**Highlands at Ocean Point Condominium Association**

**Board of Trustees Special Meeting**

**With Owners Impacted by Feb. 14-15 Sprinkler Leaks**

**April 25, 2016 (second meeting)**

**Pool Clubhouse**

**Purpose of this Special Meeting:** Owners of units impacted by the February 14-15 bursting of sprinkler pipes were invited to a second meeting with the Highlands Board of Trustees to get an update on the insurance claim, permits, scope of work, and pricing, and to address owners concerns about the Board’s decision to work with a single contractor.

**Attendance:** **Trustees:** Lesley Pitts (Chair), Helen Jones (Secretary), Gary Gersten (Treasurer), Pam Claughton, Tony Baldwin.

**Guests:** Jeff Sabel, President, Sabel Adjusters of Plymouth; Chris Lyons, Estimator/Project Manager from RebuildEx of Plymouth County in Carver, Buz Artiano, Owner, RebuildEx.

**Owners/Owner Representatives:** Tom and Pat Smith (3010); Rita Potocsky (3004); Tom and Charles Tringale, representing their mother Concetta Babicz (3006); Barry and Janice Brodil (3007); Chris Batchelor, public adjuster representing 3006 and 3007; Joanna Zarkadas and Virginia Sands (2912); Jeanne Downey (2409); Tom and Marie Young (411).

At a special meeting of the Highlands at Ocean Point Board of Trustees, held in the pool clubhouse, on Monday evening, April 25, 2016, the Chair called the meeting to order at 7:02 p.m.

This being an informational meeting, no Board actions were taken at this meeting. Several items were identified as next steps/follow-up steps, however; these are summarized below.

**Follow-up/Next Steps:**

1. Owner 3004 to notify Board as to whether she will remain in or withdraw from the claim. (4/26)
2. Owners of 3006 and 3007 (or their representative) notify Board when their insurance allocation for loss of residence expires.
3. Board rep to look at carpet and closet in common area outside unit 3007 and at reported lack of any insulation between second and third floor in building 30.
4. Board rep to look again at deck on 2409, specifically any damage to the ceiling, per her request to add that to the claim.
5. Lyons to go over scope of work and cost estimates with someone from the Board.
6. Lyons to draft work schedule for each unit and master schedule. (by end this week, 4/29)
7. Lyons awaiting remaining permits. (expected by end this week, 4/29)
8. Board to get legal advice on how to handle one or more owners withdrawing from the claim.
9. Board to inspect repairs handled privately to ensure Association’s interests are protected.
10. Sabel to negotiate final figures with Arbella adjuster. (week of 5/2)
11. Allocation of deductible to be recalculated based on actual figures.
12. Arbella to issue check to Association.
13. Board to get third party inspection of sprinkler system.

The Chair opened the meeting by thanking everyone for coming and outlining the Board’s goals in this process: for the matter to be handled correctly, to get people back into their homes as soon as possible, to get the damaged units back as they were before the leak, to fulfill our fiduciary responsibility to the entire Association, to handle the financial issues in the best possible way, to listen to owners, answer their questions, and think about other scenarios presented.

**Insurance Claim Update:**

The Chair asked adjuster Jeff Sable for an update. Sabel reported that Arbella’s adjuster’s estimate, and Arbella’s offer, came in at $242,723, some $135,000 lower than Sabel’s estimate of $378,204. There is significant difference to negotiate, particularly with the units with more extensive damage. The next step on finalizing the claim is for Sabel and Arbella’s adjuster to get together and compare their estimates on the units with the most damage, line, by line, to seek agreement. He hopes to get that meeting scheduled next week.

**Update on RebuildEx Scope of Work, Cost Estimates, and Permits:**

Sabel asked RebuildEx’s Chris Lyons to give an update on his work. Lyons reported that he has completed his scope of work, and needs to go over it with someone from the Board. He has an estimate prepared, has applied for permits and has received some of them.

**Owner Questions and Discussion:**

Q: Is that difference in claim estimates typical? *(Owner 3007)*

A: Unfortunately, yes. *(Sabel)*

Q: Was the second estimate itemized?

A: Yes. Each individual cost will be analyzed and negotiated. *(Sabel)*

Q: How effective is that?

