

**NEW MARK COMMONS
HOMES ASSOCIATION, INC.**

P.O. BOX 4206
ROCKVILLE, MD 20849-4206
301-340-0288

**BOARD MEETING AGENDA
Thursday, January 5, 2017
7:30 P.M. at the clubhouse**

- 7:30 P.M. Call to Order
- 7:30 – 8:00 Community Forum
- Sean Connolly – HMS Insurance
- 8:00 – 8:10 Approve Minutes and Agenda
- Minutes from the December 1 Board meeting.
- 8:10 - 8:45 Officers' & Committee Report
- Architectural Control Committee – John Hansman
 - Draft – ACC Violations and How NMC Responds.
 - Communication Committee – John Daroff
 - Community Enhancement – Magnus Turesson
 - Landscape Committee – Ellen Stein
 - Pool Committee – Jim Denny
- 8:45 – 9:30 Old Business
- 2017 proposed budget.
 - Identify saving for proposed 2017 budget.
 - Swim team finances.
 - Newsletter income.
 - Assistant to the Administrator position search status.
 - Five candidates. Job posting open until January 9, 2017.
 - 2016 Capital Improvement Plan (CIP) update.
 - NMC clubhouse
 - Proposal received from Glickman Design/Build for
 - ADA ramp & upstairs ADA bathroom.
 - CCOC hearing case #53-16, Berman v NMC.
 - NMC legal fees incurred as of 11/30/16 = \$34,225.
 - CCOC complaint, case #80-16, Berman v. NMC.
 - Mediation requested for February.
 - Water main breaks 100 and 800 block of NME.
 - International Dinner - scheduled for February 25, 2017.
- 9:30 – 9:45 New Business
- Reserve study
 - Miller Dodson Capital Reserve Consultants
 - Thomas Downey, Ltd.
- 9:45 - 10:00 Administrators' Report
- Dues update – 3 residents not current.
 - Jim out of office – 1/14 to 1/24
 - DeLeon & Stang audit scheduled February 13-14.
 - CAI Conference – February 25
- 10:00 to 10:30 Closed session to discuss personnel and legal issues.

**NEW MARK COMMONS HOMES ASSOCIATION
BOARD OF DIRECTORS MEETING
THURSDAY, DECEMBER 1, 2016**

ATTENDEES: John Hansman, John Daroff, Ellen Stein, John Brown, Dorie Mangan, Alex Manolatos, Magnus Turesson, Jim Denny, Raj Gupta, Madeline, Gupta, Richard Berman, Cathy Berman, Rita Molyneaux, Ron Tipton, David Schwartzman, Lori Newman, Andre Dahlman, Judy Rudolph, Joe Jordan, Bill Reed, Kathleen Moran, Marirose Ziebarth, David Ziebarth, Rhonda Gordon, Karin Boychin, Arthur Katz, Jason Haynes, Pat Reber, Kathy Gall, Mincy Neil, Rose Krasnow and Steve Krasnow.

Community Forum: John Hansman, president of the board, welcomed everyone to the meeting and said all would be given a chance to voice their opinion on the dues increases presented in the proposed 2017 budget. Ron Tipton started the discussion stating he was generally in favor of the increase as thought the community will look better with the improvements along with dredging the lake.

Sandy Crow mentioned she is a relatively new resident and was surprised by how low the HOA fees are, given the amenities we have. She was in favor of the increase but was opposed to funding the swim team.

Richard Berman said the proposed increases were excessive. He also believes the proposed increase should be put to a vote of the entire community. He stated adopting the proposed budget without a membership vote would invite a costly legal challenge. Richard gave board a handout that outlined his position. It is attachment A1.

David Schwartzman mentioned he supported the increases as prior years increase have been minimal.

Lori Newman said she was in favor of the dues. She told the board the clubhouse needs to be remodeled to meet ADA accessibility requirements. She would also like the board to consider changing the HOA dues billing frequency. She would prefer quarterly billing versus the current semi-annual invoicing.

Andre Dahlamn mentioned he was surprised with how quickly the proposed budget, with what he felt was a significant increase was put before the community. He felt an increase of approximately \$50,000 requires additional time for review and discussion. John Hansman responded that Andre's point had been heard and later tonight the board is considering a 'hold the line' budget that will not include the proposed 16.5% operating fund increase or the 20% reserve fund increase. He mentioned, if the current complaint being considered by the Commission on Common Ownership Communities (CCOC) rules in favor for NMC, the board will consider the larger increase.

Rhonda Gordon mentioned she supports the proposed increase.

Jason Haynes said he was glad to see more funds being allocated to the reserve fund. As an IT professional, he was surprised by the \$10,000 website/PC line in the proposed budget. John Daroff responded that the new website cost approximately \$3,000 and that the community is migrating to Google Business. There is also a plan for an on-going support and enhancements for the website. Also, there is maintenance for the licensed software for the pool access system that we use.

Madeline Gupta mentioned she has been a resident since 1976 and we must maintain and protect our infrastructure. We need to pay to keep the community up to date and protect our investment.

Raj Gupta mentioned the proposed 17% increase was a jolt. He would prefer to see a contribution to the reserves spread over four to five years.

Mincy Neil stated that, as a real estate professional, she has not seen HOA dues as low as NMCs.

Rose Krasnow gave a brief history of the reserve fund and dues increases. When she took the NMC Administrator position in 1985, the community did not have a reserve fund. It took two years to get the reserve fund proposal passed by a 2/3 vote of the community. She said it is hard to get anything passed by a 2/3 vote of the members. She supported the reserve fund increase but not sure about the necessity of the operating fund increase. She did mention that the board can increase the dues without a 2/3 vote of the community.

Steve Krasnow asked the board to do further research on the transfer before it is adopted.

Arthur Katz stated he was a past president of the NMC board. He does not have an issue with the proposed increase but there should have been better communicated to the community. He also mentioned we should not be separating fees for different sections of the community. Fees should be shared by the whole community.

Joe Jordan, a past president of the NMC Board, mentioned during his tenure the board was able to make significant capital improvements without increasing the dues. He also believes the board should not apply fees or expenses to individual sections of the community. He believes a new reserve study should be performed on the community's common areas and infrastructure.

Bill Reed said he was opposed to the dues increase, but now supports the plan. He believes the community is in better overall condition now than when he moved into NMC. He does not like that we have spent \$23,000 in legal expenses year-to-date on the CCOC complaint.

Kathleen Moran thanked the board for their service to the community and supported the increase. She also believes the board needs to develop a five-year plan for capital expenses.

Maryrose Ziebarth was opposed to the proposed dues increase and believes the board needs to have a reserve study performed.

Dave Ziebarth believes the increase is larger than it needs to be and the board should put the proposed increase to a vote of the membership. He does not believe the Association should be paying for the swim team coaches.

Karin Boychyn mentioned she has been a NMC resident for a year and was surprised how low our Association fees are in comparison to other HOAs.

Cathy Berman believes the proposed dues should be voted on by the entire community. She feels it would be disrespectful to increase the dues without asking for the community's support.

She also mentioned that the board could have represented NMC in the complaint with the CCOC and avoided large legal fees. John Daroff replied that an attorney is required to represent a corporation in Maryland.

Kathy Gall remarked that NMC is a great community and a lot of communities pay significantly higher dues than we do.

After all attendees were given a chance to speak there were general comments from the audience.

