

**Forest Lakes Community Association
Responses to Assessment Changes
December 22, 2005**

1. Why are the annual dues increasing so much?

When we purchased a home here five years ago the lower assessments were one of the selling points. Unfortunately, once the facilities were deeded over to the FLCA and a replacement reserve analysis was completed, we were faced with the dilemma of how to operate the Swim and Tennis facilities and how to pay for the additional assets turned over to the association. The Board reviewed the existing philosophy, which was to pass on as much of the costs as possible to only those who used the facilities. In review and discussion, it became evident that the FLST facilities were an asset to Forest Lakes homeowner and added to the overall value of every home. Consequently, the upkeep and maintenance should be everyone's responsibility.

The only cost that is "use" specific is the Pool Operations line item, which includes pool management, chemicals for the pool, lifeguard salaries and general housekeeping. This currently amounts to \$128,000 annually which breaks down to \$93 per year or \$7.61 per homeowner. Everything else in the budget are expenses that are for general upkeep and maintenance, which includes landscaping, maintenance of equipment and clubhouses, insurance and community management. Previously, these costs were only charged to the FLST members, which was unfair to its members. They alone were paying for the upkeep of facilities that INCREASED everyone's home value. I think we can all agree that if the FLST facilities were shut down, everyone's home value would decrease.

2. I thought there was a 10% cap on increases. How can you raise them so much?

Formerly, the dues were artificially low. Based on our governing documents and the opinions of two attorneys who were consulted, the maximum permissible assessment has increased every year. Until the Association became responsible for the facilities we now own, the Board set the actual annual assessment significantly below the maximum. In fact, at this point in time the assessments could have been higher, but were increased only to the amount needed to cover expenses. Attached is the calculation used to arrive at the current allowable increase.

3. Will our assessments go up next year?

The Board expects that they will not rise dramatically. We have included in the new Association fees approximately \$15 per homeowner per month, which was recommended by the company we used to determine our reserve requirements over the next 25 years. The reserves are the funds we will accumulate over time so that we are able to repair or replace Association facilities when necessary without specially assessing Association Members.

4. What are other homeowner's paying for comparable facilities?

The Board also did a comparison of other communities in the area and what the annual dues were in 2005. Below is a list of other communities and what they offer.

Walnut Hills	\$1,540.00	
Redfields	384.00	
Still Meadow	786.00	
Loftlands	786.00	
Dunlora	944.00	
Glenmore	530.00	*Swim and tennis additional
Fontana	552.00	
Ashcroft	665.00	
Western Ridge	1,560.00	
Foxchase	1,200.00	
Old Trail	516.00	*Swim and tennis additional

5. Will I still have to pay Forest Lakes Swim and Tennis dues?

Since everyone now owns the facilities everyone in the community has a right to enjoy the amenities. Homeowner assessments are all-inclusive. There are no separate Swim and Tennis dues.

The Board is looking at the possibility of refunding the initiation fee for those homeowners that paid the fee beginning September 2005 thru current.

6. Why do we have to have a community management agent? We never needed one before.

The Forest Lakes Development is a jewel in Charlottesville. We estimate that collectively the entire development is worth over \$200 Million. In the past, dedicated homeowners who struggled with balancing work and family responsibilities with community responsibilities have managed the community. Only a handful of homeowners step up and volunteer to serve on the Board. We have lost continuity of management, because every year the Board loses at least some of its members, which make it difficult to manage. Having Forest Lakes managed by a professional management association affords us the continuity of management, the vast resources behind the site manager in their Richmond Corporate Office and the advice and guidance so sorely needed in a community this large. Besides the on-site management, we currently are having all of our maintenance contracts reassessed; our insurance needs analyzed and put out to bid, and our waste management company level of service being monitored. They have also reviewed our current policies and procedures and are helping us to review what needs to be changed and/or modified to meet regulatory requirements. FLCA will still have an elected Board and that Board will work closely with Community Group.

By instituting a reserve cost as part of the FLCA annual dues, we should be able to address all future major projects with the reserve fund. The Community Group is helping us to control costs by evaluating all of our expenditures and looking for ways to reduce costs.

7. It has been argued that the Board is not authorized to raise the annual assessment by more than 10% per year.

C&R, Article V, Section 3, paragraph (o): *From and after January 1, 1990 the Maximum Regular Annual Assessment shall be automatically increased each year by an amount of ten percent (10%) per year over the previous year...* The wording is pretty clear - automatically, the *maximum* regular assessment is increased every year. It can even be automatically raised higher if the local CSI index is greater than 10%.

