

# VERMILION PROPERTY OWNERS ASSOCIATION, INC.

Thank you to everyone who emailed responses about the upcoming management company decision. The Board of Directors and Officers in general appreciate the number and variety of responses. For clarification, we have decided to issue a response to the many comments so as to provide a frame of reference for discussion. We strongly encourage all homeowners and members to take a few minutes to review the minutes of past general association meetings which have been posted on our Neighborhood Link Website at <http://www.neighborhoodlink.com/Vermilion/pages>

At our general meeting held March 23, 2010 after due notice to the owners, the Association voted to pursue employment of professional assistance from a property manager. The substantive concerns and reasons cited in favor of pursuing professional management were 1) the lack of fair, consistent procedures for Architectural Control under the covenants, 2) the waning of participation by members/owners in managing the association, including Architectural Control, and 3) the lack of continuity between various Boards of Directors, with particular emphasis on financial controls.

Taking all comments at face value, many of those in opposition to seeking professional assistance do not seem to have an appreciation of the number and nature of complaints that come to board members or are voiced at association meetings. The chief category of incoming complaints is covenant enforcement. Anyone entering or exiting the neighborhood has the opportunity to observe the house at 2501 Alston Drive, with its third driveway parking space and front facing wall mounted air conditioner unit as perhaps the most egregious example of our Association's failure to maintain architectural control. There are other examples. Further, the recurring theme at our association meetings is covenant enforcement not only with respect to architectural control but compliance with the neighborhood covenants generally.

Some have stated, correctly, that covenant enforcement has historically been minimal. Historically, people took care of their homes and yards, finished projects to the exterior in a timely manner, and otherwise followed our covenants. Historically, there was no need, either real or perceived, for active and sustained covenant enforcement. However, in recent years we have observed significant and flagrant violations of our covenants, and our prior minimal covenant enforcement has become the problem because of a lack of consistent uniform procedures for doing such enforcement and a lack of people who are willing to be the person who delivers the citation to their neighbor.

While community standards may be subjective, procedures and process for ACC approval and covenants enforcement should be fixed, in writing, and established with due and proper notice to all homeowners so that architectural control and covenant compliance is achieved as objectively as possible. However, the legacy of all previous leadership going back to foundation of the neighborhood (including boards where some current officers also served in this category) is that there is no longstanding institutional method for ACC approval or covenant enforcement. What we have now is at best emailing a board member for approval - which is a step up from previous boards of directors approach to ACC. Our current system for how our neighborhood deals with these issues is up to the whim of the people serving in office. This lack of any kind of established procedure makes it difficult or almost impossible to carry out covenant enforcement

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because any such effort to enforce covenants is subject to attack because homeowners feel that the efforts are subjective and uneven.

Further, while there is vocal support for enforcement of the covenants, when it comes down to doing the dirty work of getting people on an ACC committee, appointing a chairperson to the committee to lead it, setting up procedures and published standards, and issuing citations for violations of our covenants, the volunteers and will power just aren't there. Nobody wants to be the person who has to go and issue a citation to their neighbor about violations, yet people want the covenants enforced and complain loudly that their Board of Directors "is doing nothing about it". Of course, now that we are in fact doing something about it there are complaints.

Efforts have been underway since at least 2007 to form a standing architectural control committee. Repeatedly, if we can even find volunteers, no one wants to lead it. Even finding volunteers has been difficult just for the normal officers and board of directors. Some made the "just get more neighbors involved" argument against getting a management company, however it was pointed out that our board had not had a full complement of officers and directors since 2007, and that only three people had volunteered for the 2010 term. Further, as human nature is to berate the bearer of bad news, it is not surprising that anecdotal remarks of former officers are accompanied by "never again".

Over the last year, we have had several association meetings where we barely had a quorum, including our 2009 annual meeting. Even after the board published notice of our last meeting and informed the membership that we would be discussing and voting upon the issue at the last Association meeting, and that the potential existed to increase dues. However, even with the decision on the table our attendance wasn't what one would expect with these kinds of issues involved. The trend is obvious - our members are increasingly less involved than in past years.

Ultimately, covenants without enforcement are meaningless. No doubt there are some members who would be just as happy if there was no covenant enforcement in place. However, this does not fit with the general consensus of the homeowners who are sending in complaints to the board and attending our meetings that covenants should be enforced to preserve property values and keep the neighborhood a desirable place to live.