Raj Gupta mentioned more advanced notice should have been given on the proposed increase.

Lori Newman was surprised by the small turnout at the meeting given the seriousness of the proposed dues increase. She believes the community should be given a chance to vote on the increase. She was also questioning the continued support of the swim team by the community.

Ron Tipton stated he believes the board has the authority to raise the due without a vote. He also stated the board is the community's elected entity and is authorized to act in what they believe is in the best interest of NMC.

Dave Ziebarth mentioned that a 15% increase is the most allowed under Maryland HOA law.

Sandy Crow also commented that the swim team members should pay more for use of the pool and NMC should not subsidize the team.

Ellen Stein said that non-resident memberships to the pool generates approximately \$20,000 in revenue for the community and many the non-resident members join so their children can join the swim team. We have raised the non-resident membership for 2017 from \$575 to \$625 per family

The Community Forum finished at 8:40 p.m.

Approval of Minutes and Agenda:

Magnus Turesson needed to be added as an attendee at the November 3, 2016 meeting. Upon a motion by John Brown and seconded by Dorie, the minutes of the November 3, 2016 Board meeting were unanimously approved as amended.

Office and Committee Reports

Architectural Control Committee (ACC): John Hansman presented for the ACC. He had a proposed update to the ACC Guidelines for storm doors on contemporary style homes. Attachment A.

Communication Committee (CC): John Daroff asked that all committee chairpersons send him the name and email address of their committee members. He will ensure that all members are included in the mailing list for their respective committee. A fee for printing the electronic newsletter was discussed. It was noted there are formatting issues when printing the electronic newsletter. Judy mentioned there is a process for resolving the formatting but it is extremely labor intensive. After discussion, it was decided to table a fee for hard copy newsletter until we receive feedback from the Communications Preference survey that will be included with the January dues invoice. The Communication Committee minutes/report to the board dated November 29, 2016 is attachment B.

Community Enhancement Committee (CEC): Magnus reported he was pleased with the number of positive responses he has received because of the CE survey. He has observed that more residents are making improvements to their home than the committee expected. The CE is working on a new cover letter for the next round of CE inspections. The next CE meeting is scheduled for February 23rd. It will be an education session for residents performing the next CE inspection.

Landscape Committee: Ellen Stein did not have any new activity to report to the board.

Pool Committee: Jim did not have any new information to report for the Pool Committee.

Old Business

2017 proposed budget and 2016 financial review: Jim gave the Board a proposed 'hold the line' budget for 2017. He also included a Correction to Dues statement that identified small errors in the operating and reserve fund calculations. The net result was some residents would receive \$4 to \$11 annual increase and some receive a reduction of \$6 to \$14. Forty-seven residents will receive a \$37 annual increase. These changes to the dues were included in the 'hold the line' budget for 2017. Other items in the hold the line budget were:

Income. The increase in non-resident memberships and transfer fees were kept as they do not affect dues from residents. The higher storm water management fee and CCOC fee were already billed residents for the 7-1-16 to 12-31-2016 fees. We do not anticipate a CCOC increase for 2017 but included a 5% increase in SWM for 7-1-2017 to 12-31-2017.

Expenditures. The \$5,000 for the administrative support contractor covers the first quarter of 2017. American Pool management price increase was due to increase in the Montgomery

County minimum wage. The pool hours in this proposal are the same as 2016. There was a small increase in the lawn contract because we are in the second year of a three-year contract.

The board also discussed the feasibility of quarterly dues billing and accepting credit cards for dues payment. They also discussed contacting Bayland Consultants Inc. to gather preliminary information on dredging the lake. After discussion, John Daroff made a motion that the board approve an interim budget with the Correction to Dues pending further review of the 2017 budget within the first quarter of 2017. Dorie seconded the motion which passed unanimously. The 2017 interim budget is attachment C.

2015 Audit: Jim told the board we have received the final audit results from DeLeon and Stang. The audit contains references to the 2008 Reserve study and recommends the board have a new reserve study performed. After discussion, the board authorized Jim to solicit reserve study proposals.

2016 audit Engagement Letter from DeLeon and Stang: Jim gave the board the engagement letter which covers audit and tax services for three years. The fee for 2016 would be \$6,450 which is \$120 increase over the 2015 fee. The proposal also includes a \$100 per year increase from 2016 to 2018. After discussion, John Brown made a motion that the board accept the engagement letter from DeLeon and Stang. Magnus seconded the motion which passed unanimously. The DeLeon and Stang Engagement letter is attachment D.

Proposed revision to parking rules and regulations: The proposed changes addressed vehicles that are seldom driven or appear inoperable due to their condition. The vehicles under discussion have valid, up-to-date Maryland license tags and have demonstrated they can be driven with the last year. After discussion, the board could not reach a consensus and determined not to go forward with the proposed changes to the parking regulations. Proposed changes to Parking Regulations is attachment E.

Proposal from Glickman Design/Build: Glickman submitted a proposal to prepare 3D schematics for the handicap ramp to the second level of the clubhouse and a conceptual plan for an ADA accessible bathroom on the clubhouse second floor. They asked for a \$5,000 retainer which they felt would be sufficient to develop the renderings. There would not be any floor plans or construction drawings completed now. The Board agreed they had expected an estimate of cost to build the ramp and the ADA bathroom in addition to a fee for the renderings of the changes. The \$5,000 would be the first of additional fees before we would receive a hard cost for the ramp and bathroom. They instructed Jim to discuss our expectations with the Glickman before a decision on approving the proposal for the ramp and bathroom renderings. Glickman Design/Build proposal is attachment F.

CCOC case #53-16, Berman V New Mark Commons: The Association has spent \$22,871 as of October 31, 2016, on legal fees. A decision is expected from the CCOC in January or February 2017.

The International Dinner is scheduled for February 25, 2017.

New Business

CCOC complaint #80-16, Berman v New Mark Commons: Richard Berman filed a new complaint with the CCOC against NMC. He is alleging we failed to maintain the books and

records and have violated the Homeowners Association Act by failing to allow him to inspect the records, being minutes of meetings of its board of directors from 1968 to 1999. The complaint has been turned over to the Associations' attorney to prepare a response to the CCOC. complaint. CCOC complaint #80-16 is attachment G.

Administrator's Report

Jim gave the Board an update on the late dues. There are 4 residents who are in arrears.

Water main break in 800 block of NME: There was a water main break in front of 824 NME during the night of November 23. While repairing the water main break, the City crew hit a natural gas line which necessitated the evacuation of twenty-three residents. Washington Gas had to be called to repair the break which extended the time need to make the repair. Washington Gas had to return after the holiday weekend to document the proper repair had been made to the gas line. The City was then able to backfill the hole and install temporary sidewalk and steps. We will follow with the City to see if an inspection or review of the condition of NMCs water and sewer lines before we plan any parking lot refurbishment this spring.

Alex Manolatos left the meeting at this point in the agenda.

