

OCTOBER 2009



BlueBeard's Castle

ST. THOMAS  
U.S. VIRGIN ISLANDS

# The Spyglass

## PIRATES' PENSION

### PRESIDENT'S REPORT

By Ira L. Frank

Another year has passed and a good way for your Board of Directors' to bid you adieu is to advise you of a few of the many accomplishments that have taken place on your behalf during the year:

- The maintenance fees will remain at the same level as the previous year. We have tried hard to be prudent in expenditures.
- We also tried to be prudent in investing. A lot of time was spent negotiating the highest possible rates on certificates of deposit in FDIC insured institutions in a low rate environment.
- One example of our saving money is by collaboration with the other associations in buying some motor vehicles (jeep and truck) instead of leasing. This has created a significant savings.
- In conjunction with the other association members of Great Vistas, LLC, a lease was signed to open the Pool Bar which tentatively has been named "The Breeze at Bluebeard's Castle". Opening date is expected to be before the end of October 2009.
- We also paid our pro rata share of repairs to the common areas so that Phase 1 and most of Phase 2, of a five phase plan, to repair the entire common area grounds and buildings are undertaken. Improvements should be noticeable every year that you enjoy your timeshare unit.
- We joined with the other associations in purchasing several golf carts. This will permit the housekeeping and maintenance personnel to move about the property more efficiently, assist owners transport their luggage and get up the hill from their units. Transportation downhill is also available.
- We had our associations' financial records audited by an independent CPA for 2007 and 2008. We are pleased to report that the full scope audits are clean and our financial health is excellent.
- We auctioned off two units that the association owned. This will permit us to receive revenue from maintenance fees which helps keep down maintenance fees for all owners. The legal transfer of ownership is underway.
- The Board negotiated a renewal of the management contract with SPM Resorts for one year with the ability for either side to terminate at the six month point.
- Our resort satisfaction ratings have gone up which should make it easier for those owners holding membership in RCI to be able to trade or rent their units.
- At the request of the Board, the President/COO of SPM Resorts, Bill Young, met with the staff of the Lieutenant Governor of the Virgin Islands. We sought a more expeditious probate process for timeshare owners and assistance in foreclosures due to tax delinquencies.
- A survey was sent out to owners with float week privileges to inform the Board how many of these owners wish to continue in the program or prefer to be on a fixed week/unit schedule.
- We have asked for maintenance updates from SPM Resorts and, as a result, all associations are receiving a weekly report that includes pictures of what is being done week by week to improve the Castle's infrastructure.
- Communications have been good. The Board has managed to send out several editions of the *Spyglass* during our one year term.
- On the Bluebeard's Yahoo site, our Board has answered more questions than all other Boards combined.

## PRESIDENT'S REPORT

By Ira L. Frank

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- We believe we are the first association at Bluebeard's Castle to attempt collections of delinquencies through the use of Small Claims Court. We obtained several judgments which now need to be recorded on the mainland. We hope the new Board will continue this pilot project.
- We have a tentative settlement of outstanding litigation with John Cavanaugh and his brother-in-law, William Reighley, the original developers of Bluebeard's Castle. Litigation continues with Kosmas Group International, another former developer. We believe we have a good case against Kosmas and we are looking forward to the next Board standing fast on our demands.
- The Board President filed individual litigation in St. Thomas seeking to prevent the Virgin Islands Government from taxing property owners in an illegal fashion. Class action status will be sought. If successful, this suit should return money to every timeshare owner throughout the Virgin Islands. Owners have not been asked to financially support this effort. The association is not involved in this effort. However, all owners should benefit if Mr. Frank wins this case.
- We signed a contract with Mark McAllister & Associates to repair our four buildings and the units inside and out. We told Mr. McAllister to find every single item needing repair. They will all be repaired and repaired within budget. The most important item to be repaired is the water intrusion due to flawed design. The buildings will actually end up in better condition than when first built. Our contract is at a reasonable price. Work should be completed within six months. We believe we shall be the only association not having to prioritize or limit repairs.
- The Board received from Mr. McAllister, a detailed report slightly fewer than one thousand pages, documenting what needs to be done. Everything will be repaired.
- We signed a contract with Silk Greenery to redo our interiors.
- The contractor in the aforementioned report pointed out items that could be classified as maintenance issues. Instead of charging us for the work, it was recommended we have the in-house maintenance staff do the work. We followed that advice and have already saved owners over \$30,000 in costs.
- The Board ordered Category 5 rated hurricane shutters for every glass window or door. This investment should pay for itself within a few years from savings in windstorm insurance premiums.
- We got an excellent buy to purchase new stove tops for those units needing replacements.
- The Board, by not being goaded into a race to the finish line, took its time in finding the best contractor willing to do the work at a price that is very fair. We delayed our construction in order to accommodate owners displaced from the other associations due to their own association construction work. This has permitted us to rent our vacant rooms benefiting both owners and the association with this source of cash flow.

We hope you agree that much has been accomplished. The Board consisting of Richard Cornell, Troy Engle, Mary Ann Pluciennik and Ira Frank thank you for your confidence and support of our efforts on your behalf. We hope you are pleased with our achievements.

On a personal note, I have now served on the Boards and led the fight against Fairfield and other wayward developers since the last century. It has been a rewarding but tiring effort and it is a good time to pass the baton. I set out to accomplish certain things including forcing Fairfield to repay owners what is rightfully theirs, to make sure Boards were controlled by owners and not the developer and to begin the rebuilding process. All of these goals have been reached. However, there are always new challenges to face and I wish the new Board all the best in meeting those challenges.

We have enjoyed the professional assistance of our property manager, SPM Resorts, Inc., which is greatly appreciated. Drew Langway, assigned to work with the Pirates' Pension's Board, has faced countless requests for help and has been diligent in trying to meet each and every one.

