

JULY 2009

BLUEBEARD'S CASTLE



The Spyglass

PIRATES' PENSION

PRESIDENT'S REPORT

By Ira L. Frank

Three months are left before the next Annual Meeting, so let's spend some time together reviewing what has been done and what remains to be done before we all meet again in October.

As noted in my last message to you, the Board Members have set modest goals for our one-year term of office. We continue to monitor all expenses with the goal to keep expenses down. To that end, the association, in conjunction with the other three associations, decided it would be less expensive to own rather than lease vehicles. We approved the purchase of a 2007 Jeep Liberty and a 2003 F250 Super Duty truck.

The second goal was to firmly pursue collections. We have obtained some judgments in small claims actions against delinquent owners. We shall now seek to execute on those judgments.

A third goal was to continue the litigation against the remaining defendants that were formerly developers at Bluebeard's Castle. This includes Kosmas Group International and John Cavanaugh and his brother-in-law, William F. Reighley and Resort Management Services, Inc. There is a tentative agreement to have a mediation with Cavanaugh in Philadelphia this month or in August. Kosmas made an unsatisfactory settlement offer and we expect them soon to file a motion for summary judgment. Mediation may take place this summer. If a voluntary settlement is not reached, the suit will continue with motion practice scheduled for later in the year.

Finally, our goal is to use money received in settlement/litigation to repair and improve the Pirates' Pension four buildings inside and out. The engineers have promised a report soon. We are concerned that the major issue of water flowing towards our buildings may be a more complicated repair than expected. Using a Proceq Profometer 5 meter, our engineer took a good look at a significant amount of the units for which we had intended to use channel drains. The net result is that the steel reinforcement is consistently located too close to the surface to use channel drains. The channels would cause us to come into contact with the rebar, or come so close to it that we will potentially set up wholesale corrosion sites within the buildings. We were hoping for consistent 70mm depths (2.75") throughout but that is not to be. We continue to work on solutions.

The engineer was told to find every single issue wrong with our buildings even if it is a nail knocked in crooked. Once we have the full scope of work before us, the Board can prioritize projects in accordance with available funds.

While the Board ponders solutions, SPM Resorts has recently cleaned out both ponds. Stairwells have been pressure washed. Pipes behind the Castle were covered with dirt to hide them from view.

The Owners' Meeting will be held on October 10, 2009. Enclosed is the Call for Nominations for Directors. If you are considering running for the Board, feel free to contact me or any of the current Board Members, if you have any questions about serving. Our email addresses are to be found within this publication.

REAL PROPERTY TAX LITIGATION

On June 16, 2009, the third U.S. Circuit Court of Appeals upheld a District Court order that rendered null and void the Virgin Islands' 2006 property tax bills. The Tax Assessor's office will rescind the 2006 real property tax bills. The Executive Order requiring 2006 real property taxes to be paid by July 1, 2009, will be vacated.

The Court decision represents a loss of revenue of approximately \$28 million to the government coffers. The government last collected property taxes on the 2005 bills.

The third Circuit's opinion in what is known as the Berne case, focused on what it considered the government's failure to comply with a May 2003 District Court decree. That decree required that the government have a functioning Board of Tax Review.

There are 374 property tax appeals waiting for action by the Board. Per the decision, the Board of Tax Review met five times in 2006, once in 2007 and twice in 2008. The opinion noted that it appeared the Board failed to notify property taxpayers when their cases were on the calendar to be heard.

The property tax matter dates back to the year 2000. Commercial property owners filed suit in U.S. District Court on St. Thomas. These owners were concerned because the local government assessed commercial property in a different way than it did residential property. Equivest St. Thomas Inc. (one of the developers of Bluebeard's Castle) was also a plaintiff in the case.

There was a reevaluation of all real property across the Virgin Islands as a result of a 2003 District Court decision. The property tax bills for 2006 are based on those reevaluations.

The government sent out property tax bills based on 1998 values while it was waiting for the reevaluation to be completed. The last bills using the 1998 values were those for 2005. At least one attorney involved in the case felt the government could have continued to send out bills using the 1998 valuations while it waited for the District Court case to conclude.

On April 30, 2009, an action was filed in U.S. District Court on St. Thomas entitled "Ira L. Frank and All Similarly Situated Persons vs. Government of the Virgin Islands and Bernadette Williams, Acting Tax Assessor." This filing and subsequent motions seek class action status for timeshare owners on the Virgin Islands in attacking the property tax system presently existing. One key problem with the existing system is that it distinguishes between resident and non-resident property tax payers in violation of the Revised Organic Act.

