

March 19, 2009

Saddlewood Homeowners Association Quarterly letter from the President

In an effort to keep everyone informed and provide important information to the members I have chosen to post a quarterly information letter. It is our hope that those who become aware of this will spread the word to others. We have determined that the E-Mail process is the most efficient method to do this. As always comments, questions and concerns are welcome and can be posted to the board.

Report on recent HOA Board activities.

Last December the Board voted to visit a lawyer to review the By-Laws and Covenants. My experience with lawyers is that they have two rules: 1. They never ask a question without knowing the answer. 2. They do not like surprises.

Perhaps we should have thought about that before we voted to seek the advice on the By-Laws and Covenants. Several issues were identified at that meeting that the Board has now addressed. Those who attended the Annual Meeting in January remember our report of these issues. Namely ownership of the common area, tax issues and a proposal to adjudicate the water rights in our neighborhood.

1. **Ownership of the common area:** When the developer transferred his rights and ownership of the common areas to the member/owners (HOA) in 1989 the deed to the common area property was not transferred or recorded with the County. Members of the Board contacted the County and located the developer who now lives out of state. Through these efforts the property deed has been processed, recorded and is now safely placed in a safety deposit box in the Elizabeth Bank of Choice. The property is ours as intended and is for our perpetual use.
2. **The tax issue:** After several meetings with the County they have determined that our tax situation with the common areas will not change. They believe that taxes never have been collected on the common area property. Saddlewood HOA is a non-profit organization and are only taxed on interest from savings accounts. You may be aware of your property tax statement which describes your property or lot and 1/140th of the common area. We first believed that each property owner has paid taxes on his or her property plus a share of the 1/140th common area. The County says that this is not true and the common area is not taxed.
3. **The By-Laws:** This document defines how our organization functions, votes and is organized. Many hours have been spent re-writing, reviewing and discussing this document the past few years. Following the legal review several additional changes have been made and some sections were rewritten and clarifications made. The reworked document has been reviewed and approved by the Board at the March meeting. We will post the final document on the web site in the next two weeks for your review. We understand from the lawyer and reading the existing By-Laws amendments are made by a vote of the membership. This can

be done at the annual meeting or at a special meeting if a quorum is present. A quorum under the current By-Laws is thirty-three percent of the members.

4. **The Declaration – Covenants:** This document is more difficult to amend because it requires the “super majority” (sixty six percent of the members must vote for approval) in a vote to change it. The Board believes that it is worth the effort because of the amount of outdated and irrelevant language carried over from the original Declarant. We have worked on this document a swell and intend to post it and hold a vote on it as well.
5. **Special Assessments:** The lawyer clarified the Boards position that HOA only has a legal right to make such assessments to maintain the common areas and other limited common concerns such as street lighting.
6. **Water Adjudication:** This issue has become a “popular” issue in our area over the past year or so. Each Saddlewood lot has a well and its associated water usage rights as described in your well permit. Nothing has to be done to change this. We urge every property owner to be sure that their well is in their own name. The water adjudication issue concerns future events that may or may not occur in our lifetime, such as the aquifer our wells draw from became unusable or dried up. The Boards question to legal counsel was if the HOA could or should be the agent to hold the collective water rights. The advice from the lawyer is that the HOA is not the proper forum to take any action on the water adjudication proposal. Securing water rights may have merit however; HOA’s are not the proper quasi governmental agency. HOA’s have no ability to tax or condemn property for water rights if we chose to form a “water district.” As stated above, it is not possible under our rules for the HOA to make a special assessment upon the residents to support or fund such a water adjudication plan. It is also true that a majority vote by the members could not compel individual owners to participate in or be fined for not joining the effort. In the past months, several Board members (including myself) have served on a water subcommittee. I have withdrawn (as have other Board members) because of a perceived conflict of interest with this effort. The Board engaged in considerable discussion and voted that the HOA is not the proper forum to take action on the water adjudication proposal. We have encouraged the promoters of the project to form a separate origination and they have done so.
7. **The Saddlewood Subdivision Lot Owners Group.** Board members who serve with this group do so as individuals. The Board has allowed them to post a notice on the website and other notices of meetings in the subdivision. Please understand that this is not an official HOA activity and each member is free to determine exactly how they wish to proceed with the proposed adjudication. No HOA funds will be used to fund this project per the Board vote.
8. **Chipping of fallen branches.** We will be scheduling a date for chipping in the future. Weather is always an issue but we will post this information soon.
9. **Annual neighborhood picnic.** Please let us know of your interest and dates. Last years event was very successful and we would like to build upon that.