges and the prohibition against effecting a fundamental change in the policies of the association were eliminated. The members challenge these changes as violative of the provisions they eliminated.

We agree with the members. If the elimination of those covenants are allowed to stand, the members, who invested substantial sums of money believing they were joining a homeowner's association in order to protect and preserve their investment, could, by majority vote of the other owners, be subjected to unrestricted changes in the nature, purposes, policies, and rules of the association. This would not be so under the protective covenants. The protective covenants created a right to be free from fundamental change and made inalienable all rights and privileges currently possessed by the members. Because the elimination of the protective covenants eliminated those rights, the amendment is in violation thereof and thus is void.

2. The Amendments to the Voting Rights Bylaws are Invalid Because The Amendment Deprived the Members of An Existing Right.

Prior to the 1987 amendments, votes were allocated according to square foot ownership within the plat. That formula was changed to one of "one lot-one vote." Thus those owners who made a larger investment in the association no longer had a larger say in

the running of the association as a result of the amendment. The members argue that the amendments that changed the voting system violated the protective covenants by depriving certain members of their then existing voting rights.

In order to resolve this issue, we must determine the extent of the members' voting rights in order to determine whether the amendments were a deprivation thereof. Prior to the amendments, Article 3 of the articles of incorporation listed among the "rights of the members" that "the voting rights of each membership in the association shall be in the same proportion as the square footage of the lot owned or being purchased bears to the total square footage of land in the plat, exclusive of the platted common areas and public roadways." Thus, the members' voting rights consist of two separate and independent rights: 1) the right to the vote itself and 2) the right to the manner by which the vote was weighted.

The association argues that the elimination of the second rights only "diminished" the voting rights because the members still have the first right in its entirety. This argument cannot prevail, however, because even if only one of the members' two voting rights was eliminated the fact remains that the second right was totally eliminated. Thus we declare the amendment that changed the voting structure to be void as violative of Article 3 of the original bylaws because the members were totally deprived of a right then existing.

3. The Amendments Which Permitted the Purchase of the Golf Course Did Not Effect a Fundamental Change in the Policies of the Association.

Finally, the members argue that the purchase of the golf course effected a fundamental change in the policies of the association and is therefore invalid. They point to Article 3, which states, in relevant part,

Pecuniary gain is not the object of this Corporation. The purposes for which this corporation is organized are generally, but not limited to the holding and maintaining in accordance to the By-Laws as from time to time adopted and amended, the common areas . . . and any other property it may subsequently acquire. . . . within said plat; maintaining and supervising control of the architectural design of improvements placed upon the property in said plat, and through the architectural control committee to be created under the By-Laws of this corporation and its other proper officers, to interpret and enforce the protective and restrictive covenants

The members argue that a fundamental change occurred when the association became the owner and operator of an entrepreneurial venture, where before the main function of the association was as a caretaker of the common areas. The association is quick to point out that the article goes on to provide that "[i]n addition to these general purposes but without limitation thereof," the association "shall have all the powers of corporations provided for under state law including the power to purchase real property, borrow money," and "[t]o acquire and hold as common areas [real property] pursuant to the protective covenants . . . and to maintain and improve the same for benefit of the members and to make assessments therefor subject to these Articles and the By-Laws."

We conclude the purchase, financing, improvement, and maintenance of the golf course falls squarely within the powers expressly granted to the association. It necessarily follows that the exercise of the power expressly granted in Article 3 could not be considered a fundamental change in the policies of the association as contemplated by Article 8. Otherwise, the powers never would have been granted to the association and that portion of the Articles of Incorporation would be rendered a nullity. This interpretation is consonant with our rule that various provisions in a contract must be construed, if possible, so to give force and effect to every part thereof. *Wright v. Village of Wilder*, 63 Idaho 122, 125, 117 P.2d 1002, 1003 (1941); see *George v. University of Idaho*, 121 Idaho 30, 36, 822 P.2d 549, 555 (Ct. App. 1991).

Our conclusion, that the amendment authorizing the purchase of the golf course did not effect a fundamental change, does not mean the purchase is otherwise valid because, as we held in part 2 above, the method by which the purchase was approved (the one lot-one vote system) was invalid. The association argues that any error in that regard should be deemed harmless because the members have not shown any prejudice from the change in

voting structure, i.e., that the result of the balloting would have been different.¹ We disagree. Idaho Rule of Civil Procedure 61 permits a court to reverse a judgment whenever such action is required to do "substantial justice." Given the difficulties in proving prejudice in this case along with the fundamental character of the right to vote, we conclude it would be fundamentally unfair to allow the results of the ballot to bind the members. Thus, although we do not invalidate the purchase of the golf course, we do hold that the members are not liable for any assessments to fund the purchase, maintenance, or operation of the golf course unless the purchase and assessments are properly approved pursuant to the original voting structure.

