

## NOTICE

**From:** Jerry Noel, Owner, Unit 308, South Hampton

**To:** Chris Millar, Manager, Lynn Edmonds, Litus to let

**Date:** December 31, 2020

**Subject:** South Hampton Special Assessment

Dear Mr. Millar,

As you may or may not be aware, I entered a contract to purchase Unit 308 of South Hampton on October 15, 2020 with a closing date of November 19, 2020. Despite my best efforts to perform detailed due diligence before purchase, I was blindsided with a Special Assessment in the approximate amount of \$1,800,000 or for my unit, 3BR unit, \$13,848.77 on November 20, 2020 – one day after closing.

Please understand, I am not an attorney and do not know all the legal recourse available but from a quick review of the Associational Documents, I have noticed several items that I have questions regarding. They are detailed below:

1. Section 27-30-140 (1) of South Carolina Homeowners Association Act states in part: “Before a homeowners association may take action to increase an annual budget in any single year, the homeowner’s association must provide notice to homeowners at least forty-eight hours in advance of the meeting in which a decision to raise the annual budget is made”. *Did your company or the Board make any such notice to the Seller or to other owners? If so, when was it provided and please provide me a copy.*
2. Section 4.04 of Bylaws of South Hampton Homeowner’s Association states in part: “Notice of meeting shall be given at least 4 days prior by written notice”. *Was notice given? If so, please provide a copy of such notice, who it was sent to and the subject matter.*

3. The Master Deed of South Hampton states:

- a. Section 4.5 states in part: "On or before December 1 of each year, the Board shall prepare a budget. *When was the budget prepared?*
- b. Section 4.6 states in part: "The HOA shall furnish members a copy of the annual assessment on or before December 15 of each year". Please note, I did not receive notice until after Christmas on December 28, 2020, thus allowing only 3 days before payment due date. Also, please note, this subsection requires owners to be given 15 days' notice before payment is due. *Please advise when this mailing occurred?* Also, please note, neither the budget nor the letter accompanying the budget are dated. *When were they prepared and why are they not dated or signed?*
- c. Section 4.7 states in part: "The HOA may levy upon affirmative vote of the majority of the Board a special assessment in an amount up to 10% of the prior year's budget." The budget for 2020 was \$1,370,417 or this section allows for a special assessment of \$137,042 – instead, members received a special assessment of \$1,800,000 – *over 13 times the maximum allowed under this section. Please provide authority under for this increase – I have been unable to locate any to date, other than, maybe, Section 4.8 discussed below.*
- d. Section 4.8 states in part: "The HOA may levy, upon 51% approval of total votes of the HOA, special assessments..." Furthermore, Section 3.1 states in part: "Every co-owner shall be a member of and constitute the South Hampton Owners Association". Given these two subsections, *did you send a notice and seek approval from all owners? If so, please advise when you sent notice and a copy of the notice and tabulation of the votes.*

4. Why have minutes of Annual Board Meeting not been made available since 2018? Also, why have not minutes of regular Board Meeting never been made available? Why are not current Board Members listed? *From reviewing the docs, every owner has a right to this information. I am hereby requesting a copy of all Board Meetings for last 2 years and the names and email addresses of all Board Member and copy of current balance sheet.*

5. I have read the *undated* letter from Don Matheson that was sent with the notice of special assessment several times and have no idea of what the special assessment was for and the numbers simply do not add up.
- a. Damage: From my reading, it appears work was waterproofing of something and there may have been latent deck defects and wall defects at NE corner and sufficient damage due to improper installation of shutters. *My first question is why the individual members who improperly installed shutters not billed? Is there a cost breakdown by project? Was competitive bidding done? Is the work completed? As a new member, I know nothing, and you are demanding payment without providing any factual data. Would you conduct business in this manner?*
  - b. Dates: *When did this damage occur? When did the work start?* It appears there were plans in effect for a bridge loan of \$600,000 and it is claimed some of the work is completed so it appears the work started years before this assessment. *When did the Board approve the work? Why was work started before budgeting for the work? When was the bridge loan approved? Was there an assessment for the bridge loan?*
  - c. Numbers: I really do not understand the math computations. Planned Costs were \$1,567,000 with \$600,000 bridge loan (*I guess \$967,000 was being paid out of reserves?*). Actual cost: \$2,507,796 or \$940,796 above budget (*why did this occur – when was additional cost approved?*) Then, it really gets foggy, “due to significant fiscal discipline, even during pandemic the amount is \$224,478 less”. *What does this mean? Does it mean \$224,478 more was paid out of reserves or the amount over budget was \$716,318 and not really \$940,796? A bigger problem is trying to understand the math behind the Special Assessment. If the bridge loan is for \$1,316,318 why is the Board imposing a Special Assessment for \$1,828,234 or over \$500,000 more than the loan?*
  - d. Recovery: The letter said “we are caught up in a squabble between the primary contractor and its sub-contractor and listed several attorneys. *What does this mean – is there a chance for recovery of the amount of the special assessment? If so, then why not wait until it is resolved?*

6. *Please advise what systems are in place to advise Lender's and Buyer's Closing Agents of dues and pending special assessments. Please provide copy of the forms you completed for Murray Law Firm for my closing. Likewise, please advise of any correspondence with the Seller of my unit for the last two years. As you are aware by now, this assessment was completely hidden from me and I would have never purchased the condo if I had any knowledge of a pending special assessment or of latent defects and now, I learn there was plenty of evidence of both. In fact, a special assessment not only was pending but implemented only one day after purchase. Which brings up another question, why are Associational documents, including major latent defects, not available to Buyers but are available to current homeowners on the Association website?*

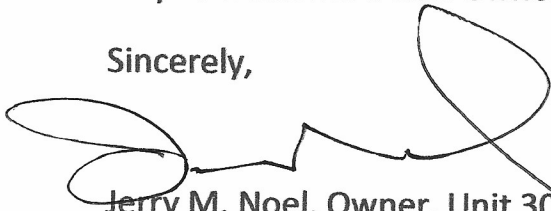
As previously stated, I am not an attorney, and these are questions I have based on a limited review of the limited Association documents that I now have available and there may be other documents and/or questions later.

From my review of South Carolina Homeowners Association Regulations, they recommend that I should give you a reasonable length of time to respond before reporting this matter or engaging legal representation. I am respectfully requesting that you respond to this letter by January 15, 2020. *If you feel this time frame is too short, please advise within 5 days of the desired timeframe.*

Your response should be sent to my email address at [charliedoggie4@yahoo.com](mailto:charliedoggie4@yahoo.com) since we are often on the road. Likewise, please call me at (727) 422-0612 if you have any questions on any matter. *If there is a copy cost, simply advise.*

I would like to close on one point that maybe we can agree upon – a \$14,000 assessment without any notice and hiding material facts is not an appropriate way to welcome a new owner.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry M. Noel". The signature is fluid and cursive, with a large loop at the end.

Jerry M. Noel, Owner, Unit 308, South Hampton

Sent by Email – Please provide copy to Board – I do not have their email address.