A: Very effective. *(Sabel)*

Q: Which units are being negotiated? *(Owner 3010)*

A: All affected units. *(Sabel)*

Q: I have opted out of the claim; why are you pursuing my interests? *(Owner 3010)*

A: I’m pursuing the interests of the Association. *(Sabel)*

Q: When did you receive the insurance company’s estimate? *(Owner 3010)*

A: I’d have to check my email for the exact date. *(Sabel)*

The Treasurer checked his email and replied that Sabel had emailed the estimate to him on April 15.

**Discussion of Certain Owners Expressed Intent to Withdraw From the Claim.**

At this point, Tom Smith (3010) stated that he and his wife wish to withdraw from the claim, and that, if the Association goes forward with the claim with unit 3010 included, he will pursue arbitration, and that will hold up everyone’s funds. He stated that he prefers to pay for repairs out of his own pocket rather than wait for the claim, and that he wants no funds from this claim.

The Chair noted that the Board will have to look into it from a legal standpoint. The Chair pointed out that four units have significant damage; in three of them, the owners have been displaced from their homes. Filing the claim as a single event related to the extreme cold weather in order to bear a single deductible requires putting all units together into a single claim.

The owner of 3004 stated that she also wishes to withdraw from the claim, explaining that she doesn’t want to wait months for repairs, and prefers to pay out of pocket.

Q: Where is the line, in terms of what is my responsibility and the Association’s responsibility? *(Owner 3010)*

A: That comes from the Association bylaws. If you could turn a unit upside down and shake it, anything that fell out would be the owner’s responsibility; anything attached is the Association’s responsibility. *(Sabel)*

C: When the bathtub upstairs overflowed and flooded my unit, I dealt with it through my insurance company. *(Owner 3004)*

A: Since the Association’s policy has a $10,000 deductible, it doesn’t get involved in anything under that amount. *(Treasurer)*

Q: Why didn’t the units with less extensive damage get handled individually instead of lumping them in with the larger claim? Why do those of us who only need some sheetrock and paint have to wait for those that require major construction, electrical work, etc.? *(Owner 3010)*

A: All damage to all units was considered a single, weather-related event. If we had filed separate claims, each claim would have been subject to a $10,000 deductible, which each individual owner would have been responsible for paying. Since the insurance company allowed us to combine the damage under a single catastrophic event, we were able to limit our financial obligation to a single $10,000 deductible. *(Chair)*

Q: If I withdraw from the claim, does the cost of my damages remain in the claim? *(Owner 3010)*

A: We believe that it does not. *(Trustee*

[*Note: The* Trustee’s *reply to the question above was contradicted later in the meeting by adjuster Sabel, but later confirmed by the Association’s insurance agent, HUB International. Following the meeting, the Board sought legal advice on the matter. Upon learning of the legal advice and resulting change in how the Board plans to handle the claim, the owner of 3010 requested that his claim be reinstated.*]

At this point, the owners of unit 3010 stated that they had had their questions answered, and they left the meeting.

Q: If an individual owner hires their own contractor and that contractor pulls a permit, does the Board need to approve the permit? *(Owner 2409)*

A: Yes, the property manager needs to sign the permit. *(Sabel)*

Q: If an owner withdraws from the claim, does that affect me? *(Owner 2912)*

A: Yes. The percentage of the deductible will change, because it is divided among fewer people. *(Treasurer)*

At this point, adjuster Sabel, referring to an earlier question and a Trustee’s response, commented that the claim has already been estimated with all damages included, and that it will not diminish if one or more units rejects the proceeds of the claim. He stated that the Association is filing for all damage incurred, and that if an owner pays for repairs out of his or her pocket, the claim proceeds still go to the Association.

Q: If one or more owners withdraws from the claim and pays out of pocket for repairs, yet if the damage affects the structure of the condo, does the Association have the right to inspect the work to ensure it’s done properly*? (Owner 3007)*

A: Yes. *(Treasurer)*

**Return to Discussion of Units Included in the Claim:**

Q: We were told that RebuildEx could start before we have a check in hand. When can they start? *(Owner 2912)*

A: RebuildEx has completed a scope of work and estimates, and they have applied for permits. We have some of the permits in hand, but we’re still waiting for others. In fact, we have a permit for 2912, so that unit is not a concern in terms of contributing to further delays. We are where we said we would be when we met on April 6. We have an estimate and offer from the insurance company; RebuildEx has applied for permits and has prepared a scope of work and cost estimates. The claim is not settled yet only because we have not accepted the insurance company’s offer, which we determined to be insufficient to complete the repairs. *(Sabel)*

Q: When can you repair our room in the basement?