In regards to the accounting and book keeping, many of those in opposition to the seeking professional management having minimized notion of what of those duties involve. Your Board of Directors, and specifically the Treasurer, is under a duty to keep good records of payments and expenditures, write the monthly utility and service company checks, reconcile the bank accounts. The Treasurer also prepares the annual budget for approval by the Board and the membership, tracks expenditures against the budget, prepares end of year reports for the Association, and prepares periodic reports and statements for analysis and review at Board meetings and Association Meetings. Being Treasurer also involves preparation, issuance and publication of the annual assessment notice and then subsequent follow up with those persons who fail to pay timely.

A member (and former Treasurer) in attendance at our March 23 meeting raised the issue that the association's Treasury seems to be handled according to the whims of whoever may be the

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current Treasurer. This is factually true. However, your current and previous Board of Directors believe that this is inappropriate at best, and a recipe for potential fraud and mismanagement at the worst. The lack of a consistent system of accounting and financial controls that survive periodic and frequent changes of officers is yet another reason why many of the homeowners stated they felt more secure having a professional company handle that aspect of association management.

At recent Association meetings, many owners in the neighborhood have expressed a desire for uniform, regular, and consistent financial reporting of the associations finances. As evidence, we would remind everyone of our 2007 yearend report, where the membership and Board were shocked to find we had less money at the end of the year than expected. That occurred because money was spent outside what is budgeted, and the deficit came out of reserves. The problem demonstrated here is that the board and the owners should have known ahead of time that they were spending outside the budget and had to take it out of reserves. Because there is no consistent accounting system maintained by the association, it takes a significant amount of time to monitor and report these issues (not to mention a significant amount of Association meeting time explaining them). There has been lackluster support at best for purchasing something like Quickbooks, because committing to any particular software program will normally require us to purchase a new license every time we get a new Treasurer. Further, even preparing the budget (when someone has bothered to - it doesn't seem that there is any kind of regular reporting of the neighborhood budget) is an issue. Employing a company that can prepare these items quickly and efficiently because that is their business means that our neighborhood volunteers and owners would have more time to devote to discussing larger issues, such a long-term community plan, improvements, etc. instead of spending valuable meeting time instead of trying to learn the methods and practice of whatever Treasurer happens to be in office.

Our long term delinquencies are not really an issue; we have continued to file liens against non payers and pursue legal action where appropriate. For the majority of home owners, we would estimate on average that 80% pay timely, 15% pay after second notice, and 5% pay after third notice. The institution of our \$25 late fee penalty on past due payments has significantly helped in getting payments in on time. However, just sending the second and third notices, obtaining the late fees for those persons who do not think they apply, and keeping sufficient and adequate records of when payments are made can be a time consuming task.

There has been some suggestion of delegating these financial duties to someone in the neighborhood who is a non elected member. These duties are fiduciary in nature and cannot merely be delegated to someone who is not a duly elected member of the Board of Directors or an officer. Apart from lack of direct responsibility to the membership, a non elected member wouldn't be liable for acts of breach of trust or malfeasance and would NOT be covered under directors & officers insurance. It is doubtful that any individual as suggested would be willing to pay the fee to put up a surety bond to secure performance of their duty, even if a bonding company would be willing to issue it to that individual. Under Georgia law, any property management company is managed by a licensed real estate broker. Further, the only companies up for consideration are those that maintain a surety bond for their performance.

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With regard to the payment amount, we again reiterate that the association has already voted on the issue and by a majority vote decided to pursue a management company, provided the expense didn't exceed an additional \$125 per year on our dues. Of the three companies we identified (we looked at more than three), the most cost effective is Access. We will be posting their sample documents for review later on the neighborhood website for everyone to review. The cost as such would make our annual dues \$213 in total which is still reasonable and low compared to other communities in our area.

We have taken measures in the past with regard to the timing of assessment payments. For example, we changed the payment due date from January 1 to January 31 to alleviate the burden of paying dues during the holiday season in December. Some associations stagger their dues payments on a bi-yearly basis, although those tend to be neighborhoods where the bi-annual assessment is double what we charge just for one year. Since at least 2007, the Association and the Board have taken the position that if someone has a difficulty in paying the annual assessment that we would take steps to work out some kind of arrangement. To date, no one has ever asked for any such arrangement, but we remain willing to come to an accommodation if needed.

The management company contract is a year long. If we decide as an Association that the relationship is not working, then we have the option to not renew, and reduce dues accordingly. The membership will have to decide at that time. In the mean time, if you are unable to attend the meeting, please take advantage of our proxy voting form that has been posted on the website. Please note that proxy forms must be filed with the secretary (Anita Arial) prior to the meeting.

We hope that we have been able to provide you with helpful information regarding the issues and questions involved. We will give everyone who wishes to speak on the matter an opportunity to be heard at the August 3 meeting.

Sincerely,  
Your Vermilion Board of Directors and Officers