4. The Assessments Were Not Properly Approved Under the Amended Bylaws.

The final issue raised by the members is whether, assuming the legitimacy of the change in voting structure, the assessments imposed for the purchase and maintenance of the golf course were properly approved under the terms of the amended bylaws. Even though we held in part 3 above that the members are not liable for the assessments currently imposed, we address this issue to give guidance in case the association decides to attempt to impose assessments in the future.

a. Any extraordinary assessment must be passed by a two-thirds majority.

After the acquisition of the golf course was approved the membership voted to impose a one-time assessment of \$4000 to be applied towards the purchase of the golf course. Sixty-three percent of the membership voted in favor of this assessment. The assessment, according to the members, is invalid because it did not pass by a two-thirds majority of the total voting power of the association as required by Article 6 of the amended bylaws.

¹ It is not clear on the record before us whether the members could have made such a showing. If the membership voted by secret ballot it would be nearly impossible to determine what the outcome of the voting would have been had the original voting system been used.

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Article 5 of the amended bylaws provides that extraordinary assessments may not exceed twenty per cent of the budgeted gross expenses, excluding reserves, for that fiscal year without the assent of two-thirds of the voting power of the Association. It is undisputed that the \$4000 assessment exceeded the twenty per cent amount. Thus, the members claim that this assessment is invalid because it was approved by sixty-three per cent of the membership instead of the sixty-six per cent required. The association argues that Article 15 permitted the assessment to be approved by a simple majority. Article 15 specifically deals with the acquisition of the golf course and Article 15.3(a) permits a simple majority to determine whether "to purchase the golf course for cash or other consideration to be raised by Extraordinary Assessment and/or third party borrowing." Article 15.3(d) goes on to state that Article 15.3 is intended to "allow all decisions with respect to the acquisition, operation and maintenance to be made by a majority of a quorum of the voting power."

We first note that the Court will read a contract as a whole and will give meaning to all of its terms to the extent possible. *Magic Valley v. Pro Business Services*, 119 Idaho 558, 565, 808 P.2d 1303, 1310 (1991). The above quoted language from Article 15, however, only permits a simple majority of the members to authorize the purchase of the golf course. It does not speak to the approval of the funding method. The reference to extraordinary assessments and/or third-party borrowing is a condition on the association's power to purchase the golf course, i.e., the purchasing authority granted by 15.3(a) is conditional upon the approval of an extraordinary assessment and/or third party borrowing. The language does not permit the imposition of an extraordinary assessment with only a simple majority vote. The drafters must have intended Article 15.3(a) to incorporate the supermajority provisions of Article 6 because Article 6.4 states that extraordinary assessments may be used to "acquire additional Common Area (such as the Golf Course)." (Emphasis added.) To belabor the obvious, the purchase of the golf course would not have been used as an illustration of a permissible purpose of an Article 6 extraordinary assessment if the drafters did not intend Article 6 to set forth the procedures for the approval of the extraordinary assessment to buy the golf course.

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Accordingly, we hold that any extraordinary assessment, including those intended to apply to the purchase of the golf course, must receive a two-third majority vote in favor in order to pass.

b. The regular assessment to fund the maintenance and operation of the golf course may be passed by a simple majority.

In addition to the \$4,000 assessment, a yearly assessment of \$720 was approved. The members argue that this assessment is a regular assessment as defined in Article 6. They argue that this regular assessment is also invalid because under Article 6 of the amended bylaws regular assessments can be set by the Board in an amount not greater than twenty per cent of the regular assessments of the prior year without the vote or written assent of the majority of all members. Here, it is undisputed that the \$720 assessment exceeded the amount the Board was empowered to authorize without membership approval. It is also undisputed that the \$720 assessment was passed by 63% of those voting, but only 31% of the total voting power. TLI, with 140 of the total 279 votes did not vote on the resolution, electing to abstain, and further did not give its written assent to the assessment. Thus, according to the members, the \$720 assessment is invalid because it represents an increase of over 20% from the previous year's assessment and it was not approved by a majority of all of the association's members required by Article 6.

