



Windsor Place at Berkshire Lakes Condominium Association

January 16, 2018

Subject: Supplemental Proxy/Ballot Information and Explanation

To: Windsor Place Condominium Members
From: Windsor Place Condominium Board of Directors.

The following information is intended to provide background and guidance for you to consider as you vote on the issues presented to you prior to and during our upcoming 2018 annual meeting in February. While the Board recommends a **YES** vote on all matters, it is noteworthy that the Board is unanimous on all issues except the reserves waiver issue as follows:

Topic: Waiver of Fully Funded Reserves for 2018

The Board recently passed a tentative 2018 budget that proposed to reduce the quarterly assessment to \$995 by reducing the target roof reserve amount from its former value of \$1.2M to \$900K. Board members in favor of waiving fully funded reserves believed the storm damage, repairs, related insurance benefits and coming engineering analysis will guide the process and render this topic irrelevant and also that realistic recalculations can be made as the 2019 budget season approaches. Board members who argue against the waiver believe we should immediately (in 2018) restart the process that contributes to building the roof reserves more quickly, as the Association did in 2017. After much debate, the waiver was passed by the Board 3-2.

Now, in order to retain the reduced 2018 quarterlies, the membership has to vote in agreement to waive fully funding the reserves so that the \$900K roof target remains in place. If the vote to waive fully funded reserves fails, the roof reserves target will revert to the former value of \$1.2M and the quarterly assessment will be \$1075 (and owners will be billed for the shortfall from the lower Q1/2018 invoicing).

Regardless of the outcome of this vote, the Board plans to engage professionals to conduct a roof study and reserves analysis during 2018, and the Board also notes that the outcome of hurricane Irma roof damage and related insurance claims will also impact all future roof repair and replacement calculations, decisions and time frames. With all of this in mind, by a vote of 3 to 2, the Board recommends a **YES** vote to waive fully funded reserves for 2018.

Topic: Pressure Washing Reserves

The Board needs member approval to move the pressure washing budget item from a reserve item to an operating budget item. This will enable the Association to tend to pressure washing *of the buildings* on an as-needed basis rather than once every three years. The Board expects this action to result in better maintained buildings while reducing costs by eliminating any unnecessary power washing. This item is relevant to pressure washing of the buildings only. Other operating budget items cover regular pressure washing of the roadway curbs, driveways, pool areas, etc. The Board unanimously recommends a **YES** vote to approve this item.

Topic: Comcast Bulk Communications

The Board needs member approval in order to consider non-renewal of the Comcast contract for 2019. If this matter is approved by the membership, the Board may decide to notify Comcast, in writing, 90 days prior to 2019, of its intent not to renew our bulk communications contract. Upon approval and if the Board chooses to let the Comcast contract expire, residents will choose their television, phone and internet service provider on their own as 2019 approaches - through Comcast or through any number of alternative providers. If this item fails approval, a new contract with Comcast will be negotiated. There are many trade-offs on the matter, and a detailed presentation was made to members at the November Board meeting. That "Bulk Communications Presentation" is available on the Windsor Place web site at www.windsorplacenaples.com/documents. The Board believes the association members should be free to choose their own carrier without the contracted yearly increases in this budget item - which is the Association's second highest annual budget item. Therefore the Board unanimously recommends a **YES** vote to approve this item.

Topic: Amendments to the Declaration of Condominium for Windsor Place

This item was broached and discussed during the January Board meeting and is relevant to items #1 and #2 on the proxy and ballot. In response to numerous owner comments over the years, and to alleviate a broad array of day to day management quagmires, the Board has been working with association counsel on defining (and re-defining) which aspects of our buildings and amenities are association responsibility versus which items should be owner maintained. The most common observation of owners, management and counsel is that the existing condominium declarations - which date back to the time of original developer control - are woefully inadequate to define who is responsible for what. Simply stated, nobody is certain about maintenance responsibilities. In response to this ongoing problem, association counsel has drafted changes to Windsor declarations to reflect more typical and modern maintenance responsibilities, and also to make our declaration and bylaws consistent with Florida law and Windsor specific circumstances. The Board unanimously recommends **YES** votes to each of the two related items.



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SECOND NOTICE OF 2018 ANNUAL MEETING AND AGENDA

WINDSOR PLACE AT BERKSHIRE LAKES CONDOMINIUM ASSOCIATION, INC.