This is written into the C&R so that adequate authority exists to raise the assessment based on need and inflation *without* having to go to the homeowners for approval that could take months to vote on and potentially grind the association to a halt.

The second paragraph of Section 3 states: *If the Board of Directors shall levy less than the Maximum Regular Annual Assessment for any Assessment year and thereafter, during such Assessment year, determine that the important and essential functions of the Association cannot be funded by such lesser Assessment, the Board may, by majority vote, levy a Supplemental Assessment. In no event shall the sum of the initial and Supplemental Assessments for that year exceed the applicable Maximum Regular Annual Assessment.* This clarifies that the Board may increase a published assessment at any point in time as long as it does not exceed the Maximum Regular Annual Assessment. Note that Section 55-514 of the Property Owners Association Act also authorizes the Board to adopt a special assessment for common purposes, in addition to any assessments permitted by the governing documents. An assessment by the Board under 55-514 is subject to being modified or rescinded by the Members at a meeting held within sixty days of notice of the Board's adoption of the assessment.

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The only time that an assessment must be put forward to the homeowners for a vote is when the Maximum Regular Annual Assessment for that year is insufficient to cover the costs of the budget for that year. The 10% increase began in 1990 on a base assessment of \$150.00. The Maximum Regular Annual Assessment for the 20 years thereafter would be:

From C&R	\$ 150.00
1990	\$ 165.00
1991	\$ 181.50
1992	\$ 199.65
1993	\$ 219.62
1994	\$ 241.58
1995	\$ 265.73
1996	\$ 292.31
1997	\$ 321.54
1998	\$ 353.69
1999	\$ 389.06
2000	\$ 427.97
2001	\$ 470.76
2002	\$ 517.84
2003	\$ 569.62
2004	\$ 626.59
2005	\$ 689.25
2006	\$ 758.17
2007	\$ 833.99
2008	\$ 917.39
2009	\$ 1,009.12
2010	\$ 1,110.04

So the 2006 assessment could be \$758 and still be legal under the C&R's.

Our assessments only rose 52% over the last 15 years because new homes were built every year and generated new income. That extra income became our reserve fund. With our growth has stopped as the developer finished the current phases of Forest Lakes, new income must be borne by existing homeowners. Now that a Maintenance Reserve Study has been completed, we have the need to build up our reserve funds, especially now that FLCA owns the S&TC.

8. It has been stated that it is unfair to charge everyone now for what was a separate fee. The C&R in Article IV, Section 3 spell out that FLCA can and must accept all property that FLA deeds to it as Common or Restricted Common Property. As Common Property, all homeowners share ownership of this property and must maintain it. While the obvious painting, cleaning, landscaping, heating, etc. of these added facilities is part of our joint, new responsibilities; all homeowners have an interest in having an operational facility (water in the pools, lifeguards, tennis equipment, gym equipment, etc) since they will one day sell their home as a *Forest Lakes* home with these amenities.

While people can state that they moved here because they didn't have to join the club, it is doubtful that they moved here to avoid something. They moved here because of the homes and the common amenities of Forest Lakes. All homebuyers sign that they will comply the C&R's and other documents presented in the package. It is a long, complicated series of documents, but the

intent of these is to lay the foundation of a community and the protection of the property values in the community. It is a legally binding agreement and supercedes informal agreements between developer and homebuyer. To think that you purchase a home in a community like Forest Lakes and not want to abide by these documents is being shortsighted.

9. It has been stated that people don't want to pay for something that they are not going to use.

In a planned community like ours, "use" has broader implications. The value of a home in Forest Lakes relates primarily to the square footage, style, and condition of the residence, but it also relates to the common property of the community. One may never walk the trails, fish the lakes, take a child to a tot lot, swim in the pool, play tennis, work out in the gym, or have a party in the club house; but you will "use" all of that to augment the value of your home upon its sale. Up to this point, non-members have enjoyed free use of the value that these facilities bring to their property; it was paid by members and underwritten by the developer. Now, everyone must pay towards the value these facilities add to their homes; the part that is actually "used" by those who attend the pools or courts or gym is negligible - how much can a person wear off a tennis court surface playing tennis for an hour?

10. There have been arguments that homeowners in townhome and manor home neighborhoods are already paying additional fees and FLCA doesn't provide them any added benefit.

