

Storm Water Management Systems / HOA Reserve Fund Planning (Email Info Exchange 9/2010)

From: PottengerE@bceo.org [mailto:PottengerE@bceo.org]

Sent: Wednesday, September 08, 2010 9:17 AM

To: Michael Henley

Subject: Re: Storm Water Management Systems / HOA Reserve Fund Planning

Mike,

I've got several pieces of information for you to reference, only problem is the file sizes. So I burned a CD that can be mailed or picked-up at our office, just let me know your preference. A meeting to further discuss your questions might be necessary.

Information on CD:

Construction Drawings - shows all improvements for storm water management system

Subdivision Record Plat - determines limits of Public, HOA and Township maintenance

Stormwater Pond Management Guidebook - USEPA & Center for Watershed Protection published a great informational book about storm water pond maintenance

Plat - Const - Highlight - Subdivision record plat with Public & HOA easements highlighted along with pages of the construction drawings highlighted.

What are all the "Surface Water Management Systems"? (So far you've listed; "Storm Water Pipes, Catch Basins, Manholes, Pond" / Article 8 of our CCR lists; "any pipes, concrete gutters or mechanical devices" –are there others?) Judging by your map, it looks like all of the Blue lines and letters represent various components. See subdivision construction drawings. We may need to discuss how to read construction prints so you better understand what the HOA is responsible for.

Article 8 states we are responsible "for the maintenance" of these devices. Aside from keeping the obvious openings "clean and unobstructed", is there anything else we should be doing? The guidebook is great for the retention pond. I'll have to provide the checklist we use for County inspections for storm sewer pipe. Most of that inspection requires a remote TV camera, truck & recording equipment.

Article 8 states "the Association shall not be liable for any damage caused by surface water, erosion, landslide or similar causes" (unless we failed "care" for the devices). If we're not liable, then who would be? Does this include a severe weather event? I'm no attorney but language used in the HOA document looks fairly standard. Every homeowner in the subdivision had to become a member of the HOA, this was more than likely done at the time of closing. Regardless, the HOA document is an agreement that the homeowner and HOA governing board has agreed to. Basically the HOA says they are not liable or responsible if A, B & C occurs, but that does not protect the HOA from a resident filing suit.

If any of the "Surface Water Management Systems" fail for any other reason (like age), who would be liable to fix/replace? The record plat determines who is responsible for repair/replacement. Note this isn't always clean 100% of the time. The Township is responsible for storm sewer inside the street right-of-way, while the County has responsibility for items in the Public Drainage Easement, and the HOA is responsible for HOA Drainage Easements. The line gets fuzzy when the pipe goes from the street to the retention pond. Does both the HOA and Township pay? If so, is it equal cost or prorated?

Do you know what the average Useful Life spans are for these components? Depends upon the feature. Some storm sewer pipe (plastic) can last 50 plus years, while metal pipe may only last 20 years depending upon the soil type, fertilizer use etc. Retention ponds 20-30 years before dredging is needed, or 10-15 years due to algae growth etc.

Sincerely,

Eric J. Pottenger  
Butler County Engineer's Office  
Storm Water / Development Manager

"Michael Henley" <mikeh@usdesignelement.com>  
09/03/2010 11:30 AM  
To <PottengerE@bceo.org>  
Subject Storm Water Management Systems / HOA Reserve Fund Planning

Hello Eric,

I also left a voice-mail the earlier this week.

My name is Michael Henley and I'm currently the HOA President for Providence Meadows here in Liberty Township (58 Home Subdivision).

We're trying to analyze what our fixed assets are (or common are components) for estimating an appropriate Reserve Fund – So, we're seeking some clarification on what our liabilities might be on the Surface Water Management Systems.

Below is a helpful email response from you to our previous management company (with attachments) for reference.

Some questions we have are:

What are all the "Surface Water Management Systems"? (So far you've listed; "Storm Water Pipes, Catch Basins, Manholes, Pond" / Article 8 of our CCR lists; "any pipes, concrete gutters or mechanical devices" –are there others?) Judging by your map, it looks like all of the Blue lines and letters represent various components.

Article 8 states we are responsible "for the maintenance" of these devices. Aside from keeping the obvious openings "clean and unobstructed", is there anything else we should be doing?

Article 8 states "the Association shall not be liable for any damage caused by surface water, erosion, landslide or similar causes" (unless we failed "care" for the devices). If we're not liable, then who would be? Does this include a sever weather event?

If any of the "Surface Water Management Systems" fail for any other reason (like age), who would be liable to fix/replace?

Do you know what the average Useful Life spans are for these components?

We would appreciate any and all additional information you can provide to help us plan.

Thanks and regards,

M.

PREVIOUS 2008 EMAIL THREAD:

-----Original Message-----

From: PottengerE@bceo.org [mailto:PottengerE@bceo.org]

Sent: Wednesday, May 07, 2008 3:31 PM

To: William Klum

Subject: Re: FW: Providence Meadows HOA

Will,

Attached is a pdf file that shows the storm sewers, easements and aerial photo of the neighborhood (Providence Meadows.pdf).

Due to the size of the construction drawings, I will have to send them in separate email messages.

In response to your questions:

Please reference you HOA Declaration of Covenants, Conditions and Restrictions and Reservation of Easements (Official Record Volume 6428 Page 1350-1366) on file in the Butler County Recorders Office. Subdivision Record Plat (Plat Envelope 3094A-B) on file in the Butler County Recorders Office, the document that created the easements in the subdivision.

1. Is the HOA responsible for all Storm water piping/structures located within the HOA? **Yes.** The Association has an easement (HOA Drainage Easement) reserved on private property for the use, operation and maintenance of the "improvement" (sewer pipe, catch basin, manhole or pond). Even structures that cross private property, or are those the private property owner responsibility if they fail? **The Association is responsible for maintaining the improvement within the HOA Drainage Easement. The property owner however, is responsible for upkeep of the easement area. IE Grass mowing, liter removal and the like.**
2. Regarding the Detention basin, is the HOA responsible for routine upkeep, such as, grass cutting, landscaping around the Detention basin or is this that the responsibility of the Private Property owner? **The subdivision record plat states the HOA is responsible for the improvement within the easement, while "the easement area of each Lot shall be maintained continuously by the owner of the Lot."** Is the HOA only responsible for the maintenance of the detention basin, such as, dredging, etc. **Yes & No. The Association is responsible for the pond & storm sewer pipe & features (improvements) within the HOA Drainage Easements, not just the pond. Maintenance activity for a pond does include dredging but may also include vegetation removal (cattails or algae), animal trapping (muskrat etc), pond aeration, chemical treatments (algae) or erosion repair. This might be something the HOA should formalize as a policy and up-date the HOA documents.**

The Public Drainage Easements are those that the County owns and operates for the community. An assessment is levied on the property to provide maintenance funds for the improvements outside of the right-of-way, and not within the HOA Drainage Easements. Liberty Township is responsible for the maintenance of the improvements within the road right-of-way (the area on either side of the road and between the sidewalk).

If you need further assistance, please do not hesitate to contact me.

Eric J. Pottenger  
Butler County Engineer's Office  
Storm Water / Development Manager