Violations of the Virgin Island Code, the United States Code, and the common law were identified. The violations are (A) the longstanding custom of the Defendants to assess timeshare real property on a weekly, and not yearly manner in violation of 33 V.I.C. § 2301(a); (B) increases in assessment greater than ten percent (10%) in violation of 33 V.I.C. § 2402(a); (C) improper retroactive application of the timeshare real property rate set by Act 6991, codified at 33 V.I.C. § 2301(b)(4); (D) improper valuations of real property in violation of 33 V.I.C. § 2404; (E) violations of 42 U.S.C. § 1983; (F) violation of the due process clause of the U.S. Constitution and the Revised Organic Act; (G) failure of the Board of Tax Review to hold hearings within sixty days of appeals in violation of 33 V.I.C. § 2452; (H) failure to refund of over payment of taxes; (I) restitution based on unjust enrichment as to the 2006 real property tax bills; (J) fraud as to the 2006 real property tax bills; (K) violation of 48 U.S.C. § 1574; and (L) violations of the privileges and immunities clause of the U.S. Constitution and 48 U.S.C. § 1561.

We hope to have further developments reported in the next Spyglass. If successful, this suit should lower the property taxes of all timeshare owners. If any owner wishes to become a plaintiff in the lawsuit, contact Ira L. Frank at:

buylow@hotmail.com

REMINDER

2009 Annual Meeting

Do not forget to note your calendars that the Pirates' Pension Annual Meeting will be held on **Saturday, October 10, 2009**. Registration is at **8:00 a.m.** The meeting commences at **8:30 a.m.**

The site is the Embassy Suites Philadelphia-Airport Hotel. This is convenient to the Philadelphia Airport for anyone flying and also close to major highways.

Discounted room rates are available on a first-come, first-served basis by calling Embassy Suites Reservations at (215) 365-4500. The price includes a made to order breakfast and happy hour. Please ask for the "Bluebeard's Castle" block of rooms.

Come listen to the reports from your management company and Board Members. Meet and ask questions of both management and Board Members. Hope to see you there!

Mountain Top Destroyed

Many Pirates' Pension owners' have enjoyed taking a trip up the mountain behind Bluebeard's Castle to spend some time at Mountain Top.



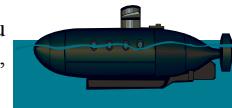
Mountain Top is the highest point on St. Thomas at 1,547 feet above sea level. It was known for the beautiful vistas of the Atlantic Ocean side of the island, as well as, its banana daiquiris.

Regrettably this past May 18 and 19th, Mountain Top was completely destroyed by a fire. It is nothing but charred ruin. There was no sprinkler system in place that might have helped douse the flames. Although the cause of the fire is still not known, arson has been ruled out. The owners' plans to rebuild are unknown.

Atlantis Submarine Sails Away

The last voyage under Virgin Island waters for the ever popular Atlantis submarine was on May 31. It has been in operation for approximately 24 years. The submarine will relocate to another location yet to be disclosed.

The underwater tour took you down 80 feet for a look at the fish, coral and the marine life.



The decision to leave was economic. They simply could not make money with their very high overhead and competition from more tours on the island than when they started. The decrease in visitors made operations no longer viable. The closing puts 25 people out of work. Barbados, Hawaii, Grand Cayman, Aruba, Guam and Cozumel will remain locations where submarine tours will continue. These destinations remain more economically viable.

ONGOING LITIGATION

Pirates' Pension still has cases pending against Kosmas Group International Inc., John Cavanaugh, William F. Reighley (Cavanaugh's brother in law) and Resort Management Services, Inc.

The U.S. Bankruptcy Court held a case management conference in the Homeowners' Association adversary proceeding on June 16, 2009. Mr. Richard H. Dollison appeared for Pirates' Pension. Robert Wood of Rogers Townsend & Thomas appeared for the other three Plaintiff Associations, Villas I, Villas III and Hilltop Villas I & II. Michael Sheesley appeared for Defendants' Cavanaugh and Reighley. Lester Kaney appeared for Kosmas Group International.