HOA resale packages: The Board discussed using the HOA resale package to notify the buyer and seller that a property is or is not in compliance NMCs Architectural Control Guidelines. It was also mentioned that this may possibly be used to address maintenance issues. John Hansman stated that the condition of the home and maintenance items are usually negotiating points between the buyer and seller. It was also discussed that the board and administrator be pro-active and initiate a review of the property as soon as they notice it is for sale. The request for a HOA resale package usually occurs later in the sale process, so timely notification to the seller and potential buyer is essential. After discussion, Magnus made a motion that the board agree to the policy of notifying a seller as soon as possible that the home is or is not in compliance with NMC Architectural Control Guidelines. John Brown seconded the motion which passed by a vote of five in favor and one opposed. Those voting in favor of the motion were John Hansman, John Daroff, John Brown, Magnus Turesson and Ellen Stein. Dorie Magnan voted in opposition to the motion.

Graffiti on trees: Spray painted graffiti had been observed twice on trees along the path from the 100 block of NME to Monroe Street. The City was notified and Jim photographed the trees and forwarded the photos to Rockville Police Department for their analysis. We will continue to monitor the location for further incidents of graffiti.

Written statement for closing a meeting: The Written Statement for closing a Meeting for the the November 6, 2017 meeting is attachment H.

Proposed letter to Rockville Mayor and Council: Pat Reber drafted a letter to the Mayor and Council on behalf of NMC thanking the City for the Block Grant and inviting them to view our new website. John Hansman thanked Pat and said he would sign the letter immediately and send to the City.

Judy Rudolph mentioned that the Montgomery County Cable coordinator may be able to assist us in getting Comcast and Verizon to maintain their utility boxes throughout the community. Jim thanked Magnus his work in repainting several utility boxes and offering to repair the wooden 'dog house' near 218 NME that cover electric panels controlling the lake fountain and aerators.

ATTACHMENT A

Proposed addition to the ACC Guidelines, Section I Doors: Storm doors

Storm doors on contemporary design houses must fit that style. The storm doors may be mainly glass with a simple frame. The frame color should be white or match the color of the main door. If the door is part glass and part a solid panel, the panel shall be simple without designs or decoration.

ATTACHMENT A1

Items for 12/1/16 NMCHA Board Meeting

- 1. Dues Increase of 17% requested versus CPI <1%.**
 - a. **REQUIRES MEMBERSHIP VOTE** for increase exceeding CPI [NMCHA Covenants]
 - i. Ballot can be sent with January Dues Invoice, and completed within 90 days.
 - ii. Members have approved two measures in recent years—so it is very “doable” and inexpensive.
 - b. Members deserve a vote on such a radical increase, regardless!
 - c. Board must publish the full table of all components of proposed 2017 dues increases, for all 5 classes of homes, A-1 to A-5, including reserve fund, operating dues, SWM fee, CCOC fee, etc.
 - d. Many members live on fixed income; 2017 Social Security increased 0.3%.
 - e. Passing this without a membership vote invites a costly legal challenge.
- 2. Dues increase NOT necessary to maintain Town House parking areas.**
 - a. TH owners have been paying a premium into reserve fund for parking lot maintenance since 1987. The money is there.
 - b. \$255k needed, >\$550k in reserve fund now.
- 3. Berman v. NMCHA CCOC 53-16. Validity of SWM fee apportionment.**
 - a. NMCHA has spent over \$22,000 fighting a \$306 claim.

-Richard Berman
172 NME

ATTACHMENT B

NMC Communications Committee Meeting November 29, 2016, 8:30 PM [via conference call] Minutes/Report to the Board

Items of importance to the Board and/or needing Board action appear in red

Attendees: John Daroff, Jim Denny, Bill Holdsworth, Pat Reber, Judy Rudolph. Jonathan Smith and John Hansman were unable to attend.

Website redesign/rehosting

- The rollout has gone smoothly with few reported issues from users. Requests for access to the Resident Area have come in slowly; we anticipate that this pattern will continue as residents become aware of the location of Board and committee minutes and agendas, and archived newsletters.
- The documentation content is complete; Judy will complete the formatting and begin to test it and train committee members at the December 8th meeting.
- Near-term fixes we can do: Pat and Judy will edit/revise the photo gallery, header text, content
- Near term, but billable, issues that we need Josh for: None so far, but \$500 is available
- The committee discussed the potential for using the website as a portal for processing electronic payments (dues, Pool guests/incidentals, Clubhouse rentals, etc.). We have requested a ballpark estimate from Josh Grabenstein; Judy to follow-up.
 - If the Board is interested in considering this capability, we recommend that the Board assign a Board member to investigate options relating to convenience fees, liability, banking interface.
- Josh Grabenstein follow-on support/agreement is on hold till 2017 budget is in place
- Pat Reber will draft a letter to the Mayor and Council thanking the City for the Block Grant and inviting them to visit our website. **The draft will go to John Hansman for approval.**

Newsletter

- We have begun to use the seasonal banners developed by Josh Grabenstein. A few revisions are pending/
- We discussed revisiting the frequency of and logistics for producing the paper issues of the newsletters. Jim and Judy will look into outsourcing layout. Judy will investigate an easy-to-use Word template also.

- Judy will test changing the Mailchimp username and email address to newmarknews@newmarkcommons.net from newmarkcommons@gmail.net
- It was decided that, beginning with the December electronic issue, we will make the ads more visible in an effort to increase the click rate. This may result in increased ad sales and revenue.
- Judy and Jim will work on calculating a realistic delivery/charge for delivering paper copies of electronic newsletters to those requesting them.

Google Business implementation

- There was discussion about who is on each committee email address. **We will request that Board liaisons and committee chairs advise John Daroff of additions or deletions of committee members.**
- Google drive access/sharing and @newmarkcommons.net email training
 - John Daroff has begun training Jim and Jim has begun to upload files
 - All committees have access; training will follow as time permits

Broadcast emails

- Discussion included and the group decision to continue to consider the following items:
 - Updated policy needed (earlier from 11/2015 is OBE)
 - Should we transition to Mailchimp for all and just maintain AtoZ for the Directory? (*related discussion: synching the 2 databases*)
- Judy will investigate export of Mailchimp database list for use by the International Dinner committee. It was also suggested that they consider using a Mailchimp broadcast instead.

January billing enclosures [Drafts attached]—BOARD

ACTION/APPROVAL

REQUESTED

- Information sheet
- Communication preferences survey

The next meeting will be Thursday, December 8, at 3 PM, at Pat Reber's, 705 NME.

ATTACHMENT C

Corrections to the Dues by Jim Denny

In recent months, the President and I have drafted two budgets. One is a larger budget which the Board agreed was needed to meet the community needs. This proposed budget is on hold until we receive a decision from the Commission on Common Ownership Communities (CCOC) in the case of *Berman v. New Mark Commons HOA*. We believe the decision will probably be handed down in February. The other is a “hold-the-line budget” which would not require a dues increase. We are requesting the Board approve the smaller budget at the December 1 meeting so we can have a budget in place for January 1, 2017.

In the course of the intensive review required for these budgets, we found that the operating and reserve dues had developed small but noticeable errors. At one or more points in the past, typos or other clerical errors were made and then enlarged over time through the method of rounding. We need to correct these errors. The budget and dues proposed for January 2017 reflect these corrections.

The covenants originally specified five levels of dues, which have been traditionally correlated to the number of bedrooms in a house. The five levels are comprised of the following: 2-bedroom town homes, 3-bedroom town homes, 3-bedroom detached homes, 4-bedroom detached homes and 5-bedroom detached homes. The covenants also provide that the original proportion or ratio of these five levels shall be maintained, except in special circumstances. We found the ratio in the 2016 operating dues had diverged from that specified in 1967. We applied the original ratios to the 2016 dues to determine the 2017 operating dues.

