

To the LCA membership:

21 November 2019

At our regular board meeting on Thursday, November 14 the Leilani Community Association Board of Directors voted to raise the annual dues from \$110 per lot to \$200 per lot.

This was done to meet the fiduciary oversight responsibilities of the LCA Board of Directors as specified in the **LCA By-Laws: Article XV ASSESSMENTS AND CHARGES : Sections 1, 2 & 3.**

These by-laws read as follows:

SECTION 1. Regular Annual Assessments. One of the primary purposes and objects of the corporation shall be to establish a suitable and equitable assessment program to ensure the adequate and continued repair and maintenance of roads and streets and landscaping adjacent thereto and community facilities within the Leilani Estates.

In furtherance of such purposes a scale of assessments shall be fixed by the board of directors on a budgetary basis so that sufficient revenue shall be derived therefrom to enable the corporation to accomplish its general purposes and to enable it to maintain all areas within the subdivision. The amount of any annual assessment shall be determined by the board before the annual meeting of the members of the corporation and each member of the corporation shall be notified of the amount and effective date of such assessment.

SECTION 2. Special Assessments. If at any time the board of directors shall find or anticipate that the funds of the corporation are or will be insufficient to reasonably enable the corporation to accomplish its purposes and objectives, the board may, at any regular or special meeting thereof, levy other and further assessments against the members of the corporation as it determines are necessary or desirable. Upon the determination of any such special assessment, the Secretary shall notify each member of the corporation as to the amount of the assessment and its effective date.

SECTION 3. Reserve Fund. In determining the amount of any annual or special assessment, the board of directors shall consider the necessity and advisability of establishing a reserve fund for emergency or extraordinary expenses, and the board shall have the power to reasonably and equitably establish such a reserve fund.

In an effort to reveal our decision process to the LCA membership not in attendance at the board meeting we have listed below a recap of the unprecedented financial burdens brought to bear on our community by two very unanticipated events.

The first, and by far the greatest of these, was the sudden and tragic loss of homes and property to the 2018 eruption and lava flows in our community. The human and personal loss was, and remains, incalculable. However, for LCA finances this event resulted in a very significant loss of income as well as several very large and sudden expenses.

The second and lesser factor was the short time of service and then eventual resignation, of six (of seven) of the duly-elected board members from our March 2019 election. This lapse of continuity in leadership and fiduciary responsibility resulted in several large and unplanned expenditures including significant legal and accounting expenses.

The combination of these factors with the normal ongoing operating expenses (staff salaries, insurance policies, maintenance, office operations, etc.) of the LCA have led to a net loss of more than \$87,000 over a period of less than one year (April 2019- October 2019). This is, of course, not a sustainable financial path, nor does it “ensure the adequate and continued repair and maintenance of roads and streets and landscaping adjacent thereto and community facilities” as required in the by-law quoted above.

Some of these significantly increased expenses will hopefully again decrease to former levels. Legal fees and accounting costs fall in this category. Together they accounted for a combined expense of approximately \$37,000. The legal fees were mostly caused by a lawsuit brought against the LCA by an LCA member. This nuisance suit was “kicked down the road” by the 2018 and original 2019 elected boards. Legal fees ran up to over \$25,000. It was eventually settled by mediation by the current board for a final settlement of \$7,000 of which about \$5,000 was legal fees which likely could have been largely avoided if the former boards had acted quickly and prudently. The other expense was the increased accounting bill of over \$12,000 for a partial audit. This was requested by members in attendance at board meetings and warranted by the sudden resignation of most of the elected LCA board and executive committee.