At the outset, the Court noted that discovery is closed. Defendants' Cavanaugh and Reighley have requested depositions of certain Directors represented by Mr. Wood and Mr. Wood has agreed to those depositions. Other than that, no more discovery will be allowed. Those depositions must be taken no later than July 31st. No discussion was had as to any Pirates' Pension witnesses being deposed.

Next, Defendants' Cavanaugh and Reighley requested a second mediation. After some discussion, Mr. Wood agreed and the Court stated that if the parties do not settle their disputes, they can have a second mediation. Bob Wood spoke up and requested that the Pirates' Pension/Kosmas dispute should be a separate mediation. At that point, Judge Fitzgerald apologized to Mr. Dollison because she neglected to include Pirates' Pension in the discussion regarding mediation against Cavanaugh and Reighley. Mr. Wood did not remind her. Mr. Dollison said that he had no objection to a separate mediation with Kosmas, but that Pirates' Pension had to be included in the mediation with Cavanaugh and Reighley. Mr. Wood did not object. The Judge emphatically agreed and stated that all plaintiffs must be included if mediation takes place as to Cavanaugh and Reighley.

Mr. Kaney agreed to a separate mediation as to Kosmas. This would involve only Kosmas and Pirates Pension. All mediations must take place prior to the end of July.

As to both mediations, the parties are to notify the Court on or before July 7th if they wish to mediate. If the parties cannot agree on a mediator, the Court will appoint one.

Next, Mr. Kaney stated that he withdrew his previous objection to the jurisdiction of the Court. He claimed he intended to file a motion for summary judgment 'almost immediately', but later in the discussion he said 'within three weeks.' However, the Court set August 31st as the deadline for dispositive motions. This includes Kaney's motion or any filed on behalf of Cavanaugh and Reighley. (The motion process is motion, response and reply.) We have until September 30th to respond. Mr. Dollison specifically asked Judge Fitzgerald to clarify whether this date still applies even if Mr. Kaney files his motion in three weeks. She said it does. Any replies to oppositions are to be filed no later than October 9th. Oral argument on any and all motions is scheduled for November 3, 2009 in Pittsburgh. However that is Election Day, so Mr. Dollison anticipates this will be moved.

The ongoing litigation does take up a good deal of time but owners should rest assured that the Board is very much involved in this aspect of our job. Unfortunately, the other associations have chosen not to include Pirates' Pension to present a united front and additional cost. It is regrettable but nothing we can control. However, it won't stop us from protecting your interests.

POOL BAR LEASE

Great Vistas, LLC approved Mr. & Mrs. Arthur Collymore be awarded the pool bar lease. The lease was drafted by John Amerling (the LLC's attorney.) We are expecting the lease to be signed in the near future.

Some of the services suggested in the Collymores' proposal are: entertainment that will include a steel pan player on Saturday 12:00 p.m. to 3:00 p.m.; classical guitarist on Sunday from 12:00 p.m. to 3:00 p.m.; bingo daily; rum bottle search and recover daily; Roll of the Day; Movie/TV Trivia; and The Cash Bar (answer 5 questions and win different prizes).



We are looking forward to welcoming the Collymores to Bluebeard's Castle.

DELINQUENT OWNERS

In the last edition of *The Spyglass*, we discussed the issue of delinquent owners and the impact it has on the entire Pirates' Pension Condominium Association.

One of the most important functions of the Board is to pursue these delinquent owners in order to collect monies owed to the associations. If we sit and take no action, then the unit week that is supposed to generate revenue to operate the association yields nothing.

We reported last time that the Board decided that a more effective and efficient approach is to utilize the Small Claims Part of the Superior Court on Saint Thomas. We are pleased to report that in June we obtained two default judgments and tentatively settled a third case. We will be receiving a large sum of money and a deed in lieu of foreclosure. The delinquent owner is required to pay past due taxes and pay the fees necessary to transfer the deed. At time of publication, we are awaiting the transfer of the deed.

We will begin the pursuit of assets in the county where the delinquent owners who defaulted reside. This will not be a pleasant experience for the owners but regrettably they have brought this upon themselves.

None of this activity is anything the Board enjoys doing but it is necessary to run the association in a fiscally sound manner. If an owner anticipates an issue in the ability to make a timely maintenance fee payment, please contact the resort management staff. Together, there may be some flexibility to work through the problem in a mutually agreeable manner.