The Reserve Fund was established in 1987 with townhouses (excluding Tegner townhouses) paying 25% more than detached houses. The primary reason is for the maintenance and repair of the townhouse parking lots. Tegner townhouses are counted as a 3-bedroom detached home because they front on a City of Rockville maintained road. The ratio had diverged at some point, as noted above, and needed to be corrected. We applied the original ratio to the 2016 reserve dues to determine the 2017 reserve dues.

The Board added the City's Storm Water Management fee and CCOC's fee to the operating and reserve budget to determine the total dues. These figures are shown in the attached display of dues by type of residence.

Notes for 2017 Budget – no dues increase

Income

1. Based on corrections made to the operating and reserve fund dues.
2. Based on corrections made to the operating and reserve fund dues.
3. 38 non-resident memberships increase from \$575 to \$625 each.
4. City of Rockville Storm Water Management (SWM) fee on all the common areas in the community. The fee is billed to all homes in the community. The fee for the second 2017 dues invoice is an 5% percent increase over the first 2017 invoice.
5. Montgomery County Common Ownership Community (CCOC) fee levied when the City of Rockville opted into this County program. The fee for the county's fiscal year 2017 is \$5 per residence.
6. New transfer fee to update community records after sale of home.

Expenses

1. 2017 amount reflects an 5% increase over the City's fiscal year 2017 rate. Storm Water Management (SWM) fee. New Mark Commons has 23 parcels of common area that are assessed a SWM fee.
2. Commission on Commons Ownership Communities (COCC).
3. 2017 – Same pool hours as 2016. Increase is due to increase in minimum wage for Montgomery County.
4. Stolburg Landscaping – second year of a three-year contract.

**NEW MARK COMMONS
HOMES ASSOCIATION, INC.
P.O. BOX 4206
ROCKVILLE, MD 20849-4206
301-340-0288**

**2016 BUDGET - OPERATING INCOME
2017 BUDGET - OPERATING INCOME,
NO DUES INCREASE
Proposed 12/1/2016**

	<u>Budget</u>	<u>Budget</u>	<u>Notes</u>
DETACHED HOMES DUES	197,950	196,554	1
TOWNHOUSE DUES	200,203	201,632	2
NON-RESIDENT DUES	20,700	23,750	3
LATE FEES	900	900	
INTERST FROM PAST DUE ACCOUNTS	-	-	
STORM WATER MGMT. FEE	15,905	16,761	4
MONTGOMERY CTY. - CCOC FEE	1,152	1,920	5
CLUBHOUSE RENTALS	3,300	3,300	
GARAGE RENTAL	845	845	
POOL GUESTS	2,000	2,000	
NEWSLETTER INCOME	385	385	
TRANSFER FEE		1,900	6
OTHER	<u>1,500</u>	<u>1,500</u>	
SUBTOTAL	444,840	451,447	
DETACHED HOMES-RESERVE CONTRIBUTION	(33,354)	(30,876)	
TOWNHOUSE-RESERVE CONTRIBUTION	<u>(42,674)</u>	<u>(43,043)</u>	
TOTAL	368,812	377,528	

2016 BUDGET - EXPENDITURES
2017 PROPOSED BUDGET - EXPENDITURES, NO DUES INCREASE.
Proposed 12/1/2016

<u>ADMINISTRATIVE</u>	<u>2016 Budget</u>	<u>2017 Budget</u>	<u>Notes</u>
ADMINISTRATOR-TOTAL COMPENS.	45,855	45,855	
CONTRACTOR-ADMIN SUPPORT	-	5,000	
PAYROLL TAX - SS/MEDICARE	3,439	3,439	
TAXES - CORP/UNEMPL/PROP	835	835	
STORM WATER MGMT. FEE	16,609	16,761	1
MONTGOMERY CTY. - CCOC FEE	1,152	1,920	2
INSURANCE	35,065	35,065	
UTILITIES/PHONE & ELEC	5,000	5,000	
ADMIN EXPENSES	3,200	3,200	
NEWSLETTER/PRINTING/DELIVERY	3,060	3,060	
PROF. SVCS / LEGAL	18,000	18,000	
PROF. SVCS / ACCOUNTING	7,000	7,000	
ENTERTAINMENT	5,000	5,000	
WRITE OFF FOR BAD DEBT	-	-	
WEB SITE/PC SUPPORT	<u>1,000</u>	<u>1,000</u>	
SUBTOTAL	145,215	151,135	
<u>CLUBHOUSE & TENNIS</u>			
UTILITIES - PHONE/GAS/ELEC	12,000	12,000	
CH EXPENSES - PEST/ALARM		3,000	

	3,000		
CH SUPPLIES	600	600	
TENNIS	<u>150</u>	<u>150</u>	
 SUBTOTAL	15,750	15,750	
<u>POOL</u>			
POOL MANAGEMENT	52,400	55,700	3
SWIM TEAM	7,200	7,200	
FEES/LICENSES	1,200	1,200	
POOL PASS SYSTEM	1,500	1,500	
WATER	3,771	4,690	
POOL SUPPLIES	1,000	1,000	
POOL REPAIRS	<u>5,000</u>	<u>5,000</u>	
 SUBTOTAL	72,071	76,290	
<u>LAKE</u>			
LAKE - ELECTRICITY	3,325	3,325	
LAKE - MAINTENANCE CONTRACT	5,437	5,437	
LAKE - MISC. EXPENSES	<u>600</u>	<u>600</u>	
 SUBTOTAL	9,362	9,362	

2016

2017

	<u>Budget</u>	<u>proposed Budget</u>	<u>Notes</u>
<u>MAINTENANCE</u>			
LAWN CONTRACT	46,271	46,736	4
CONTRACTED MAINTENANCE	5,495	5,495	
MAINTENANCE EXPENSES	1,500	1,500	
SNOW REMOVAL	24,890	24,900	
TREE REMOVAL & REPLACE	23,350	23,360	
LIGHTING MAINTENANCE	6,500	6,500	
LANDSCAPE MAINTENANCE	8,250	8,250	
LANDSCAPE PROJECTS	<u>8,250</u>	<u>8,250</u>	
SUBTOTAL	124,506	124,991	
GRAND TOTAL	366,904	377,528	

**New Mark
Commons
Bank Balances
as of 11/30/2016**

Operating Account

Bank of America	66,074
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Reserve Accounts

Bank of America, 2016 reserve fund contrib.	76,113
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Monument Bank Money Market fund 1.45% APR	244,019
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Congressional Bank Money Market	<u>192,908</u>
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Subtotal - reserve accounts	513,040
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TOTAL CASH	579,114
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**New Mark
Commons
Reserve Fund
11/30/2016**

Opening Balance as of 1/1/2016	485,114	
<u>Additions</u>		
2016 Reserve fund contribution.	76,113	
Interest earned on reserves.	<u>2,810</u>	as of 10/31
Total reserve funds available	564,037	
<u>Subtractions</u>		
Reserve project expenditures thru 11/30/2016 (See Exhibit A)	<u>(50,996)</u>	
Sub total	513,041	
Expected reserve project expenditures thru 12/31/2016. (See Exhibit A)	=	
Projected reserve fund balance on 12/31/2016	513,041	

