

Committee for the Elimination of Dishonesty on the Board of Directors of Sapphire Bay Condominiums West

October 25, 2010

Dear Condo Owner:

This letter concerns major irregularities, dishonest activities, embezzlement, insurance fraud, Condo Association By-laws violations, building code violations and other irregularities by current and past Board of Directors members and Condo managers for Sapphire Bay Condominiums West.

The situation is literally a time bomb, the consequences of which are likely to involve over \$1,000,000 (1 Million Dollars) in personal liability to every unit owner.

A partial list of the serious concerns is presented below:

- **No CZM Permit -- Fine of \$10,000/Day for Fifteen Years**

Virgin Islands Coastal Zone Management Program requires that the Board of Directors and Condo Manager of Sapphire Bay Condominiums West file for permits for many structures and alterations. Those permits have not been applied for, resulting in potential fines and penalties, which are greater than the purchase value of the condominium units. This liability flows directly to each Condo owner, and is not protected by insurance or corporate shield of the Board of Directors. Such chronic delinquency is also subject to criminal punishments, including jail terms for all parties who were aware of the delinquencies, and had the authority to correct the permit deficiencies.

All of the current and past (ten years) directors and Condo managers were aware of the delinquencies and had the authority to correct the permit deficiencies, but did not do so, and are therefore subject to criminal prosecution. Assessments to each apartment owner are expected to exceed one million dollars.

Certain parties are considering the filing of a lawsuit to force the USVI Government to enforce these civil and criminal penalties against Sapphire Bay Condominiums West Directors, managers, and owners.

- **Hundreds of Building Permit Applications not applied for, Permits not received - leaving every apartment "Unsafe" and "Uninsurable".**

The Department of Planning and Natural Resources, Division of Building Permits enforces the International Building Code

(incorporated into the USVI law by reference). Hundreds of building violations are present in the individual apartments and in the common areas.

The irregularities include the Condo Association's and Condo Unit owners' use of unlicensed building contractors, unlicensed electricians, unlicensed plumbers, etc. For many years, Condo Manager, Frank Barry, acted as building contractor, illegally. Within the last ten years, an unlicensed electrician made major modifications to every apartment, without permits and without USVI building inspectors even seeing the modifications.

Fines for building permit delinquencies could be substantial, but perhaps more important, the International building code states that all buildings, which haven't been inspected properly, are "unsafe". Apartments, which are unsafe, are uninsurable.

Not only are Owners and their guests "uninsured", but the renters and guests of renters are "uninsured".

Certain parties are considering the filing of a lawsuit to force the USVI Government to enforce compliance of the Building Code against Sapphire Bay Condominiums West Directors, managers, and owners.

- **Realtor Jeyan Stout Continued to Promote and Sell Units - Even though she knew about the enormous liabilities and problems**

Many owners who want to sell their units, do so through realtor Jeyan Stout. Even though she was thoroughly briefed about the enormous liabilities and problems at Sapphire Bay Condominiums West (in writing) five years ago, she has chosen to advertise for sale, and sell units, without disclosure of the potential liabilities and problems.

- **Illegal Directors for many years - Embezzlement and Insurance Fraud**

Going back at least ten years, the Sapphire Bay Condominiums West Board of Directors was not legally constituted. The proxies used to elect the Directors were not in accordance with the law (and not in accordance with the Condo Association By-laws), and certain Directors misrepresented their credentials required by the By-laws to be directors. If one of the Directors is not a legal Director, the Board is not legally constituted. Most notably, the Director and frequently President of the Board, Steven Kerschner represented that he was part owner of apartment D-13, in direct contradiction of a sworn affidavit by his own mother, which said that she was the sole owner.

Other Directors who have been instrumental in the illegal election and management of the Sapphire Bay Condominiums West Board include: Steven Sokolow, and George (Bud) Wood.

Since the Board of Directors was illegally constituted for many years, all the moneys spent during those years could be classified as "embezzled funds", stolen from the Owners. All of the Directors knew that they were not functioning in a legal Board, but fraudulently continued to function as if they were legal.

For years, the election of the Board members was tightly controlled by Manager Frank Barry, who made sure that the Board included his friends who would look the other way, when Barry took four times as many days as allowed for his vacation, and embezzled hundreds of thousands of dollars a year from the association (Owners).

Even though the Directors knew that they were not legal directors, they filed fraudulent insurance claims for hundreds of thousands of dollars.

In 2005 or 2006, the Board of Directors stopped publishing yearly financial statements, although audited yearly financial statements are required by the Condo Association By-laws. When the accountants, representing the Board, found out about liabilities reported in this letter, they stopped supplying audited reports. Of course, the reason the By-laws require such yearly audits is to help the Owners make sure that shenanigans like those reported, herein, are caught.

- **Association Lawyers - Malpractice, Incompetence, Dishonesty, Impropriety**

The Sapphire Bay Condominiums West Board of Directors employs and has employed two lawyers, Andrew Capdeville and Alan Feuerstein. In recent years, attorney Feuerstein has performed most of the association's legal work. Both attorneys have been parties to and/or had knowledge of the dishonest activities reported herein.

Attorney Feuerstein rented an apartment, next door to Frank Barry's apartment, from the Board of Directors, and for many years carried on an inappropriate relationship with Condo manager Frank Barry. Mr. Barry authorized and approved the services and payment of attorney Feuerstein's legal services - hundreds of thousands of dollars.

These attorneys filed eight illegal lawsuits against former owner, George R. Simpson, who was run off the Island by the tactics of the lawyers, Board Members, and Manager. The lawsuits were illegal, because they conflicted with the By-laws, which required that conflicts between the Board and an Owner must be handled by arbitration, not by lawsuits. Filing these lawsuits was an act of

incompetence and malpractice by the attorneys, costing the association (owners) hundreds of thousands of dollars.

All but two of the eight malicious lawsuits filed against Mr. Simpson, were dismissed. One of these two remaining lawsuits was ruled in favor of Mr. Simpson (with Simpson's counterclaims of millions of dollars against the Condo Association awaiting action by the Court) and the other of the two suits is still before the Court.

- **Fear of Bodily Harm**

There have been numerous situations, which led many to believe that those who speak up against those who run the Board and manage the association get assaulted as punishment for their "interference". For that reason, the members of the committee who prepared this letter have remained anonymous.

What Should Be Done:

We recommend that the Board be disbanded, and a special meeting of the Owners be held to appoint a nominating committee to elect a new Board. That Board should fire the Board's attorneys and attempt to fix the matters addressed in this letter. There is no option other than continued corruption, embezzlement, law breaking, and dishonesty to addressing and repairing the long standing and monumental problems and deficiencies existing at Sapphire Bay Condominiums West.

Also see the website: www.usvicondos.com for more information.

Owners and others may communicate with this committee through the email: info@usvicondos.com

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Board of Directors of Sapphire Bay Condominiums West**