



Dear Villas owner,

### **Re. Townhomes – repairs & maintenance**

You may be aware that we have recently had cause to re-examine the procedures currently in place for repairs and general maintenance of our townhome roofs, party walls & external walls. As you may know, our previous management company (CMP), have in the past carried out external work at the HOA's cost, while leaving any internal work to the homeowner(s) in question. Unfortunately, in doing so, they failed to allocate sufficient funds in the "Villas" budget to cover these works.

On closer investigation, while our covenants seem quite clear that such works are to be carried out by the HOA, they go on to stipulate that this will be at the relevant homeowner's expense. This makes sense and would explain why funding was not put in place within the HOA budget. Given this apparent misunderstanding and to avoid any further confusion, we have sought professional interpretation of our documents in order to give us clear guidelines to follow in the future.

This legal opinion has now come in from our attorney and our advice is that CMP have acted incorrectly and we should from hereon act in accordance with our covenants i.e. carry out any necessary works to roofs and external or party walls, passing the cost directly on to the homeowner(s) concerned, who will be jointly & severally liable.

For information and reference, the pertinent parts of the declaration of covenants are as follows:

- **1.6 Common Roof - means and refers to the exterior roof covering a Townhome residential building, including all components of said exterior cover and its supporting structure.**
- **1.17 Party Wall - means and refers to the common wall separating one residence from another residence in the same Townhome residential building.**
- **5.2 Sharing of Repairs, Maintenance and Replacement - ... the cost of reasonable repair, maintenance and replacement of a Party Wall shall be shared equally by the Owners who make use of the wall and shall be a lien against their respective Lots as provided hereafter.**

The following extracts outline rights & responsibilities:

- **5.3 Repair and Restoration – If a Party Wall is destroyed or damaged or requires structural repair, the Association in the exercise of its reasonable discretion, shall either restore, repair or replace said Party Wall, and each Owner sharing said Party Wall shall be jointly and severally liable to the Association for the cost thereof...Any and all costs incurred by the Association pursuant to this Article for which an Owner is responsible for reimbursing the Association shall constitute an individual assessment for which the**

*Association shall have lien rights and all other enforcement rights ...No bids need be obtained by the Association for any such work and the Association shall designate the contractor in its sole discretion. All sums due to the Association pursuant to this Section shall be due and payable immediately upon demand by the Association.*

- **6.2 Sharing of Repairs, Maintenance and Replacement - the cost of reasonable repair, maintenance and replacement of a Common Roof shall be shared equally by the Owners who make use of the Common Roof and shall be a lien against their respective Lots as provided hereafter.**

**6.3 Repair and Restoration – If a Common Roof is destroyed or damaged or requires structural repair, the Association in the exercise of its reasonable discretion, shall either restore, repair or replace the Common Roof as the case may be...Any and all costs incurred by the Association pursuant to this Article for which an Owner is responsible for reimbursing the Association shall constitute an individual assessment for which the Association shall have lien rights and all other enforcement rights ...No bids need be obtained by the Association for any such work and the Association shall designate the contractor in its sole discretion. All sums due to the Association pursuant to this Section shall be due and payable immediately upon demand by the Association.**

Based on the above, our attorney advises that **“it is the Association’s duty to restore, repair or replace both the common party walls and the common roof as needed, but any and all cost for such restoration, repair or replacement is to be born solely (jointly and severally) by the owners who share said wall or roof. Furthermore, payment from the owners is due immediately upon request by the Association and constitutes a lien against the property. The Association does not need to take bids for said work and may choose a contractor in their sole discretion”.**

Now that our position is clear, the HOA intend to adopt the correct procedure with immediate effect, however, it is understood that some owners may prefer to undertake repairs themselves and so long as suitable materials are employed, this will be acceptable. Also, the HOA intends to work with a small panel of contractors to ensure keen and consistent pricing. In any event, our resort team will operate a simple procedure for notification and handling of any problem referred to them and will liaise with homeowners and their MCs throughout.

This communication and the notification procedure will be posted on the Terra Verde HOA website and on the Forum Noticeboard for future reference. In addition, all new owners will in future receive a “Welcome Pack” which will outline details of what is and what is not covered by the HOA fees, including insurances.

Please note that none of the above affects in any way, the HOA’s obligation to implement a programme of periodic exterior painting and in due course, re-roofing of the Villas townhome buildings, provided for in Reserves built up and set aside for the purpose, at the HOA Board’s discretion.

*Terra Verde Resort, Villas HOA Board  
September 2008*