

## Meeting Minutes

Westwinds Residents Association Board of Directors

Monday, April 27, 2020, 7:00 p.m.

Present: Lisa Baill, Antonio Bastida, Jim Canova, Debbie Clark, Vince Flores, Dexter Goody, Patrick Grimes, Jennie Wilstead, and Stacy Winkelman

Nadia Aziz, Lauren Carden, and Erika Fairfield from Silicon Valley Law Foundation joined us tonight. Nadia has been in contact with attorneys from both MHC and the Nicholson Family Trust (TNFT).

The suit that MHC brought against TNFT centers on the allegation that TNFT asked MHC to "deliver the property free and clear of Westwinds residents upon the expiration of its leases." MHC wants the judge to agree that they can continue with business as usual through the very last day of their management lease in August, 2022. The suit is currently in the discovery phase. They are trying, for example, to get TNFT to disclose exactly what they said that made MHC think they were being asked to empty the park.

TNFT sees no merit in the case, and would like it thrown out. They have no intention of renewing MHC's management lease. MHC, they claim, has let the park get run down. Until they redevelop, they would hire a different management company, as they have never managed the park directly.

Each side will try to use this suit as an opportunity to put the other side on the hook financially. MHC brought the suit to avoid the enormous expense of fair market value buyout of each home, relocation expense for each family, and lost income from each space that is vacated before the end of the lease. TNFT thinks MHC should have been investing more in infrastructure.

Evidently, there is an arbitration clause in the contract between MHC and TNFT, but MHC does not want to go to arbitration. That's why they solicited residents to join their suit. TNFT will oppose any intervention. Their view is that this is merely a contractual issue, for which the private arbitration allowed in the lease is sufficient. TNFT has already asked to dismiss Stacy from the suit. However, the judge would probably allow her to be represented, which would keep the suit out of private arbitration. The MHC attorney is already working on selecting arbitrators, just in case they are unable to keep the suit in court. Because of her inclusion in the lawsuit, Stacy agreed to recuse herself from any discussion with the Nicholsons.

After months of (on and off) debate, the Westwinds Residents Association Board has not decided whether or not to intervene in the lawsuit. Intervening, if allowed by the judge, would definitely keep the suit out of private arbitration and in the court where much more information is public. However, since TNFT clearly opposes intervention, it might make negotiations with them more difficult. In addition, Silicon Valley Law Foundation has not agreed to represent us in an intervention. During this pandemic, their resources are stretched thin, and they might not be able to do so.

We favor keeping the suit out of arbitration to avoid surprises. Changes such as having a different management company is not an issue (it might turn out to be an improvement). What would be an issue is if the land was sold or the redevelopment process started before we had a chance to buy it ourselves. TNFT admits they want to redevelop the land, but they have no timetable. MHC might attempt to buy the park during arbitration. Rumor has that they have already attempted to buy it before. TNFT's lawyer has a reputation for being anti-tenant. However, they would be willing to work with residents if that meant they could keep the suit out of court.

We welcome an opportunity to speak with the Nicholsons and find out what plans they have for the property. It is not clear how much we should reveal about our long-term goal of purchasing the land. We will rely on Paul Bradley's advice on that matter.

Celeste Walker, District Director for California State Senator Jim Beall (District 15) is planning to give a presentation on unemployment benefits (including the new program for the self-employed) this Wednesday evening. The presentation will be broadcast on both Facebook Live Stream and Zoom. Celeste has done this before, and it's all set up. Vince has advertised it already, and he will post a reminder tomorrow on both Facebook and NextDoor.

Our next meeting will be 7:00 p.m. next Monday, May 4.

Respectfully submitted,  
Patrick Grimes