

Executive Session

July 23, 2022

The Board reviewed the latest proposal received from Mr. Adkins' dated July 13, 2022. There was a discussion of an easement appurtenant. An easement appurtenant stays with the land. A personal easement is only until the owner sells. This pertains to #1 on the proposal. The proposal is offering to put the retaining wall 11 feet south of the deck. This is #2 on the proposal. A sketch is provided. There was a discussion of having an exact measurement. (not approximately) Adkins' proposal is proposing to replace or repair the existing wall. See survey provided with proposal. It's proposing a 50 foot wall. The Board would like more specifics. No larger than the existing one. #3 is about Mr. Adkins raising a Motion at the General Meeting. He has every right to bring a Motion. The meeting will be run according to the bylaws. The Board is not denying him the right to bring a Motion, #4 Add **written** permission. #5 Mr. Adkins has withdrawn this from the proposal. There was a discussion of an easement for community members to access the steps. Adkins withdrew it because of potential liability. The steps are not on his property. Bob Alimpich thinks that we need to have an easement on the west so people can get to that property. There was a discussion of where Lex Heights property is on the west. #6 Lex Heights can't bind Kurt. The Heights can't speak for Kurt. #7 Adkins agrees to pay \$13,000. He's not agreeing to pay attorney fees. Mr. Wilson said his fees are more than \$13,000 now. We can't settle at \$13,000. It needs to be all fees. Lynn asked Mr. Wilson to go back to #1 and explain a personal easement and an easement appurtenant. If it's a personal easement and he sells, whatever you say goes. It effects his ability to sell the property because the buyer would have to made aware. Mr. Wilson said that if we make it a personal easement that would probably be a deal breaker. There was a discussion about legal fees and if we continue to trial that there's no guarantee that the legal fees will be paid. Then we discussed raising the amount to \$20,000. Mr. Wilson said that since the Annual meeting he has worked another 30 hours on the case evaluation and summary disposition. Mr. Wilson read #1 again. If it falls down, it can't be replaced. It does run with the land. It can't be increased. A roll call vote was taken about the easement appurtenant. Kurt No Don Yes Lynn Yes Bob Yes Gladys Yes Renee Yes Liz Yes Dottie Yes. #7 Say that pays all attorney fees up to \$25,000. Dottie: Yes Kurt: No Lynn: Yes Don: Yes Bob: Yes Gladys: Yes Renee: Yes Liz: Yes #8 Needs this language to be included. It is subject to the General Membership to approve. Mr. Wilson then discussed the Case Evaluation. It's a way to settle a case. The case evaluators suggested to sell the property to Adkins to settle. The Board rejected the offer because the Board doesn't want to sell any land. Dottie: reject Kurt: reject Lynn: reject Bob: reject Gladys: reject Renee: reject Don: reject Liz: reject

The following is what we proposed to Adkins following the executive session.

Alec: The Board has authorized me to extend the following counter-offer to your latest offer of July 13, 2022:

1. This paragraph is acceptable with the agreement added that if the structures are removed or destroyed that the easement terminates as to those removed or destroyed structures. They can be repaired and maintained but not replaced.

2. The repair or replacement is to the existing retaining wall and to occur in the same location. The repair or replacement is not to be enlarged in any fashion from what currently exists regarding the length or any placement South of the existing wall.

3. The Board has no control over what Motions are brought by the general membership at general membership meetings. Thus Mr. Adkins is allowed to bring his Motion and does not need Board approval.

4. This paragraph needs to add that permission is to be written permission, no verbal permission.

5. The Board desires a 5' easement on the West portion of his property to access the steps and parkway property South of Mr. Adkins' property.

6. Agreed, however, Kurt Riese is not bound by the Board or general membership. He was sued in his individual capacity. But all other existing claims and counter-claims brought by Plaintiff and Lexington Heights, and its Board members to be dismissed with prejudice and without costs or attorney fees.

7. Ron to pay all of Lexington Heights and its individual board members attorney fees up to a cap of \$25,000.00.

8. Paragraph is fine with understanding this does not bind Kurt Riese.

If you have any questions, please contact me. Thanks, Tom