Septic System Repair/Replacement Proposal

DOCUMENT REVIEW

Articles of Incorporation – Discovery Bay Leaseholders Association is "a private non-profit membership corporation." As noted in Article III, Business and Purposes, Section 1. "This corporation is formed to constitute the council of co-lessees…and to serve as the governing body for all of the lessees of lots…in the appurtenant undivided interests in the general common elements in Discovery Bay." Section 2. "This corporation is not organized for the purpose of gaining pecuniary profit." Section 3. "This corporation initially intends to, to the extent permitted by applicable law, to serve as the governing body for all lessees of the lots for the maintenance, repair, replacement, administration and operation of the general common elements of the project, in the conduct of its business, this corporation, to the extent authorized by RCW Chapter 24.03, by its Board of Directors…"

Covenants, Conditions & Restrictions (CC&R's) – *Please Note: All leaseholders have a contractual obligation to comply with the CC&R's. This is a requirement of every Lease.*

1.2‘**<u>Common Elements’</u>** means all of the property excluding the lots, which is the real property and improvements owned by the Association for the common use and enjoyment of the lessees…including but not limited to pavement, curbs, walkways, lights, landscaping and other improvements, and all septic tanks and related pipes, leach fields, and related facilities from the point of connection of the separate lot waste disposal pipe into such septic tanks. And the well, fresh water holding tank and all related pipe and plumbing related to the well.”

4.1"**<u>Covenant to Pay Common Expenses</u>**- Each Lessee of a lot shall pay its Proportionate Share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with this Declaration, the Articles and By-Laws…The amount of all assessments and the times for payment thereof shall be fixed by the Board from time to time. In addition to such regular assessments, the Board may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of any improvement upon the Common Elements, or any other such major undertaking as is the desire of the membership, but only upon ratification of the special assessment by a vote of at least sixty percent (60%) of Members voting in person, or by proxy at the meeting duly called for this purpose, or by absentee Ballot received by a specified time and date as set by the Board of Directors."

4.2“**Allocation of Common Expenses Among Members** – Common Expenses shall be allocated equally among the Lots, and the ‘Proportionate Share’ of the Common Expenses payable by each Lot shall be equal to the total Common Expenses multiplied by the fraction the numerator of which is one (1) and the denominator of which is the total number of Lots.”

4.3“**Lien for Unpaid Common Expenses** – The Proportionate Share of the Common Expenses payable by each Lessee, together with interest at the rate of eighteen (18%) per annum, costs and reasonable attorney’s fees, shall constitute the personal obligation of each Person who was a lessee at the time payment of such Common Expenses fell due.” “If any Lessee shall fail or refuse to make any such payment of Common Expenses when due, the amount thereof, together with interest, costs and reasonable attorney’s fees, shall constitute a lien on the Lot on account of which such assessment is due and on any proceeds from such Lot.”

5.1“**Common Elements** – The Association shall be responsible for maintaining the Common Elements in a state of good condition and repair.” 7.1.4 “**Restoration** – shall mean restoration of the Common Elements to a condition the same or substantially the same as the condition in which it existed prior to the casualty.” 7.1.6 “**Available Funds** – …and any uncommitted income or funds of the Association other than the income or funds derived through assessments or special assessments.”

7.2"**<u>Restoration of the Common Elements</u>** – restoration of the Common Elements shall be undertaken by the Association <u>without a vote</u> of the Members in the event of a Partial destruction, Partial Condemnation or Partial Obsolescence." "…unless at least two-thirds (2/3) of the Members…have consented in writing to non-restoration of the Common Elements." 7.5 "**<u>Special Assessments for</u> <u>Restoration</u>** – Whenever Restoration is to be undertaken, the Association may levy and collect assessments pursuant to paragraphs 4.1 through 4.4 hereof to cover the costs and expenses of Restoration to the extent not covered by Available Funds."

By-Laws – 6.2 “<u>Limitations</u> -…the BOD shall not have the power…to authorize the expenditure of $50,000 or more on any single item or project which is not included in an approved budget, unless an emergency threatening health, safety or immediate damage to property exists.”

DBR FUNDS STRUCTURE
L/H Maintenance Fees (aka Dues)

OPERATIONS

OPERATIONS BUDGET

Replacement Contributions

Salaries, Administrative

Accounting, Taxes

Park Maintenance

Supplies

Landscape Maintenance

Insurance

Utilities

OPERATIONS SAVINGS

<u>SURPLUS FROM BUDGET UNDERRUNS</u>

Expenses not budgeted

Reserve Funds

REPLACEMENT CONTRIBUTIONS

<u>EXISTING INFRASTRUCTURE</u>

Floors	Septic
Roofs/siding	Well
Furniture	Heaters
Appliances	Pool
Equipment	Fences
Computers	Gate
Windows	Painting

CAPITAL IMPROVEMENT

<u>NEW INFRASTRUCTURE</u>

Donations, Fundraising

Special Assessments

Estate Legacy

Septic System Option-NOT AN OPTION

1. **DBR HOA pays cost for project from the Reserve Fund, to repair/replace the septic system**