**New Mark Commons
Reserve Fund
11/30/2016**

Exhibit A

**Reserve project expenditures
11/30/2016**

Criterion Inc. - new pool furniture	834	
Mark Willcher & Co. - Jordan, 328 NME deposit	972	
Mark Willcher & Co. - Jordan, 328 NME final	1,943	
Bishop's Tennis, Inc. - tennis court cleaning and repair 50% deposit	1,915	
Bill King Painting - repaint wood signs, railing, garage	1,400	1/3 deposit
Action Fabricators Inc. - new metal hand rails 254 & 876 NME	1,375	
Bishop's Tennis, Inc. - tennis court cleaning and repair - final	1,915	
Bill King Painting - repaint wood signs, railing, garage	2,800	
Bill King Painting - additional painting.	300	
Action Fabricators Inc. - hand rails 254 & 876 NME - final	1,375	
Mark Willcher & Co. - 300 to 314 NME deposit	2,500	
M. P. Energy Service - deposit	2,538	
Mark Willcher & Co. - progress payment	2,500	
Mark Willcher & Co. - 300-314 NME final	5,025	
Clubhouse furnace - M.P. Energy Service - final	5,922	
M.P. Energy Service - mixing valve, hot water htr,	1,079	
New roof on clubhouse - Rimel Roofing	<u>16,603</u>	
Sub total	50,996	
Expected reserve fund expenditures <u>12/1/2016 to 12/31/2016</u>		
No additional projects in December		
Sub total		<u>0</u>
Total 2016 Reserve Expenditures	50,996	

ATTACHMENT D

Board of Directors
New Mark Commons Homes Association c/o
Mr. James Denny
P.O. Box 4206
Rockville, MD 20850-0023

Dear Board of Directors:

Thank you for choosing DeLeon & Stang, CPAs and Advisors, as your certified public accountants and business advisors. We are pleased to confirm our understanding of the services we are to provide for *New Mark Commons Homes Association* for the years ended December 31, 2016, 2017, and 2018.

We will audit the financial statements of *New Mark Commons Homes Association*, which comprise the balance sheets as of December 31, 2016, 2017, and 2018, and the related statements of revenues, expenses and changes in fund balances, and cash flows for the year then ended, and the related notes to the financial statements. The document we submit to you will include supplementary information about future major repairs and replacements required by the Financial Accounting Standards Board. Although we will apply certain limited procedures with respect to the required supplementary information, we will not audit the information and will not express an opinion on it.

We will also prepare the federal and requested Maryland state income tax returns for *New Mark Commons Homes Association* for the years ended December 31, 2016, 2017, and 2018.

Audit Objective

The objective of our audit is the expression of an opinion about whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of your accounting records and other procedures we consider necessary to enable us to express such an opinion. If our opinion is other than unqualified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or to issue a report as a result of this engagement.

Audit Procedures

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of certain assets and liabilities by correspondence with selected customers, creditors, and financial institutions. Our procedures will not determine whether the funds designated for future major repairs and replacements

are adequate to meet such future costs because such a determination is outside the scope of the engagement. We may also request written representations from its attorneys as part of the engagement, and they may bill the Association for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from management about the financial statements and related matters.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the Association or to acts by management or employees acting on behalf of the Association.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under professional standards.

Tax Procedures

In accordance with federal law, in no case will we disclose the Association's tax return information to any location outside the United States, to another tax return preparer outside of our Firm for purposes of a second opinion, or to any other third-party for any purpose other than to prepare the returns without first receiving management's consent.

The Internal Revenue Code and regulations impose preparation and disclosure standards with noncompliance penalties on both the preparer of a tax return and on the taxpayer. To avoid exposure to these penalties, it may be necessary in some cases to make certain disclosures to management and/or in the tax return concerning positions taken on the return that do not meet these standards. Accordingly, we will advise management if we identify such a situation and we will discuss those tax positions that may increase the risk of exposure to penalties and any recommended disclosures before completing the preparation of the return. If we conclude that we are obligated to disclose a position and management refuses to permit the disclosure, we reserve the right to withdraw from the engagement. Likewise, where we disagree about the obligation to disclose a position, management also has a right to choose another professional to prepare the entity's returns. In either event, management agrees to compensate us for our services to the date of withdrawal. Our engagement will terminate upon our withdrawal.

The IRS permits management to authorize us to discuss, on a limited basis, aspects of the returns for one year after the return's due date. Management's consent to such a discussion is evidenced by checking a box on the return. Unless management informs us otherwise, we will check that box authorizing the IRS to discuss the returns with us.

Certain communications involving tax advice are privileged and not subject to disclosure to the IRS. By disclosing the contents of those communications to anyone, or by turning over information about those communications to the government, management, the Association's employees, or agents may be waiving this privilege. To protect this right to privileged communication, please consult with us or your attorney prior to disclosing any information about our tax advice. Should management decide that it is appropriate for us to disclose any potentially privileged communication, it agrees to provide us with written, advance authority to make that disclosure.

Should we receive any request for the disclosure of privileged information from any third party, including a subpoena or IRS summons, we will notify management. In the event management directs us not to make the disclosure, management agrees to hold us harmless from any expenses incurred in defending the privilege, including, by way of illustration only, our attorney's fees, court costs, outside adviser's costs, or penalties or fines imposed as a result of asserting that privilege or management's direction to us to assert the privilege.

The returns may be selected for review by the taxing authorities. In the event of an audit, management may be requested to produce documents, records, or other evidence to substantiate the items of income and deduction shown on a tax return. Any proposed adjustments by the examining agent are subject to certain rights of appeal. In the event of a tax examination, we will be available, upon request, to represent the Association. However, such additional services are not included in the fees for the preparation of the tax returns.

Management's Responsibilities

Management agrees to assume all management responsibilities for the tax services and any other nonattest services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services and accepting responsibility for them. Management also has final responsibility for the tax

returns and, therefore, the appropriate officials should review the returns carefully before an authorized officer signs and files them.

Management is responsible for establishing and maintaining internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; and for the fair presentation in the financial statements of financial position, results of operations, and cash flows in conformity with U.S. generally accepted accounting principles. Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. Management is also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.

Management's responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Management is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the Association involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Management's responsibilities include informing us of its knowledge of any allegations of fraud or suspected fraud affecting the Association received in communications from employees, former employees, regulators, or others. In addition, management is responsible for identifying and ensuring that the Association complies with applicable laws and regulations. Management is responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. Management agrees to include the audited financial statements with any presentation of the supplementary information that includes our report thereon.

Engagement Administration, Fees, and Other

We understand that the Association's employees will prepare all cash, accounts receivable, and other confirmations we request and will locate any documents selected by us for testing. When we arrive at your offices to start working on your engagement, we will need to be able to connect to the Internet via hard wire and your network must allow for the ICA Client protocol to pass through your network. This can be done by having your firewall allow port numbers 1494 and 2598 be accessible.

Any other arrangements for Internet access (such as wireless access) may significantly decrease our auditors' efficiency and could necessitate a change order to the fees quoted below.

Allen P. DeLeon, CPA is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it. We expect to begin our audit on a date, which we mutually agree to, and issue our report about 45 days after the completion of fieldwork.

Our audit engagement ends on delivery of our audit report and delivery of the associated tax returns. Any follow-up services that might be required will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

If, during our work, we discover information that affects prior-year tax returns, we will make management aware of the facts. However, we cannot be responsible for identifying all items that may affect prior-year returns. If management becomes aware of such information during the year, please contact us to discuss the best resolution of the issue. We will be happy to prepare appropriate amended returns as a separate engagement.