CALL FOR NOMINATIONS

July 2009

Dear Bluebeard's Castle Pirates' Pension Owners:

The 2009 Annual Meeting of the Bluebeard's Castle Pirates' Pension Condominium Association will be held on Saturday, October 10, 2009. There are five (5) seats expiring on the Board.

The primary function of the Board of Directors is to oversee the Management Company in the implementation of operating and financial policies established by the Board to protect the vacation experience and the investment of the Owners. Each member of the Board must attend Board meetings normally held via telephone conference as necessary, but at least quarterly, and review monthly financial statements and other materials. These NON-PAYING, VOLUNTEER POSITIONS are very time consuming and require many hours of work. It is strongly recommended that you be proficient with e-mail as this is a very efficient and inexpensive way for the Directors to communicate.

Any person who wishes to serve on the Board of Directors must (i) be a current owner in good standing; (ii) be willing to commit the time necessary to fulfill Board responsibilities; (iii) work without compensation, except for reimbursement of expenses; and (iv) have life experiences relevant to Board functions that demonstrate a probable disposition to problem solving on a cooperative team basis. Although not prerequisites, knowledge of law, accounting and/or construction/engineering is very beneficial in performing the duties of a Board member, as is proficiency in sending and receiving emails, since much Board business is conducted via e-mail among Directors. Reimbursable expenses include travel, lodging and meals while attending Board meetings, and any other approved expenses incurred in connection with Board business.

If you are interested in volunteering as a candidate for election to the Board of Directors, please mail, fax or e-mail your resume to:

**Bluebeard's Castle
Pirates' Pension – 2009 Election
SPM Resorts, Inc.
Attn: Lin Packard
1051 Shine Avenue
Myrtle Beach, SC 29577
Fax: (843) 238-5001
Email: lpackard@spmresorts.com**

Resumes should be no more than 50 words, stating your name, contact information (address, phone number, email address), occupation, qualifications and experience, and why you want to serve on the Board of Directors. **All resumes must be received no later than August 20, 2009.** The resume of each qualified candidate, in accordance with the Bylaws of the Condominium Association, will be included in the ballot materials sent to each owner in connection with the corresponding 2009 Annual Meeting.

If you have any questions concerning this election, you may contact Lin Packard @ (843) 238-5000 ext. 3086. Also, it is recommended that you call to confirm receipt of your resume.

Respectfully submitted,
The Bluebeard's Castle Board of Directors
Pirates' Pension Condominium Association

BLUEBEARD'S CASTLE

PO BOX 7158

ST. THOMAS, USVI 00801-0158



PHONE: (340) 774-1600

FAX: (340) 774-4653

Professionally managed by:



CONTACTS

General Manager:
Margaret Johnson

mjohnson@spmresorts.com

Assistant General Manager:
Heather Bonham

hbbonham@spmresorts.com

SPM Resorts, Inc.

1051 Shine Avenue
Myrtle Beach, SC 29577

Tel: 843-238-5000

Fax: 843-238-5001

VP Corporate Operations:

George Selensky

gselensky@spmresorts.com

Regional Director of Operations:

Drew Langway

dlangway@spmresorts.com

Owner Services Representative:

Jamie Logan

jlogan@spmresorts.com

BOARD OF DIRECTORS

Ira Frank, President
buylow@hotmail.com

Troy Engle, Vice President
engletroy@yahoo.com

Mary Ann Pluciennik, Secretary
pluciennik@verizon.net

Richard Cornell, Treasurer
dilu@metrocast.net



WANT MORE INFORMATION ?

To gain access to frequently updated resort information, log on to www.spmresorts.com. At the top of the main page, you will see OUR RESORTS. From the list click on ST. THOMAS. From the list of Bluebeard's Castle Associations, click on the resort of your choice. In the right column, click on VIEW RESORT DOCUMENTS. Once you have opened VIEW RESORT DOCUMENTS, another option called VIEW DOCUMENTS appears below. Here you will find a variety of information from Maintenance Updates, Newsletters, Refurbishment Information, etc.

WEEKLY OWNER MEETINGS WITH THE GENERAL MANAGER

Tuesday Morning
10:00 a.m.

Check-In Facility



Join us to learn more about what is happening at your resort.

CHECK OUT TIME

10:00 a.m.

CHECK IN TIME

4:00 p.m.



Please abide by this schedule so that the housekeeping and maintenance staff have the necessary time to get your unit ready for you or the next guest that will be arriving.