

Nottingham at Heritage Park HOA Emergency Meeting

The purpose of the meeting was to get the homeowners feedback on the filed lawsuit, Mark and Tammy Somogye vs Nottingham at Heritage Pak HOA, Inc.

July 27, 2011, 7:30PM

Held at Community Pool

In attendance; John Brewster (Co-President), Jon Lienemann (Co-President), Darren Wright (Vice President), Julie Murray (Secretary), Judy Murphy (Architectural Committee), Jaime Watts (Pool Committee), Tammy & Mark Somogye and 30 plus homeowners (see records for complete list)

Green Star roofing was present in the pool parking lot for homeowner's questions after the meeting.

New Business

-John Brewster

- Started the meeting with an explanation of the difference between the HOA Declaration of Restrictions and HOA Bylaws. The Board cannot change the covenants, but they can approve materials.

-A recap was given of the December 2010 General meeting and how the one additional style of composite roofing material came to be approved (refer to December 2010 minutes).

-Once the hail storm occurred on April 3, 2011 the Board thought it was important to get the approved list of roofing materials out to the homeowners, so they went door to door to hand deliver the information and answer as many questions as possible.

-It was brought to the attention of the Board that composite roofing option approved at the 2010 annual meeting was on the lower end of composite choices.

-The Board held another meeting and invited a roofing and construction expert who provided information on the range of composite roofing materials (refer to April 6, 2011 minutes).

-The Board added a wider range of composite roofing materials.

- April 7, 2011 an updated list was also hand delivered door to door with additional composite roof options, within the same color scheme. Homeowners were also informed of an upcoming presentation the following Saturday.

-April 9, 2011 a presentation of approved composite roofing materials and a Q&A session were held at the community pool parking lot. A sample of a steel coated roof that was not approved was also shown.

-The covenants are restrictive and 2/3 homeowner's signatures are required to change them.

- The Board has the authority to approve architectural materials. The Board still feels they are acting within the guidelines of the original vision of the developer and

moving within the covenants as a whole by deciding to approve one additional roofing material.

- The homeowners were brought up to date on the lawsuit being filed by the Somogye's after their request to have the Green Star roof installed was denied.
- It was explained that the 2/3 signatures that the Somogye's believe they have are insufficient (according to the HOA's lawyer).

Open discussions were held and questions from homeowners were answered regarding the roofing situation and the pending lawsuit.

- Homeowner, Lisa Watts, asked about the \$5000 deductible on the HOA's insurance policy and if there are limits or could this lawsuit potentially cost more (John needs to double check with insurance company).
- Ms. Watts also asked Ms. Somogye if she were to be permitted to install the Green Star roof would the lawsuit be dropped. Ms. Somogye said probably not because of the attorney fees they have paid.
- John Brewster stated there is no preferential treatment and the Board does not want the threat of a lawsuit every time a homeowner is denied a request for an exception to the covenants and restrictions they sign when they bought the house.
- There was support and opposition for both sides of the issue.
- It was presented that Ms. Somogye had previously stated that she had brought samples and pictures with her when she went to collect signatures, however several homeowners stated that when they were approached the person collecting the signatures did not have samples or pictures.
- Several Homeowners stated that if the Somogye's had the 2/3 required signatures, why not let them have the roof.
- Homeowner, Patricia Hemauer, stated that she did not sign anything, that her name and address was filled in and printed by the person collecting "signatures".
- John Brewster reiterated that the collection of the required 2/3 signatures was invalid. Each signature of the deed holders would need to be notarized.
- Several concerns were raised about the continuity and consistency in the neighborhood if another roofing material was added.
- A few homeowners felt it was no different than having wood shake, concrete tile or slate roofs that are already present in the neighborhood.
- Jon Lienemann stated that no one is disputing that the Green Star roof is not a quality roof, it is just not the same material. There is a premium composite option approved that costs about the same as the Green Star roof.
- Jon Lienemann further stated that if the community wants this additional roofing material approved then it would be upheld.
- Homeowner, Charles Dahm, stated that the Board was elected to uphold the covenants and restrictions of the HOA. He would rather the money being spent on the lawsuit go to improvements in the community.
- Mr. Dahm also stated that he was aware that the Somogye's threatened to sue the previous Board after a request to remove their outer building structure.

Tammy Somogye addressed the homeowners

- Presented her side of the argument citing the Bill of Rights Act to Kansas Common Interest Communities, which came into effect January 1, 2011.
- Cited December 14, 2010 minutes, stating she believes that the composite roofing type was not approved correctly.
- Stated that the Board has had closed meetings since the beginning of the year. The Board is required to have open meetings and give notice to homeowners of time, date and place.
- Explained that they had only 60 days to file the lawsuit after her request was denied by the Architectural Committee to have the Green Star roof installed. The 60-day mark was June 5, 2011 and that they were not presenting their request for another roofing material to the Board until June 9, 2011, so they needed file to protect themselves.
- The lawsuit was not served until after the 106 signatures were presented to the Board and the request was still denied.
- It was acknowledged that some of the people collecting signatures on behalf of the Somogye's did in fact not have pictures or samples with them at the time signatures were collected.
- She presented a sample of the roofing material for homeowners to look at.

Another open discussion with questions and answers

- Julie Murray asked Ms. Somogye that if she was aware of the Kansas Bill of Rights why did she not inform the Board that they were in violation of open meetings.
- Ms. Somogye replied that she was unaware that the Bill of Rights until sometime in April of 2011, and believed it was not her place to inform the Board.
- Darren Wright stated that homeowners who had signed the petition and were unaware that the Somogye's were trying to change the covenants with the petition contacted him and other Board members and asked that their names be removed.
- An informal vote, by show of hand, was taken to get the general consensus of the homeowners as to where they feel the Board should go from here. More than 2/3 of the homeowner's present supported the Board's decision to add no other roofing materials besides the composite material already added.

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John Brewster

- Will check with the HOA's attorney as to the best way to proceed.
 - Recommended having a clear representation in written format sent to homeowners (possibly via email). Each homeowner could vote to accept or deny an additional roofing material by their notarized signature. Each homeowner would be responsible to have the document notarized and returned.
- John Brewster made a motion to close the meeting and Darren Wright seconded it.

Meeting ended 8:35 pm