It is our policy to keep records related to this engagement for five years. However, we do not keep any original records, so we will return those upon the completion of the engagement. When records are returned, it is management’s responsibility to retain and protect the records for possible future use, including potential examination by governmental or regulatory agencies.

By signing this engagement letter, management acknowledges and agrees that upon the expiration of the five year period, we are free to destroy our records related to this engagement.

You will not be billed for travel and other out-of-pocket costs. The fee estimate below is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. For all services, other than tax return preparation, not covered by an engagement letter, we bill in minimum one-quarter hour increments. Fees for tax return preparation are determined based on the forms required and time needed to complete the return.

<i>Services</i>	<i>Audits</i>	<i>Taxes</i>
<i>2016</i>	<i>\$6,050</i>	<i>\$400</i>
<i>2017</i>	<i>\$6,150</i>	<i>\$400</i>
<i>2018</i>	<i>\$6,250</i>	<i>\$400</i>

We are also committing to performing these services for subsequent years at fees approximating the table shown above; assuming the scope of our work or the size of the Association does not change materially. This extended contract can terminate, by either party, with 90 days’ notice if differences concerning our services should arise that are not resolved by mutual agreement.

We will invoice one-third (1/3) of the engagement fees upon the signing of the engagement letter; one-third after the completion of fieldwork and the final one-third after the issuance of the draft report.

We ask that you pay our monthly billing statements upon receipt. Amounts not paid within 30 days from the invoice date will be subject to a late payment charge of 1.5% per month (18% per year). In accordance with our Firm policies, work may be suspended if the entity's account becomes 60 days or more overdue and will not be resumed until your account has been paid in full.

Our hourly rates are effective through December 31 of this year, and are subject to modification thereafter. Should this modification occur, you will be billed at the modified rates.

Change Orders and Additional Services

In some cases, circumstances might require a change order to cover our professional time for issues which effect the audit engagement. There are matters which are not typical in a normal audit, but sometimes arise during the course of the audit planning or fieldwork. We will notify you as soon as possible if a change order is required. We bill for these items on an hourly basis. Attached to this engagement letter is a schedule of possible change orders and estimated fee ranges. It is not a complete list and the fee range is an estimate only.

In an effort to keep our audit fee as low as possible, these matters are not included in the standard audit fee and are only charged when applicable.

Management may request that we perform additional services not addressed in this engagement letter. If this occurs, we will communicate with you concerning the scope of the additional services and the estimated fees. We also may issue a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting such additional services, our services will be governed by the terms of this engagement letter.

Board Meeting Attendance

Board of Directors meeting attendance or presentation of the audit to the Board of Directors in person is not normally required by most clients. Therefore, we have excluded this from our standard audit fee. However, we do offer this as an additional service for those organizations which want us to attend the meeting in person. Check the box on the last page of the engagement letter if you wish to select this service.

Summary

We appreciate the opportunity to be of service to *New Mark Commons Homes Association* and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If the terms of our engagement as described in this letter are satisfactory, please sign the enclosed copy and return it to us.

Sincerely,

DeLeon & Stang Certified Public Accountants and Advisors



Allen P, DeLeon, CPA, PFS
Partner

RESPONSE:

This letter correctly sets forth the understanding of *New Mark Commons Homes*.

Authorized Board Member's signature:

Title: _____
Date: _____

Authorized Managing Agent's signature:

Title: _____
Date: _____

Board meeting fee -- \$200 per meeting one-half hour. We ask that our Report be placed first on the meeting agenda.

ATTACHMENT E

NEW MARK COMMONS HOMES ASSOCIATION, Inc. PARKING REGULATIONS

*[Approved October 4, 2012 by the Board of Directors.
With proposed changes. Brackets show deletions; bold text shows new.]*

A. Introduction

The bylaws and covenants of New Mark Commons grant authority to the Board of Directors to regulate parking within the New Mark community.

In addition to regulations, the community needs the voluntary cooperation of all townhouse residents to make efficient and courteous use of limited parking spaces. Such courtesy includes parking vehicles that are not in daily use in unreserved spaces that are not directly in front of homes, thus leaving more of the convenient spaces for other residents and for visitors.

The following parking regulations apply to any vehicle on public streets, Homes Association property, and/or private property within New Mark Commons. They define:

1. Permitted and Excluded Vehicles
2. Notice of violation, appeal process, towing, and assessment of costs.

B. Permitted and Excluded Vehicles

1. The following vehicles are permitted unless they have an excluded characteristic:
 - a. Passenger cars and wagons, minivans, SUVs, motorcycles, bicycles.
 - b. Pickup trucks and vans shorter than 250 inches.
2. The following vehicles are excluded:
 - a. Any vehicle with externally visible commercial markings, equipment or materials, including, but not limited to, ladders, compressors, generators, pumps, building trade tools, equipment racks, pipes, spreaders, or cylinders. However, one standard size tool box is allowed on pickup trucks.
 - b. Any vehicle that is inoperable because of [its condition or] lack of current registration.
 - c. Any vehicle that is inoperable because of its condition. At a minimum, operable condition must be shown by self-propelled**

movement to a different parking space at least once in any 30-day period.

d.[c.] Any other vehicle not listed as permitted, whether for on-road or off-road use.

e.[d.] Any vehicle not owned or [controlled] **leased** by an owner, tenant, or guest of a house in New Mark. **The vehicle title or a valid lease shall be shown to the Administrator upon request.**

3. Exceptions:

a. Commercial vehicles parked during the day to provide services to a house, such as painting or plumbing.

b. Certain vehicles listed in (c) below may be parked in the clubhouse parking lot under the following conditions:

- The Administrator has given prior approval in writing. The Administrator shall set an expiration date for this approval which date shall not exceed one year. A vehicle owner may request a renewal of approval.
- All vehicles, including trailers, are operable and have current registration.
- Association dues are fully paid.
- The Homes Association is in no way liable for any damage or theft to the vehicle.

c. Under the conditions listed above in (b), the following vehicles may be parked in the clubhouse parking lot:

- Boats shorter than 26 feet, with appropriate trailers.
- Commercial cars and trucks shorter than 22 feet.
- RVs shorter than 22 feet.
- Trailers, other than boat trailers, shorter than 15 feet.

C. Enforcement

1. Notice of violation.

The Administrator shall identify vehicles in violation of the regulation, either on his/her initiative or in response to a complaint. The notice of violation shall be affixed to the vehicle and such notice is sufficient for enforcement. In addition, the Administrator shall make a good faith effort to contact the owner of the vehicle and to explain the violation.

The notice shall state the violation and date and explain that the violation must be corrected or the vehicle moved from New Mark Commons within 30 days of the notice. Evasive action to change the vehicle's location within New Mark will

not abate or delay enforcement. The notice shall describe the opportunity to appeal to the Board of Directors.

2. Enforcement.

If the vehicle remains in violation after 30 days, the Administrator will arrange to have it towed at the sole risk and expense of the owner. If the vehicle is towed, the owner must contact the Administrator who will provide contact information for the towing company.

3. Appeal

The owner may appeal to the Board of Directors through the Administrator within 15 days of the notice. The appeal must be in writing, identify the owner of the vehicle and the owner of the house where the vehicle owner resides, and explain why enforcement should be abated or delayed.