DATE: Monday, February 19, 2018
TIME: 7:00 p.m.
LOCATION: Berkshire Lake Clubhouse, 495 Belville Blvd., Naples, FL
34104

AGENDA

1. Call to Order
2. Determination of Quorum and Proxies
3. Proof of Notice
4. Reading or Disposal of Minutes of Last Members Meeting
5. Reports of Officers
6. Unfinished Business
7. New Business:
 - a. Proposed amendments to Declaration of Condominium - Exhibit "A to this Notice. (Note: this proposal requires approval by 50%+1 of the total Voting Interests in the Condominium);
 - b. Vote to "opt-out" of the statutory Fla. Stat. 718.111(11) repair obligations (after an insurable event/casualty loss) in favor of allowing the Association's documents to control (Note: this proposal requires approval by 50%+1 of the total Voting Interests in the Condominium);
 - c. Reserve funding waiver (Note: this proposal requires approval by a simple majority of the units present in person or by proxy);
 - d. Deleting "pressure washing" from reserve account list (Note: this proposal requires approval by a simple majority of the units present in person or by proxy);

e. Comcast bulk cable contract non-renewal (Note: this proposal requires approval by a simple majority of the units present in person or by proxy);

f. Excess funds rollover (Note: this proposal requires approval by a simple majority of the units present in person or by proxy);

g. Waiver of audit in favor of report of cash receipts and expenditures (Note: this proposal requires approval by a simple majority of the units present in person or by proxy); and

h. Introduction of 2018 Board of Directors (Note: since the number of candidates qualifying did not exceed the number of open seats, no election is necessary and all qualified candidates will be seated as Directors for 2018.)

8. Adjournment

**ORGANIZATIONAL MEETING OF THE BOARD OF DIRECTORS
(IMMEDIATELY FOLLOWING ADJOURNMENT OF THE ANNUAL MEETING)**

AGENDA

1. Call Meeting to Order
2. Election of Officers
3. Next Board of Directors Meeting Date
4. Adjournment

Please Note: Attached to this Notice is Exhibit "A" which contains the text of the Amendments to the Declaration of Condominium under consideration.

Exhibit "A"

**AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM FOR
WINDSOR PLACE AT BERKSHIRE LAKES, A CONDOMINIUM**

[Please Note: the following are amendments to Sections 21 and 24 of the Declaration of Condominium for Windsor Place at Berkshire Lakes, A Condominium as recorded in Official Records Book 2016, at Page 1859 and as subsequently amended; all in the Public Records of Collier County, Florida.]

Sections 21 and 24 of the afore-mentioned Declaration are hereby amended as follows:

[Note: additions are denoted by underlining; deletions are noted by ~~strikethrough~~.]

1. *Sections 21.A through 21.F remain unchanged. Section 21.G is hereby amended as follows:*

G) Nothing to be Erected upon Building or Common Elements. No signs, advertisements or notices of any type, and no exterior antennae or aerials shall be erected upon the common elements, and no screen or glassing shall be added to the porches of the units; provided, however, the Board of Directors in their regulations may vary this restriction. The installation of antennae entirely within a unit (or the limited common element porch serving it) for the reception of television broadcast signals or fixed wireless signals may be regulated by Association rule or regulation in any manner consistent with the rules concerning Over-The-Air Reception Devices promulgated by the Federal Communications Commission (47 CFR 1.4000), as amended.

2. *Section 24 "MAINTENANCE" is hereby deleted in its entirety. A new Section 24 is hereby added as follows:*

24. Maintenance and Repairs.

24.1 Units and Limited Common Elements. All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, or additions to the Common Elements or Limited Common elements made by a Unit Owner, whether structural or nonstructural, ordinary or extraordinary, including, without limitation maintenance, repair and replacement of:

(a) railings, screens, screen cages or enclosures, windows;

(b) the Unit's entrance door and all other doors within or affording access to a Unit;

(c) electrical system serving the Unit (including wiring);

(d) plumbing (including fixtures, seals, the water supply line serving the unit from the underground valve to the building containing the unit, drain/vent lines from the unit to a common drain or vent, and hoses and connections);

(e) heating and air-conditioning equipment (including ducts, refrigerant lines, condensation drain pan and lines, and electrical wiring);

(f) fixtures and outlets;

(g) appliances, built-in cabinets, carpets and other floor coverings;

(h) all interior surfaces and the entire interior of the Unit lying within the boundaries of the Unit or the Limited Common Elements (or dividing a Unit from its Limited Common Elements);

(i) other property belonging to the Unit Owner.

All maintenance, repair and/or replacement of the above-described items shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein. Should a Unit Owner fail to maintain his Unit or fail to discharge his obligations under Section 24.3 below, in either event causing damage to the Common Elements and/or another Unit, the Association may, at its election, repair the damage and hold the non-maintaining Unit Owner liable for all costs and expenses incurred by the Association, including any costs incurred to restore the Common Elements or any other Unit adversely affected thereby. A Unit Owner's failure to maintain as described above shall include, but not be limited to: leaking water heaters, burst or leaking supply or drain lines to fixtures or appliances, leaking seals on toilet fixtures, leaking shower and bath tub drains and pans.

24.2 **Common Elements.** Except to the extent (i) expressly provided to the contrary herein (including, without limitation, with respect to the Community Association), or (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements (other than Limited Common Elements as provided above) shall be performed by the Association and the cost and expense thereof shall be assessed to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the failure to maintain, negligence, misuse or neglect of specific Unit Owners, in which case such cost and expense shall be paid solely by such Unit Owners.