On the other hand, in the near future several of these LCA maintenance and repair expenses will likely increase significantly. LCA spent approximately \$40,000 in 2018 to temporarily repair Moku and Kupono Streets. This allowed LCA residents

to return home after the Hawaii Civil Defense lifted their mandatory evacuation order. But the eventual permanent repairs needed to restore just these two streets are estimated to cost LCA in excess of \$100,000. This amount does not include other required street repairs to fix cracks and uneven pavement nor does it include the cost of returning the residents at the lower end of Kahukai Street and on Nohea Street to their still-isolated homes. These costs are yet to be determined but, will predictably be in the range of \$100,000 to \$130,000. In addition to road damage our LCA pavilion was damaged by sulphur dioxide emissions and the subsequent acid rains. A structural engineering firm was retained to do an assessment of the damage and estimated cost of repairs. They projected repairs to cost in excess of \$100,000. Other community center infrastructure damage to painted surfaces, signs and metal railings has been estimated at \$25,000 to \$35,000.

But, far and away, the biggest financial impact to our community is the loss of income. The dues and associated income sources (transfer fees, fines, liens, etc.) in the four years prior to the eruption averaged \$275,721 annually. This was from an average of the 2,046 lots who paid their dues. Approximately 700 lots were lost to lava. This is expected to result in a reduced annual LCA income of \$95,000 to \$100,000. This loss of income is not a one-time or even short-lived financial event. This loss of income may well last for decades - or longer.

To restore financial stability there will be efforts made to reduce operating expenses. Some savings could be realized. There are less roads to maintain and mow. There will be less ballots and bills to mail. But many expenses will remain virtually unchanged; insurance policies, vehicle and tractor maintenance and repairs, payroll taxes and government fees. Employees, even if at reduced hours, will still be needed, and our community center will still require maintenance and upkeep.

As to our depleted savings we, as a Board and as a community, are required by our by-laws to sufficiently restore "a reserve fund for emergency or extraordinary expenses."

As per Article XV ASSESSMENTS AND CHARGES Sections 1,2 & 3 of the LCA by-laws it is the fiduciary responsibility of your Board of Directors to wisely and prudently establish the annual dues. Section 1 of this Article states "assessments shall be fixed by the board of directors on a budgetary basis so that sufficient revenue shall be derived therefrom to enable the corporation to accomplish its general purposes and to enable it to maintain all areas within the subdivision."

When all of these factors and requirements are brought to bear it was decided that an increase of annual dues is required. And when reasonable and prudent predictive calculations are made, factoring in this large loss of income with significant increases in expenses, the required increase from the current \$110 annually was determined to be \$90 per year, raising the annual assessment to \$200 per lot. This will generate approximately an additional \$105,000 - \$120,000 annually (depending upon the number of lots making timely payments) and will likely restore LCA's future economic viability within a few years. Future LCA Boards can, of course, re-visit this decision annually to determine if any further adjustment - up or down - is warranted.

In the spirit of good governance and fiduciary responsibility the LCA Board agenda posted for the regular LCA Board meeting on November 14, 2019 listed this financial information and a potential dues increase as agenda items. The current and future financial situation was discussed by the board. A motion to raise LCA annual dues by \$90 was made and seconded. The motion passed with a unanimous vote of the board and will go into effect with the 2020 annual dues.

As many of you are aware, there is a section in the LCA by-laws by which the membership can veto this increase. It reads as follows:

"SECTION 4. Veto of Assessments. If at any time the board of directors either (a) increases the last prior regular annual assessment by more than ten per cent (10%) or (b) declares any special assessment, the members, by an affirmative vote of the members holding a majority of the votes of all the members of the corporation may veto such increase or special assessment at a special meeting duly called for that purpose. Unless such meeting is called within sixty (60) days of the notice of assessment, the assessment as declared by the board shall be effective as of the date originally announced."

As always, the Board of Directors serves the LCA community to the best of our abilities and seeks your input on all decisions regarding your Leilani Community Association.

Signed,

Leilani Community Association Board of Directors

Andy Andrews / President
Robert Golden / Vice President
Cheryl Kaupp / Treasurer
Alice Lindahl / Secretary
Patti Hatzistavrakis / Director
Darryl Singleton / Director
Valerie Bandmann / Director