• **Total Reserve Fund as of 3/31/2018**	**$496,542**
• **Total <u>possible</u> septic system repair cost**	**$300,000**
• **Remaining Reserve Fund Balance**	**$196,542**
• **Fully Funded Reserves as of 1/2/2018**	**$593,563**
• **Resulting % Reserves Funded**	**33.1%**

DBR HOA Risk Management Degree	**Very High**

- **Insurance liability serious**
- **Unable to obtain loans, if required**
- **Could affect lot sales, on required disclosure**
- **Little Reserve Funds for any other repairs required**
- **Increased dues will be a certainty**
- **High likelihood of future Special Assessments**
- **BOD fiduciary responsibility prohibits this risk level**

<u>THIS IS NOT AN OPTION, SHOWN ONLY AS INFORMATION</u>

Septic System Option TWO

- **Via Special Assessment, DBR Leaseholders pay cost to repair/replace the septic system, less available Reserves for septic project (currently only 70% funded)**
  - **Total Reserve Fund as of 3/31/2018 — $496,542**
  - **Total possible septic system repair cost — $300,000**
  - **HOA available 70% septic/related Reserves — $55,300**
  - **Leaseholders Assessment @ $2,128/lot — $244,700**
  - **Remaining Reserve Fund Balance — $441,242**
  - **Fully Funded Reserves as of 1/1/2018 — $593,563**
  - **Anticipated Resulting % Reserves Funded — 74.3%**

DBR HOA Risk Management Degree — Moderate

- **All insurance, possible loans, lot sales, repairs-risk is less**
- **Leaseholders would be offered 1-5 year payment plans (sale of lot 68 will replenish $ used for extended payments)**
- **Lowest Future Special Assessment Risk**
- **Highest probability of future financial health and overall viability of DBR**
- **This option is in accordance with the CC&R's**

Septic System Option THREE

- **DBR HOA pays 70% of $73,000 from Radclyffe and reallocate $100,000 to remodel, rather than replace Radclyffe, delayed 5 or more years. DBR Leaseholders pay remainder to repair/replace septic system.**

• **Total Reserve Fund as of 3/31/2018**	**$496,542**
• **Total possible septic system repair cost**	**$300,000**
• **HOA pays 70% septic/related Reserves, And 70% reallocated Radclyffe**	**$106,400**
• **Leaseholders Assessment @ $1,683/lot**	**$193,600**
• **Remaining Reserve Fund Balance**	**$390,142**
• **Fully Funded Reserves as of 1/1/2018**	**$593,563**
• **Anticipated Resulting % Reserves Funded**	**65.7%**
DBR HOA Risk Management Degree	**High**

- **Insurance liability**
- **Possible loans hard to obtain**
- **Ease of Lot sales unknown**
- **More difficult to make major repairs**
- **Current Reserve contribution of $4,600 represents just $40/mo by lot – not sufficient to replenish Reserves.**
- **Leaseholders would be offered 1-3 year payment plans**
- **This option is higher risk**

Septic System Repair/Replacement Proposal Summary

- **By-Laws 6.2 does not apply because the septic system is failing; therefore, this situation is considered an emergency threatening our health, safety and immediate property damage.**

- **The septic system MUST BE repaired/replaced – there is no choice, unless two thirds (2/3) of our members vote to not restore this vital Common Element. If that vote were taken and approved, the park will close.**

- **The above options carry risk, for both the HOA and leaseholders. Note: As stated earlier, the CC&R’s are a contractual obligation for all leaseholders.**

- **Every one of us – the BOD and Leaseholders will need to compromise and approve an option we can all live with.**

- **If total contracted cost is less than Leaseholder Special Assessments, funds will be returned to leaseholders.**

Septic System Proposal Options Summary

No	HOA	%	Risk	Leaseholders costs	Total
2	$55,300	74.3	Mod	$2,128/lot, $244,700	$300,000
3	$106,400	65.7	Higher	$1,683/lot, $193,600	$300,000

DBR Community Spirit!

Ideas to Defray Costs of Septic Repair Special Assessments

- **Scholarship Fund set up by interested leaseholders, as seed money to help low income leaseholders pay special assessments. (aka Secret Septic Santa)**
- **Community dinners, charging $20/head, with all costs donated. Volunteers needed to prepare dinners, new menu each month.**
- **Community auction – all items donated; all proceeds donated to repair septic**
- **Benefit variety shows, dances, concerts, charging $20/head, all proceeds donated to repair septic**
- **CERT survival packs, compiled and donated by volunteers, charging $20 - $50 per pack, all proceeds to repair septic**
- **DBR Artist auction, items donated, all proceeds to repair septic**
- **Car Detailing – labor donated, charging $20+, all proceeds to repair septic**
- **Pet Products sale – products donated, all proceeds to repair septic**
- **Many other ideas out there – Let's get out our**

DBR Community Spirit!