A: *Lyons:* As soon as we get the go-ahead from Sabel. *Sabel:* Once Arbella issues a check to the Association, he can give RebuildEx the go-ahead. Lyons added that RebuildEx will provide a work schedule for each unit, tied into a master schedule for the entire job.

The Treasurer commented that once the Association’s adjuster, Sabel, and Arbella’s adjuster agree on the claim amount, and we know when RebuildEx will get paid, they can get started on the actual construction work. RebuildEx Project Manager Chris Lyons suggested that RebuildEx can start small repairs such as drywall and get those done. He noted that unit 2912 is a simple job and could be started as soon as there is an agreement with the insurance company. Unit 3006, on the other hand, requires rough mechanical, plumbing, electrical work, etc.

Q: How much longer will it take to get the permits we’re still waiting for?

A: About a week. *(Lyons)*

At this point, adjuster Sabel asked whether, other than unit 3010, there is anyone who does not want RebuildEx to do the work. Owner 3004 stated that she would let the Trustees know tomorrow.

Q: I had planned to make some upgrades to my unit. If I want to incorporate them to this work, not expecting the Association to pay for the upgrades, of course, is there a process for an increased scope of work? *(Owner 2409)*

A: Yes, through a change order and a private contract between the owner and RebuildEx. *(Sabel)*

C: In the common area outside 3007, the carpet was soaked and retains a bad smell; it needs to be cleaned or replaced. There are water stains in the closet in that common area; no one has looked at that. These should be done at the same time. *(Owner 3007)*

A: We will look at these areas. *(Chair)*

C: If the sprinkler system is compromised, at some point it becomes negligent not to deal with it. *(Owner 3007)*

A: We are looking at the sprinkler system. Replacing it would be a capital reserves project, and is not part of this claim. We have to budget and plan for that. *(Treasurer)*

Q: Can it be done while the units are opened up?

A: We did have it inspected while the units are opened. *(Treasurer)* I did have a sprinkler expert look at it. The recommendation was to install a new system, rather than replace existing pipes. There would be no need to open up ceilings and walls again. *(Lyons)*

Q: If it’s not up to code, do we have insurance to cover the cost of bringing it up to code? *(Owner 2912)*

A: The system is up to code. *(Lyons)*

Q: What’s the problem?

A: I’m told by your property manager that, in 1997 when the first buildings were built, the system was filled with glycol. At the time, this was thought to be the best product due to the cold associated with living so close to the ocean. It was not known at the time that glycol degrades the PVC piping. After that was discovered, the glycol was replaced with a glycerin-based antifreeze, but the PVC pipes were already weakened. The solution would be to install a new system. There would be no need to rip out the old system. *(Lyons).* The Chair noted that we have to plan for this, financially.

Q: Could it happen again?

A: It’s possible, if another extreme weather event like Feb. 14-15 reoccurred. However, we have already taken several measures to reduce the likelihood of this reoccurring, at least in these same locations. At building 24, we found a broken heater in the back stairway where the leak occurred, and will repair that. Also in this location, we wrapped the sprinkler pipe insulation, and sprayed insulating foam into the sprinkler area. At building 29, insulation around the pipe that froze has been or will be increased before the ceiling is closed back up. At building 30, we filled the drip edge vent along the west side with insulating foam, we removed extraneous soffit on the north end, and replaced the roof. *(Chair)*

Q: Can you explain what was done with the soffit? *(Owner 3007)*

A: We got a professional inspection of the soffit and determined that the existing soffit exceeded the recommended linear footage for the square footage of living space and was allowing too much cold air in. On the roofer’s recommendation, we removed the soffit on the north end of building 30, due to its wind exposure. *Chair)*

C: Between the second and third floor, there is no insulation. *(Owner 3007)*

A: We will look at it. *(Chair)*

Q: My concern is, will the insurance company pay if we have another sprinkler leak? *(Owner 3006)*

A: We believe so, as they have ruled these leaks as a catastrophic weather event that was out of our control.

An owner took exception to statements made at the April 6 meeting suggesting that the Board doesn’t want to see people making money off of the claim, and that if the work is done efficiently the Association will keep any surplus. *[Note: The specific comment made on April 6 was: “Since insurance proceeds will not go through owners, there is no benefit to individual owners for getting repairs done for less than the claim, or for not choosing to make repairs. Should there be any surplus, the Association reserves the right to use funds for the benefit of the Association (for example, towards improvement of the sprinkler system).”]*

The Treasurer clarified that the comment was intended to address that the Board had heard that some owners with minimal damage did not plan to bother with repairs, and apologized if his comments offended anyone.

