

Subject:

From the Boardroom: Walk-Away Litigation Update



Walk-Away Litigation Update

Over the past couple of years, a number of Equity Members have announced that they have "resigned" their Memberships at Desert Mountain and have refused to pay their dues and assessments as well as any transfer fees required for the reissuance of their Memberships. At the end of 2014, the Club commenced legal proceedings against three of these so-called "Walk-Away Members" - Barry & Lori Fabian, Thomas & Barbara Clark and Eric & Rhona Graham.

These three Members (as well as other Walk-Away Members) have been represented by the same attorney, Daryl Williams of the firm Baird, Williams & Greer. In connection with this representation, Mr. Williams has solicited funds not only from those individuals against whom the Club has brought suit, but also from other Club Members who are sympathetic to the Walk-Away Members.

The Club's lawsuits against these three Walk-Away Members are premised on the Club Bylaws, which provide the exclusive procedures through which Members may "exit" the Club. The Bylaws do not permit Members simply to resign their Memberships, but instead provide that the rights and obligations of Members continue until such time as the Membership has been surrendered to the Club and reissued to a new Member. This prohibition is intended to protect the financial interests of each one of us. We are all not only Members of the Club - we are the **owners** of Desert Mountain and, as owners, are obligated to fund any shortfall in operating revenues. So, when one Member

"resigns" and stops paying dues, that shortfall in revenue must be made up by the other Members/Owners, namely ***all of us!***

In the lawsuit against Mr. Fabian, the Court agreed with the Club's position and rejected the argument that the Walk-Away Members have a right to terminate their financial obligations by simply "exiting" the Club on their own terms. Specifically, the Maricopa County Superior Court ruled that, under the Desert Mountain Bylaws (which the Court found to be both controlling and enforceable), Members could not terminate their financial obligations through resignation. The Court held that "the bylaws contain comprehensive provisions regarding the divestiture of memberships, and those provisions unambiguously require the member to surrender or submit his membership to the Club for resale or reissuance, and to continue to pay dues until that it accomplished." The Club will seek similar rulings from the Court in the lawsuits against Messrs. Clark and Graham

The Club is in the process of reaching out to the other Walk-Away Members to advise them of this recent court decision in an effort to persuade these individuals to honor their contractual commitments to Desert Mountain. If these Walk-Away Members fail to make their required payments, the Club intends to take appropriate legal action. Additionally, some Members have requested the names of the various Walk-Away Members be posted. If the Club's efforts to persuade the Walk-Away Members to make their required payments fail, the Club will honor this request, absent compelling reasons not to do so in a particular case.

We will continue to keep you advised of the developments in the Walk-Away litigation as the outcome affects all of us as owners of Desert Mountain.

Regards,

Desert Mountain Club Board of Directors