The Board shall consider the appeal at the next regular monthly meeting and make a decision as soon as practicable. The Board shall mail a notice of the outcome of the appeal to the owner of the vehicle and of the house, if different. This notice shall state a deadline for correcting the violation or moving the vehicle, which deadline shall be at least 15 days after the decision.

Results of the appeal and disposition of the matter may be published in the New Mark community.

4. Removal of Vehicle in Violation

If the vehicle in violation is present in New Mark after the date set for removal, the Administrator shall authorize a towing company to remove the vehicle. Contact information for the towing company will be provided by the Administrator upon request. If the towing company cannot remove the vehicle due to reasons beyond its control, the Board of Directors, by majority vote, may initiate court proceedings to have the vehicle removed.

5. Repeat Violations

If the complaint procedure in these Regulations has been followed and a vehicle found to be in violation reappears in New Mark at a later date with the same violation, it may be towed without notice.

6. Assessment of Costs

Costs of towing and storage must be paid to the towing company by the vehicle owner in order to retrieve the vehicle. If the vehicle owner does not retrieve the vehicle and the Association incurs costs in order to complete the enforcement action, those costs will be added to the regular house assessment of the vehicle owner. If the vehicle owner is not a homeowner, then the costs will be billed to the responsible homeowner.

7. City of Rockville Ordinances

Any vehicle that violates City of Rockville parking ordinances shall be reported to the City for enforcement of those ordinances.

ATTACHMENT F



New Mark Commons
Mr. Jim Denny
607 Tegner Way
Rockville, MD 20850

Proposal for Schematic Designs for:

Glickman Design Build will develop perspective three dimensional schematics for a ramp entry to the second level for submittal to the City of Rockville for preliminary discussions regarding feasibility and acceptability by the city.

Glickman Design Build will also develop conceptual plans for an accessible bathroom on the second floor of the clubhouse.

The designs will be renderings. No floor plans or construction drawings will be completed at this time.

A retainer of \$5,000.00 will be due upon acceptance and start of design.

This fee should be sufficient to develop the required renderings. If the client would like additional work for this submittal an additional specific scope of work will be outlined and fees attached.

We appreciate the opportunity to help you with your preliminary steps toward accessible design for the clubhouse.

Sincerely,

Joe Leonard

Joe Leonard
VP Project Development
Glickman Design Build
301-514-7755

ATTACHMENT G



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Clarence J. Snuggs
Director

November 10, 2016

John Hansman, President
New Mark Commons Homes Association
514 New Mark Esplanade
Rockville, Maryland 20850

Re: Case No. 80-16, Richard Berman v. New Mark Commons Homes Association

Dear Mr. Hansman:

This is to inform you of the formal complaint filed against the New Mark Commons Homes Association with the Commission on Common Ownership Communities by Richard Berman, who claims that the Association either failed to maintain books and records or has violated the Homeowners Association Act by failing to allow him to inspect the records, being minutes of the meetings of its board of directors from 1967 through 1999.

Enclosed for your review is a copy of the original complaint form as it was submitted to this Office. You should keep it for your records. I also enclose a copy of the Commission's Dispute Resolution Procedures as well. Please read these carefully and be sure that you follow them throughout the process.

I request a written response indicating your position on the issues raised in this complaint together with copies of the documents relevant to your position. Please send your written response to this Office within thirty (30) days of the date of this letter. **If you do not answer this complaint, the complaining party can request that the Commission enter a default judgment against you without a hearing and without any evidence from you.** (For a copy of the Commission's "Default Judgment Procedures" please visit the Commission's website at www.montgomerycountymd.gov/ccoc or call this office and ask us to mail you a copy.)

Please also send me a copy of the most recent annual notice you sent to your members which advises them about the CCOC and the services it offers. This notice is required by law.

Either the Complainant or the Respondent may request mediation by submitting a written request to the undersigned. The Commission on Common Ownership Communities strongly encourages the use of mediation before resorting to formal hearings before the Commission, and I am enclosing information on this also. Please state in your response if you agree to attempt to resolve this dispute in mediation.

Division of Housing

Affordable Housing

Common Ownership Community

Landlord-Tenant Affairs

Multifamily Housing

1401 Rockville Pike, 4th Floor • Rockville, Maryland 20852 • 240-777-0311 • 240-777-3691 FAX • montgomerycountymd.gov/dhca

montgomerycountymd.gov/311



Maryland Relay 711

Finally, all communications between the Commission's staff and a party will be shared with the other party to the dispute. The staff will not accept "private" or "confidential" communications. To avoid misunderstandings, we recommend and prefer that all communications on this dispute be in writing or by email.

We appreciate your prompt attention to this complaint and your assistance resolving it.

Sincerely,



Peter Drymalski, Commission Staff
email: peter.drymalski@montgomerycountymd.gov

Enclosures

cc: Richard Berman

ATTACHMENT H

**WRITTEN STATEMENT FOR CLOSING A MEETING
UNDER THE OPEN MEETINGS ACT**

N

Date: 11/6/16 Time: 10 p.m. Location: Clubhouse Motion to close meeting made by: ELLEN STEIN
 Seconded by John Brown. Members voting in favor: E. Stein, J. Brown, D. Mangan, J. Hansman,
Magnus Turesson Opposed: NONE Abstaining NONE Absent J. Saroff

STATUTORY AUTHORITY TO CLOSE SESSION, General Provisions Article, §3-305(b) (check all that apply):

- (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals;
- (2) To protect the privacy or reputation of individuals concerning a matter not related to public business;
- (3) To consider the acquisition of real property for a public purpose and matters directly related thereto;
- (4) To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- (5) To consider the investment of public funds;
- (6) To consider the marketing of public securities;
- (7) To consult with counsel to obtain legal advice on a legal matter;
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation;
- (9) To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- (10) To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans;
- (11) To prepare, administer, or grade a scholastic, licensing, or qualifying examination;
- (12) To conduct or discuss an investigative proceeding on actual or possible criminal conduct;
- (13) To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter;
- (14) Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

FOR EACH CITATION CHECKED ABOVE, THE REASONS FOR CLOSING AND TOPICS TO BE DISCUSSED:

§3-305(b) (1) Discuss administrators compensation +
 §3-305(b) () _____
 §3-305(b) () _____

This statement is made by John Hansman, Presiding Officer: _____
 SIGNATURE

WORKSHEET FOR USE IN CLOSED SESSION (CHECKLIST OF DISCLOSURES TO BE MADE IN MINUTES OF NEXT REGULAR MEETING- NOT A PART OF THE CLOSING STATEMENT)

PERSONS ATTENDING CLOSED SESSION: E. Stein, J. Brown, D. Mangan, J. Hansman, M. Turesson.
 TOPICS ACTUALLY DISCUSSED Administrator compensation + assistant admin compensation.
 ACTION(S) TAKEN (IF ANY) AND RECORDED VOTES: Administrator salary for 2017 to be \$52,000.
advertise for assistant administrator position.
 TIME CLOSED SESSION ADJOURNED: 10:45 P.M.
 PLACE OF CLOSED SESSION NMC Clubhouse, 607 Tegner Way, Rockville, MD.
 PURPOSE OF CLOSED SESSION: discuss administrator compensation
 STATUTORY AUTHORITY FOR THE CLOSED SESSION: §3-305(b) () ; () ; (1)
 MEMBERS WHO VOTED TO CLOSE: E. Stein, J. Brown, D. Mangan, J. Hansman, M. Turesson

(Form Revised 10/1/14)

Appendix C

DRAFT

ACC Violations and How NMC Responds

The enforcement of architectural regulations is a vital function of the NMC Board and its Architectural Control Committee. It is vital, therefore, that these regulations and the treatment of violations be spelled out clearly and communicated to all residents. While absolute adherence to the regulations and strict enforcement is the goal, it is important to note the Board and the ACC are allowed some flexibility in decision-making.