24.3 **Specific Unit Owner Responsibility.** The obligations to correct a defective condition or maintain and repair any Building system, equipment, fixtures or other items of property which service a particular Unit or Units shall be the responsibility of the applicable Unit Owner(s), individually, and not the Association, without regard to whether such items are included within the boundaries of the Units, provided that if not within the boundaries of a Unit, same must constitute or lie within a Limited Common Element appurtenant thereto.

24.4 **Specific Association Responsibility.**

(a) The Association shall be responsible for routine dryer vent cleaning and inspection - all other maintenance and repair of a dryer vent shall be the responsibility of the Owner of the Unit it serves.

(b) Exterior painting (including the exterior of a Unit's entry door) of all cement/stucco surfaces shall be the exclusive responsibility of the Association.

WINDSOR PLACE AT BERKSHIRE LAKES CONDOMINIUM ASSOCIATION, INC.
Limited Proxy

The undersigned, Owner(s) or designated voter of Unit No. _____ in WINDSOR PLACE AT BERKSHIRE LAKES, A CONDOMINIUM, appoints

(PRINT NAME OF PROXYHOLDER)

or (if left blank) **Joe Troescher, Vice-President** as my proxyholder to attend the meeting of the members of WINDSOR PLACE AT BERKSHIRE LAKES CONDOMINIUM ASSOCIATION, INC., to be held **Monday, February 19, 2018 at 7:00 p.m.**, at the **Berkshire Lakes Clubhouse, 495 Belville Blvd., Naples FL 34104**. The proxyholder named above has the authority to vote and act for me to the same extent that I would if personally present, with power of substitution, except that my proxyholder's authority is limited as indicated below:

GENERAL POWERS (You may choose to grant general powers, limited powers or both. Check "General Powers" if you want your proxyholder to vote on other issues which might come up at the meeting and for which a limited proxy is not required).

_____ I authorize and instruct my proxy to use his or her best judgment on all other matters which properly come before the meeting and for which a general power may be used.

LIMITED POWERS (FOR YOUR VOTE TO BE COUNTED ON THE FOLLOWING ISSUES, YOU MUST INDICATE YOUR PREFERENCE IN THE BLANK(S) PROVIDED BELOW).

I SPECIFICALLY AUTHORIZE AND INSTRUCT MY PROXYHOLDER TO CAST MY VOTE IN REFERENCE TO THE FOLLOWING MATTERS AS INDICATED BELOW:

1. Should the proposed amendments to the Declaration of Condominium (attached as Exhibit "A" to the Notice of Meeting) be approved? (The proposed Amendments make the division of repair and maintenance responsibilities between the Owners and the Association more clear - The Board of Directors recommends a YES vote).

_____ **YES** _____ **NO**

2. Should the Association "opt-out" of the repair responsibility allocation under Fla. Stat. 718.111(11)(j) in favor of the allocation of responsibilities found in the condominium's declaration Section 24? (In the event of a natural disaster or fire, the condominium documents will control what gets repaired by whom - please see Section 24 of Exhibit "A", attached. The Board of Directors recommends a YES vote).

_____ **YES** _____ **NO**

3. **WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.** Should the Association waive full funding of the reserves in the amounts specified by Fla. Stat. 718.112(2)(f)2.a? The Board of Directors recommends a YES vote.

_____ **YES** _____ **NO**
4. May the Association delete "pressure washing" from the list of reserve accounts. The Board of Directors recommends a YES vote.

_____ **YES** _____ **NO**

5. May the Association allow the current Comcast bulk cable contract to terminate by non-renewal? The Board of Directors recommends a YES vote.)

_____ **YES** _____ **NO**

6. Should any excess amount of funds collected for the operation of the Condominium in fiscal year 2017 be rolled over for use to pay operating expenses in the fiscal year 2018? (A yes vote will make these funds non-taxable by the IRS. The Board of Directors recommends a YES vote.)

_____ **YES** _____ **NO**

7. Should an annual report of cash receipts and expenditures be prepared for 2017 in lieu of a reviewed or audited financial statement? (Unless a majority of the owners vote for a report of cash receipts and expenditures, a reviewed or audited annual financial state must be prepared by a CPA, which ranges from \$3,000 to \$5,000.)

_____ **YES** _____ **NO**

DATE: _____

SIGNATURE of OWNER OR DESIGNATED VOTER

DATE: _____

SIGNATURE of OWNER OR DESIGNATED VOTER

SUBSTITUTION OF PROXYHOLDER

The undersigned, appointed as proxyholder above, designates _____ to substitute for me in voting the proxy as set forth above. (print name)

Signature of proxyholder Date: _____

THIS PROXY IS REVOCABLE BY THE UNIT OWNER AND IS VALID ONLY FOR THE MEETING FOR WHICH IT IS GIVEN AND ANY LAWFUL ADJOURNMENT. IN NO EVENT IS THE PROXY VALID FOR MORE THAN NINETY (90) DAYS FROM THE DATE OF THE ORIGINAL MEETING FOR WHICH IT WAS GIVEN.