The association refers us to Article 15.3(c) which permits a "majority of a quorum of the total voting power" of the membership "to adjust the Regular Assessments as necessary for expenses of operation and maintenance of the Golf Course." We agree with the association that the above language in Article 15.3(c) is clearly intended to control over the Article 6 regular assessment procedures. It is well established that specific provisions in a contract control over general provisions where both relate to the same thing. *Morgan v. Firestone Tire and Rubber Co.*, 68 Idaho 506, 518-19, 201 P.2d 976, 983 (1949). By contrast, Article 15.3(a) is intended to supplement, by incorporation, the Article 6 extraordinary assessments procedures.

Accordingly, we hold that the provisions of Article 15.3(c) control the method by

which regular assessments used for operation and maintenance of the golf course may be approved.

CONCLUSION

* We hold that the amendment to the bylaws regarding the members' voting rights is void. All future votes must be conducted under the original voting scheme. We also hold that the amendments to the bylaws that permitted the purchase of the golf course did not effect a fundamental change in the policies of the association. However, because of the irregularities in the voting, we hold that the members are not liable for those assessments. Any future extraordinary assessments must pass by a two-thirds majority. Any future regular assessments for the operation and maintenance need only a majority vote to pass. Finally, the amendments to the protective restraints are void. Costs on appeal to the appellants. The respondent's request for attorney fees is denied.

McDEVITT, CJ, JOHNSON and TROUT, JJ., concur. BAKES, J. (ret.), fully participated prior to his retirement on February 1, 1993, concurs.

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Respond to: Spokane

May 8, 2001

Mr. Kevin Klier
Twin Lakes Village Property Association
5416 W. Village Blvd.
Rathdrum, ID 83858

Re: Amendments to the CCRs and Bylaws

Dear Mr. Klien:

You have asked our opinion as to what procedures would have to be followed by the Association in order to (1) amend the Restated Declaration of Covenants, Conditions and Restrictions for Twin Lakes Village in order to provide for each owner of a particular unit a vote, with that vote not dependent upon any determination of square footage; and (2) what steps must the Association follow in order to amend the Bylaws in regard to what constitutes a majority of Association members for purposes of amending the Bylaws.

The property commonly known as Twin Lakes is a condominium time share golf course development subject to protective covenants and run by the Twin Lakes Association (Association). The Association is a non-profit corporation formed pursuant to Section 30-326 and 30-327 of the Idaho Non-Profit Corporation Act.

Articles of Incorporation established the Association, defined its existence, purposes and powers, and members. Articles of Amendment of the Articles of Incorporation of Twin Lakes Village Property Association, Inc. were last filed with the State of Idaho on or about September 6, 1994. Pursuant to the Articles of Incorporation, the Association is empowered to also adopt Bylaws to govern the internal procedures of the Association. Article 8 of the Amended Articles of Incorporation defines the process under which the Articles may be amended. Specifically, the Articles of Incorporation may be amended at any time in any way by the vote or written assent of at least $66 \frac{2}{3}$ of the voting power of the Association (represented at a meeting for such purpose in person or by proxy); provided, however, that the percentage of the voting power necessary to amend a specific clause or provision of the Articles shall not be less than the percentage of affirmative votes prescribed for action to be taken in regard to the subject clause or provision and provided further that any such amendment shall not be inconsistent with the law.

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The Bylaws of the Association were restated on or about September 23, 1994 and subsequently twice amended pursuant to duly authorized amendments to the Bylaws on September 27, 1994 and August 29, 1994. Article 8 of the Bylaws provides that the Bylaws may be amended at any time in any manner by resolution proposed by the Board and approved by a majority of the voting power of the Association, provided such amendment shall not be inconsistent with the Articles, the Declaration, or the law.

We have assumed that (1) the Association is duly organized, validly existing, and in good standing under the laws of the State of Idaho; (2) the Association has all necessary power and corporate authority to perform its obligations; and (3) the Association has authorized by all necessary and appropriate corporate action on its part all prior and existing articles, bylaws, amendments, restatements, resolutions and actions of the Board.

Whenever a statement herein is qualified by the phrase "to our knowledge" or by any other similar phrase or word, it is noted that nothing has been brought to our attention, it means that the opinion stated is based solely on the conscious awareness of information by one or more of the following persons as to the matters being opined on: (i) the attorney who signs this opinion letter, (ii) any attorney at our firm who has been actively involved in preparing this opinion letter. We have not undertaken an independent investigation to determine the accuracy of the matters covered by any such statement and any limited inquiry undertaken by us during the preparation of this opinion letter should not be regarded as such an investigation. No inference as to our knowledge of any matters bearing on the accuracy of all representations of the Association.