As Montgomery County's Commission on Common Ownership Communities (CCOC) has stated: *“The board of directors has a fiduciary duty to enforce the association’s rules, but that does not mean it must strictly enforce every rule in every case. The association documents give the board discretion on how to enforce the rules. However, the continued failure or refusal to enforce rules can eventually lead to a finding that the association has abandoned or waived its covenants.”*

There are several categories of violations. The Board and the ACC have agreed on the following responses:

1. Cases in which a homeowner has NOT applied for ACC permission for a change he/she has made that required advance ACC action.

Owners shall be required to submit an ACC application. If approved, no further action is necessary. If denied, the owner may appeal to the Board. If the Board denies the appeal, the owner shall be required to comply with the ACC’s decision. This may entail a modification of the change or complete removal of the alteration at the owner’s expense. Any owner who refuses shall be taken before the CCOC.

2. Cases in which a homeowner has applied for ACC approval and received it but has made a change that differs from what was applied for.

Owners shall be required, at their own expense, to make the change conform to the original ACC ruling. Any owner who refuses will be taken before the CCOC.

3. Cases in which a homeowner is denied ACC approval but makes a change anyway.

Owners shall be required, at their own expense, to remove the change. Any owner who refuses shall be taken before the CCOC.

4. Cases in which a change was approved in the past but the change was in fact in violation of the ACC regulations or NMC covenants.

The sitting ACC will inform the owner of its finding of a violation and require that the change be removed or brought into conformity with current regulations before the property can be sold or otherwise transferred.

In all cases, it is the position of the Board and the ACC that owners have two weeks to respond to a notice of violation and 60 days to bring their property into conformity. No property in NMC can be sold or otherwise transferred until it is in conformity with ACC and Board decisions.

The ACC and the Board are empowered to consider any external changes, including but not limited to, doors, windows, railings, hardscaping, paint color, lighting, extensions and sheds.

The following excerpts from CCOC rulings are provided as illustrations to homeowners in support of the NMC position:

“A homeowner who obtains approval for an application, but then makes changes and does not build according to the approved application, can be ordered to submit a new application for the structure as finally built and to comply with the association’s ruling on the revised application.”

“If a homeowner builds something different from what he applied and obtained approval for, and if the changes do not meet the community’s architectural standards, the CCOC will uphold the standards and require the homeowner to comply with them and make the necessary alterations.”

“When an association approved a member’s plans for a new deck, and he built the deck following the approved plans, the association cannot thereafter force him to change the deck, nor can it alter the deck without his approval, until such time as he sells the house.”

“When a member cannot show that he ever applied for, and received, approval for a deck, the association can require him to alter it, or can enter on the property to alter it at the owner’s cost.”

Despite the last citation, please note, the NMC Board and the ACC have decided the NMC administrator or a contractor hired by NMC will NEVER enter any property to make mandatory changes required by the Board or the CCOC. However they will strictly enforce requirements for such changes before the sale or transfer of any property.

NMC Communications Committee
Report to the NMC Board
January 5, 2017

The Committee did not meet in December.

January billing enclosures

- Information update sheet—Judy will input the incoming data from this round, but it is hoped that this and all database maintenance can become a staff function in the near future
- Communication Preferences Survey—In addition to the hard copy form, we created an online version using SurveyMonkey. (Thanks to new resident Melanie Huston for volunteering and providing technical assistance.) We will use the results of this survey to guide our recommendations for the frequency and media (paper vs. electronic) for the newsletter.

Website

- 61 residents have requested and received login credentials for the Resident Area
- Documentation has been tested, approved, and turned over by the consultant; we are ready to train staff, pending their availability
- We continue to post to/update the Resident Area and calendar and have increased using the Community News function for community updates. The challenge is to get residents to begin to consult the website for current information; we will develop an article for the January newsletter and post a note on Nextdoor to encourage this.

Newsletter

- We are trying to increase advertising click rate/visibility so that we can market ads more successfully as a revenue source
- We have temporarily tabled recommendations for a delivery/charge for PDF'd paper copies of electronic newsletters, and guidelines for email broadcast, pending the results of the Communication Preferences Survey.

Google Business implementation

- John Daroff continues to support Google drive access/sharing/training
- Next step: Populating Google drive
 - Board and other committees
- Google calendar—We have learned to fully integrate this with the website, including attaching agendas to events. Again, we hope this will become a staff function

Broadcast emails—Tabled pending survey results

- Updated policy needed (earlier from 11/2015 is OBE)
- Should we transition to Mailchimp for all and just maintain AtoZ for the Directory?
(*related discussion*: synching the 2 databases)

Databases: Synching AtoZ with Mailchimp should be a priority when the new staff member is hired

The next meeting is scheduled for Thursday, January 12 at 7:30 PM.

New Mark Commons Swim Team
2016

	2015 Actual	2016 Budget	2016 Actual	Variance '15 vs. '16	Variance '16 Act vs. Bgt
Income					
Registration Fees	3,900.00	3,900.00	4,450.00	550.00	550.00
Ice Cream Sales	3,588.47	3,500.00	4,000.30	411.83	500.30
Snack Bar Sales	375.15	1,000.00	1,922.46	1,547.31	922.46
Donations	-		22.00	22.00	22.00
T - Shirt /Towels Sales	646.00	700.00	382.00	(264.00)	(318.00)
Towel Sales				-	-
Banquet Income	430.00	860.00	665.00	235.00	(195.00)
Total Income	8,939.62	9,960.00	11,441.76	(1,020.38)	1,481.76
Expenses					
MCSL Dues	-	490.00	478.00	478.00	(12.00)
Salary Expense	-	-		-	-
Ice Cream Expense	3,430.92	2,500.00	2,877.90	(553.02)	377.90
Snack Expense	-	667.00	1,173.94	1,173.94	506.94
Supplies	305.52	500.00	399.50	93.98	(100.50)
Swim Software Expense	-	-		-	-
Social Activities	40.37	400.00	1,083.06	1,042.69	683.06
T Shirt Expense	579.40	700.00	320.00	(259.40)	(380.00)
Towel Expense				-	-
Pre Season Mtg Expense	142.57	150.00	114.46	(28.11)	(35.54)
Banquet Expense	2,312.18	2,300.00	2,324.55	12.37	24.55
Awards/Gifts	1,421.07	1,400.00	773.20	(647.87)	(626.80)
Insurance	-	700.00	761.25	761.25	61.25
Background Ck/Drug Test		100.00	134.85	134.85	34.85
Equipment Expense	-	-	412.60	412.60	412.60
Total Expenses	8,232.03	9,907.00	10,853.31	2,621.28	946.31
Net Income	707.59	53.00	588.45	(119.14)	535.45