A word of thanks also must be given to attorney Richard H. Dollison and his Legal Assistant, Irene Greaux. They have tried very hard to make sure the Board has had the necessary legal advice to make the legally correct decisions. They have kept us from making costly mistakes—no small accomplishment.

Finally, I want to thank Dick, Troy and Mary Ann for their service. This has been a truly excellent Board. I also want to thank Nini, who has sacrificed much at home while I worked on Board matters.

I look forward to enjoying many more vacations at Bluebeard's Castle. I hope to meet more of our owners down the road.

### 2009 PIRATES' PENSION ANNUAL MEETING

The 2009 Annual Meeting was held at the Embassy Suites Hotel located minutes from the Philadelphia, Pennsylvania International Airport. It was attended by all current Board members: Richard Cornell, Troy Engle, Ira Frank and Mary Ann Pluciennik. Also in attendance were four members of the SPM Resorts staff, five owners, and four guests.

There are 1,456 interval weeks that comprise Pirates' Pension Condominium Association. The developer, Equivest St. Thomas Inc. (Fairfield) owns 326 weeks. 479 weeks participated in the election of which 153 are in the hands of individual owners. Nearly 13.5% of individual owners chose to participate.

There were three names on the ballot—Robert Bobowski, Gordon Goldsmith and Carol Keltch. Nominated from the floor were Troy Engle and Harry Doerr, MD. Votes received were: Bobowski--102, Doerr--20, Engle--20, Goldsmith--102 and Keltch--91.

A review of the Board's activities for the past year was presented by President Ira L. Frank. President Frank informed the incoming Board that he and the rest of the current Board stood ready to help with the transition. Assistance began by answering questions soon after the meeting ended. President Frank was followed by SPM Regional Director Drew Langway discussing operations and reviewing the financials both past and projected.

Time for a question and answer period was reserved in the agenda but no questions were asked. A motion, however, was made and approved unanimously thanking Ira L. Frank for his years of service. SPM President and COO, Bill Young, also took the floor and thanked President Frank for his years of hard work and laying a solid foundation for the future success of the entire Bluebeard's Castle.

The meeting lasted one hour. There were plenty of refreshments.

### Delinquent Owners

We want to let owners know that the Board has received certified judgments from the Small Claims Part of the Virgin Islands Superior Court

We have additional actions pending and are due back in court later in October.

With the judgments we have received, we are now exploring the best means of recording these judgments on the mainland and begin seeking assets that can be seized by the local sheriff such as a bank account, automobile, a house or garnishment of salary depending what local law permits. This will not be a pleasant experience for the owners but regrettably they have brought this upon themselves.

Where we have taken possession of interval weeks, the Board will seek to sell them beginning with owners who may like an additional week on St. Thomas at a fantastic price. We have recently auctioned off two interval weeks.

### ONGOING LITIGATION

Pirates' Pension still has a case pending against Kosmas Group International Inc., a former developer of Bluebeard's Castle. However, the Board did reach a tentative settlement with John Cavanaugh, William F. Reighley (Cavanaugh's brother in law) and Resort Management Services, Inc.

This past September, Villas III, Villas I, and Hilltop Villas Board Members attended a mediation in New York City with Messrs. Cavanaugh and Reighley. Regrettably, no settlement was reached. Unless, the two sides find a middle ground down the road, the case will go to trial before U.S. Bankruptcy Court Judge Judith K. Fitzgerald.

### REAL PROPERTY TAX LITIGATION

On September 17, 2009, Chief District Court Judge Curtis Gomez ruled that he would not fine the Virgin Islands Government for issuing tax bills for 2006 which was done last year based on a new tax rate structure and new valuations.

It is a long and tortured case and space does not permit a full recap. The Government must persuade Judge Gomez that it has established a fair and equitable property tax system.

The hearing was focused on the Tax Review Board and just how well it is functioning. Judge Gomez indicated he would schedule another hearing within a month to hear further testimony from the Virgin Island's Office of the Tax Assessor.

What is at issue is whether or not the Tax Review Board is fully functional. It must also provide due process for taxpayers who disputed the property tax valuations set in 2006. The Court wants the Board to be able to hear complaints within 120 days.

Legal counsel for the taxpayers, James Derr, argued that the Tax Review Board has a backlog of cases dating back to 1995. It also argued that the Tax Review Board has no written rules or regulations for appeals. It also has no standard for burden of proof for property tax payers.

Mr. Derr cross-examined the former Executive Director of the Tax Review Board, Walter Challenger, attempting to demonstrate that taxpayers are left uninformed about their right to be represented by an attorney or other representative at board hearings or to be able to present evidence to help establish their appeal.

As been reported here, Pirates' Pension Board President, Ira L. Frank, has filed a complaint in U.S. District Court which has a good deal of overlap with the case presently before Judge Gomez. It is the hope that this case will be certified as a class action to benefit all timeshare owners in the Virgin Islands. To date, no court date has been set.

### AUDIT OF FINANCIALS

The Pirates' Pension Board of Directors hired H.F. Specht & Associates, P.A. of Myrtle Beach, South Carolina, to conduct an audit of the association financials. This full scope audit was conducted by CPA Hank Specht for calendar years 2007 and 2008. The independent auditor gave the financials for both years an unqualified opinion that our financials are free of material misstatement and correctly reflect our financial condition.

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**POOL BAR LEASE**

The awarding of the Pool Bar lease has been somewhat of a drawn out saga. However, we believe the saga is about to come to an end. Great Vistas, LLC, awarded the lease to Michele Cervo after Mr. and Mrs. Arthur Collymore withdrew their bid. The Pool Bar is in the process of being equipped and is expected to open on or about October 20, 2009.



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