Based on the foregoing assumptions and subject to the qualifications and exclusions stated below, we are of the opinion that:

AMENDMENT OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

The Restated Declaration of Covenants, Conditions and Restrictions (CC&Rs) sets forth the protective covenants in regard to Twin Lakes Village. In addition to providing a basic structure as to how the land subject to the protective covenants is to be developed and held, those protective covenants also provided for the establishment of the association in order to manage the project.

Generally, an owner of a lot or unit automatically becomes a member of the Association and remains a member of the Association until his ownership terminates. In regard to what voting rights a particular Association member may have, Article 2.5 provides that the Association shall have once class of voting membership consisting of all owners of residential lots or units, and one (1) class of non-voting membership consisting of all owners of commercial lots or units. The voting requirements are set forth in the Restated Bylaws and shall be in the same proportion as the square footage of the lot owned or being purchased bears to the total square footage of land in the plat, exclusive of the platted common areas and public roadways. Votes shall at all times be allocated equally on a per lot or per unit basis, with each single family residential lot having one vote and all other lots (duplex and/or condominium

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lot) also having one vote each. The CC&Rs contemplate that owners of a duplex or condominium unit on a particular lot will determine how that particular lot's individual one vote will be cast.

The Twin Lakes Village Supreme Court Case

The inquiry as to how to amend the Articles, Bylaws and CC&Rs to provide for a one vote per lot or unit purchased without consideration of the square footage of the lot as it relates to the whole plat is not a new one for the Association.

In *Twin Lakes Village Property Association v. Brumbek, et al*, 124 Idaho 132, 857 P.2d 611 (1992) the Idaho Supreme Court determined that the Association's amendments to its Articles of Incorporation, the Bylaws, and the protective covenants purporting to (1) change the voting structure of the membership from a weighted system based upon square footage to a one lot one vote system; and (2) eliminating provisions which resulted in depriving a member of a then-existing right or privilege or would result in a fundamental change in the policy of the Association were invalid (copy enclosed). The Idaho Supreme Court found that the original Articles, Bylaws and protective covenants had created certain inalienable rights and privileges which could not be involuntarily diminished or eliminated without the consent of a member.

We agree with the members. If the elimination of these covenants are allowed to stand, the members who invested substantial sums of money believing they were joining a homeowners association in order to protect and preserve their investment, could, by majority vote of the other owners, be subjected to unrestricted changes in the nature, purposes, policies and rules of the association . . . the protective covenants created a right to be free from fundamental change and made inalienable all rights and privileges currently possessed by the members. Because the elimination of the protective covenants eliminated those rights, the amendment is in violation thereof and thus is void. *Twin Lakes*, at p. 135. (Emphasis added)

Mad Likewise, the court in determining that the proposed amendments to the Bylaws were likewise invalid stated that the members' voting rights consisted of two separate and independent rights: (1) the right to vote itself and (2) the right to the manner by which the vote was weighted. The Association had argued that the elimination of the second rights only diminished the voting rights because the members still have the first right in its entirety. The court made a point of distinguishing that two separate rights were involved and that the Association could not eliminate totally the second right.

In our opinion, in order to change, modify or amend the CC&Rs, including but not limited to the voting rights of Association members, the procedure set forth in Article 14 must be followed and the ruling in the aforementioned case considered. Article 14 provides that notice of the subject matter of the proposed amendment (in sufficient detail as to properly apprise an Association member of the context of the amendment) must be communicated to the members. As a result of the Court's holding in *Twin*

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Lakes it is also our opinion that should the proposed amendment affect, directly or indirectly, rights and privileges that would or could have been material considerations for an owner or purchaser at the time of their initial purchase (those matters set forth in Article 14 would in our opinion be considered material) that all of the homeowners affected (100%) must approve of the amendment pursuant to the original voting scheme.

Special voting provisions also apply to (a) amendments of a material nature. Because voting rights are specifically dealt with in Article 12, financial institutions holding first mortgages representing at least 51% of the votes of the lots or units that are subject to a mortgage must also approve the terms of the amendment. First mortgagees are deemed to accept or consent to the proposed amendment should they fail to respond or vote to any proposed amendment within thirty days after delivery of the proposal to the mortgagee.

AMENDMENT OF THE BYLAWS

Article 8 of the Bylaws provides that they may be amended at any time and in any manner by resolution proposed by the Board and approved by a majority of the voting power of the Association, provided any such amendment shall not be inconsistent with the Articles, the Declaration, or the law.