All neighborhoods and homeowners enjoy the same privileges accorded under the FLCA C&R's. The added assessments these neighborhoods pay cover some things that other residents pay individually, such as trash collection. But the added fees, depending on the neighborhood, also cover landscaping, snow removal, maintenance of townhome exteriors, and reserve funds for new roofs, re-paving, etc.

11. The terms "restricted income" and "aging residents" have been bantered about.

Many seniors use the gym and tennis courts. Age, of course, is not a measure of resources and none of our owners likely have unlimited resources or unlimited income. Another example is state employees that are on fixed incomes and wait 2+ years for a 3% increase in salary. In truth, we all live on a 'fixed income' and we choose to spend any disposable income differently.

12. What gives the right to the Board of Directors to raise our dues?

Virginia law guides the Association via the Property Owners Association Act the Association's governing documents, including the Articles of Incorporation, the Declaration of Restrictive Covenants and the Bylaws. The Association is a legal entity in the Commonwealth of Virginia and the Board has a duty to govern the association as a business in accordance with the Association documents and Virginia law.

13. Was the association obliged to take ownership of the recreational facilities and other buildings?

Yes, the Declaration, which is binding on the Association, the Board and the Members, obliges the Association to accept ownership of and responsibility for these facilities and buildings.

14. Could the association turn down taking the recreational facilities and other buildings?

No, the developer deeded these areas to the association pursuant to the Article IV Section 3 (b) of the Declaration:

The Association shall not refuse conveyance to it of any Common Area or Restricted Common Area and shall not refuse the designation of any parcel of land or any improvements thereon as Intended Common Area or Intended Restricted Common Area....

15. Did the Board check with an attorney?

Yes, they received legal opinions from two experienced attorneys.

16. Can the association raise the assessments to the new amount?

Yes. Legal counsel advised that the 2006 assessment could be as high as \$758; however, the Board increased the new budget to be reflective of projected operating costs.

17. Why weren't there such increases earlier?

The association did not own most of the additional facilities. When the facilities were deeded to the association in 2004, the Board was required by the Virginia Property Owners Act to have a long-range replacement reserve study completed. It was determined that the association needed to set aside funds for the future maintenance, repair and replacement of the facilities.

18. What facilities were deeded?

The tennis courts, two adult pools, two baby pools, the sales center, the fitness center, the clubhouse adjoining the pool, and all their components.

19. Can we bulldoze the facilities?

Yes, but it would require a vast majority approval of the ownership. The association is charged with the upkeep of the amenities of the association.

20. Can we sell the amenities?

Yes, but it would require a vast majority approval of the ownership.

21. Can you make special exceptions for seniors?

Unfortunately, no. All homes own an undivided interest in the common area and are equally responsible for the upkeep.

22. There are only two people in our home. Can we get a discount?

Unfortunately, no. According to the Declaration, all homes own an undivided interest in the common area and are equally responsible for the upkeep.

23. Can the assessments be based on the appraised value of each home?

Unfortunately, no. According to the Declaration, all homes own an undivided interest in the common area and are equally responsible for the upkeep.

24. Can we pay for what we use?

Unfortunately, no. According to the Declaration, all homes own an undivided interest in the common area and are equally responsible for the upkeep. Some may use the paths, the pools or tennis courts, and some may use the fitness center. Purchasing in the community gives everyone access to all the amenities.

25. It appears that the Townhomes are billed twice.

The umbrella association (Forest Lakes Community Association) is only responsible for the common areas of Forest Lakes and not for the individual townhome associations. The assessments that the townhome association owners pay to their individual associations pay for the upkeep of the exteriors of their homes, trash removal, landscaping on their lots, etc. Single-family homeowners in the community are paying the expenses as individuals for the upkeep of their homes.

26. Can we sell outside memberships?

No. The common areas are limited to use by members of the association as outlined in our declaration.

27. Can we have a separate fee for use of the Swim and Tennis Club and restrict access?

The Declaration authorizes the Board to establish admission charges for the use of Common Areas and facilities. Consequently, the Board could charge a separate fee for the use of the Swim and Tennis Club and restrict access only to those who pay the usage charge. Of course, if that charge is imposed at a level to pay for all future repair and replacement costs, as well as current operating costs, it may be set too high to attract many owners who are willing to make use of the facilities. In that event, the Association would have insufficient funds to operate, repair, maintain and replace the facilities and would have to raise the regular assessments in order to pay the shortfall. So, some balance would be necessary in determine what would be an appropriate use charge.