Q: (Addressing the owner of unit 2409) When you had damage the last time, which exceeded $10,000, did the Association’s insurance company pay your contractor or did it pay you? *(Owner 3007)*

A: I’d have to check, I’m not sure. *(Owner 2409).*

The Secretary noted that she reviews paid bills and remembers that the Association paid the owner.

C: So you can pay the owner, you’re choosing not to. *(Owner 3007)*

A: The Board plans to pay contractors directly to ensure that the claim funds are sufficient to restore all affected/included units back to their condition prior to the event. *(Chair)*

Trustee Tony Baldwin asked everyone to remember that “we’re all on the same team”; we’re all homeowners. He stated that, thinking as individual homeowners, all trustees would want to hire their own contractors also. But as a Trustees, our job is to focus on the big picture and what’s best for the whole Association; this leads to a different decision.

Adjuster Sabel stated that we have the permit for 2912 in hand; we can get started on that work. We need to come up with a schedule for each unit next week.

Q: What is the current timeline?

A: Permits: By the end of this week. Scope of work: Done. Work Schedule: By the end of this week. *(Lyons)*

Q: When can you start repairs?

A: It depends on when we have a check, but it should be less than two weeks for the ones with less significant damage. *(Sabel)*

Public adjuster Chris Batchelor identified himself as representing units 3006 and 3007, and commented that it is more important to start with the units with more extensive damage. They have insurance coverage for loss of residence, but the money will run out. They need to get back into their homes. Sabel asked what their deadline is. Batchelor said he would get back to us on that. The owner of 2409 stated that her insurance coverage runs out June 11, and that she has to be back in her home before then.

Q: *(addressing RebuildEx representative Lyons):* When you looked at my unit, did you look at the deck? (Owner 2409)

A: I didn’t see any damage to the deck. (Lyons)

*Owner 2409:* The pressure of the leak damaged the deck roofing. Everyone who went through her unit after the damage said, this has to be taken care of.

*Chair:* We will look at it.

Q: Can you clarify the insurance deductible liability?

A: Arbella insures the Association, with a $10,000 deductible. Per the condominium bylaws, the deductible is the responsibility of the owner or owners with damage. If the damage is to a single unit, the owner is responsible for the entire $10,000. The owner’s condo insurance generally covers the deductible less the deductible on the owner’s individual policy. With multiple owners involved in this claim, the percentage of the total damage each unit experienced will be the percent of the deductible applied to each unit. So, if your unit’s damage was 10% of the entire claim, you would be responsible for 10% of the deductible, which would be $1,000. If you have a $500 deductible on your condo owner’s policy, you would pay that $500 out of pocket, and your insurance company would pay the rest. *(Treasurer)*

Q: Once we receive a check, is the claim considered closed? *(Owner 411)*

A: No; the claim stays open for 730 days. *(Sabel)*

Q: Does the sprinkler company have any liability here, and is the Association considering pursuing remediation from the sprinkler company’s insurance company? *(Owner 411)*

A: The sprinkler company inspected all 5 buildings in the fall as they do every year. Unless there is something we don’t know about, we aren’t aware of any liability on their part. *(Chair)*

The Secretary commented that not every leak has been a sprinkler leak; there have been other types. One owner just spoke of a bathtub overflowing upstairs. There have been leaks to showers, toilets, and dishwashers, as well as sprinklers. The Secretary noted that, when the third sprinkler leak happened on Feb. 15, she happened to be present when the fire chief responded, and she asked Chief Hurley if there was anything we could have done to prevent this. He replied, not really, this is an extreme weather event, and they are responding to leaks all over town.

The owner of 411 commented that, when he wrote an article about the sprinklers for the recent newsletter, in researching the article, he spoke with the fire chief, our sprinkler company (FSS), and the National Fire Prevention Association. He was told that this event probably could not have been prevented; that it has been categorized as a catastrophe due to weather that was extreme for this state.

The Chair concluding by stating that the Board will be in touch with owners as the process moves along, and requested that owners be in touch with the Board if anything else comes up.

The business of the special meeting having been concluded, the Chair adjourned the meeting at 8:20 p.m.

*Respectfully submitted, Helen Jones, Secretary, May 4, 2016*

*Approved: Lesley Pitts, Chair, May 9, 2016*