To amend the Bylaws the Board of Directors should consider the proposed amendment, adopt a resolution approving it and recommending its approval by the Association, and provide a copy of that resolution and the proposed amendment to the Association members with sufficient detail that they may make an informed decision as to whether or not to approve the amendment. The resolution (unless the amendment affects an inalienable right) and the amendment of the Bylaws must be approved by a majority of the voting power of the Association in order for it to be effective. In other words, 51% of the existing Association members must vote in favor of the amendment by either casting their vote in person or by proxy.

If the subject of the proposed amendment is one that would change the method of approval of an amendment which would or could affect an "inalienable right or privilege", such as changing or purporting to change protective covenants, it is our opinion that 100% of the affected membership will need to vote in favor of the proposed amendment in order for it to be effective.

SUMMARY

In order to effectuate an amendment to the protective covenants the Board should consider and adopt the appropriate resolution clearly setting forth the purpose and nature of any proposed amendment, transmit that information to the members of the Association (and to the extent that it deals with a subject articulated in Article 12, any first mortgagees). To pass, 66 2/3% (2/3 majority) of the members in the Association who are entitled to vote must vote and vote in favor of the proposed amendment.

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Should the Board choose to seeks to amend the Bylaws, the same procedure should be followed in the case of the Bylaws only a majority of the Association members who are entitled to vote must vote and must approve the terms of that amendment.

However, if the subject of the proposed amendment is one which would affect an inalienable right or privilege as defined by the Court in the *Twin Lakes* case, with those matters identified in Article 12.5 likely to be determined as such, all of the membership whose rights may be affected would have to consent to the amendment or vote in its favor.

If you have any questions in regard to the contents of this letter or otherwise, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bruce J. Blohowiak', written over a horizontal line.

BRUCE J. BLOHOWIAK

BJB/klm

cc: Lisette Carter

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2001 SURVEY RESULTS

27.5% RESPONSE RATE FROM THE TLV MEMEBRSHIP

NOTED ADDED COMMENTS:

1. TLV needs an enforceable dress code for golf course attire
 2. The Grill should be open only for special parties during the winter
 3. The Grill should be a profit center but it never will be
 4. The community should be for folks 50 and older
 5. The Grill should be supported with a use-it or lose-it fee
 6. Snow removal was the worst in 8 years
 7. Financial statements should be included in the newsletter
 8. Full-time commissioned sales person should be hired for the restaurant and golf course
 9. At present TLV is affordable but increase in dues could affect that
 10. Frequently feel the board does not validate the opinions of the members
 11. Great pride in people who live here but not in management for past 4 years
 12. Repayment of loan should be #1 priority.
- Losing money
 - No apparent long-term capital improvement fund
 - More service
 - No evidence that lower green fees will affect bottom line

Response percentages on random questions:

2. Twin Lakes is affordable: 25% disagree
3. The Grill should be open year round: 54% disagree
10. Assessments are a necessity for members: 39% disagree
13. Important to receive priority tee-times: 17% disagree
14. Employees need to have incentives: 19% disagree
16. Recreational dues seem appropriate: 38% disagree
18. Membership needs being responded to by management: 21% disagree
19. Satisfied with my membership: 16% disagree
22. The Grill should be a profit center: 17% disagree
24. Clubhouse needs an inner staircase: 42% disagree
25. TLV is a family community: 16% disagree
26. I will attend social events at the Grill: 13% disagree
28. Satisfied with snow removal: 39% disagree
29. The entry needs to be renovated: 21% disagree

TLV Board Of Directors Meeting

Sign in Sheet

Tuesday, May 15, 2001

NAME		NAME	
1.	Gale Solo	29.	
2.	Jack Neal	30.	
3.	Lori Brown	31.	
4.	Lee Swett	32.	
5.	Addie Bjorklund	33.	
6.	Paul Tomlinson	34.	
7.	Marilyn Carlson	35.	
8.	Lee Stromman/Allen	36.	
9.	MaryDna DeGemma	37.	
10.	Dee Buck	38.	
11.	Ors Buck	39.	
12.	Mike Johnson	40.	
13.	BILL EGGERS	41.	
14.	Ann Blum	42.	
15.	Wendy Oners	43.	
16.	Judy Mayfield	44.	
17.	Lee G. Saxe	45.	
18.	Harley O'Shea	46.	
19.	Jefferson	47.	
20.	Allen Bass	48.	
21.	Frank Blum	49.	
22.	Mel Pasta	50.	
23.	Jean Burkhart	51.	
24.	Bob Burkhart	52.	
25.	Anta Bedard	53.	
26.	Beth Knapp	54.	
27.		55.	
28.	Vilki Lenzel	56.	