

## Spyglass Point Q&A

Q: I was reading the bylaws and it says that the Board can't raise the assessments more than 115% (over the previous year). Is this correct?

A: Chapter 718 of the Florida Statutes, the Florida Condominium Act, does not limit the ability of the association to adopt a budget that exceeds 115% of the assessments from the preceding budget year. However, to do so, the Board must duly notice the meeting and send notice to the owners, which the Board has done in full compliance of the statute.

Q: Raising the COA fees 200% is ridiculous!

A: It is extremely unfortunate, however, the necessity of the current Board to raise the dues beyond the 115% threshold is the direct result of ill-guided planning and performance of previous Boards to perform their fiduciary duty to care for and anticipate the maintenance and upkeep of the community in an appropriate manner. We encourage all of our unit owners to please read the Engineer Study and Reserve Survey documents on Etheridge's website ([www.epmfl.net](http://www.epmfl.net))

Q: Why is the increase so much!? It can't possibly cost \$600 a month from each of us to cover these expenses!?

If you reference pages 7 and 8 of the Reserve Survey, you can see that, due to the way our community covenants are written, the association is responsible for a significant share of the community's repair and replacement on the common areas and condominium buildings. These items must be budgeted for appropriately – if the board were to maintain the monthly assessed dues as they are today (\$215), the community would be unable to pay for the repair and replacement of any of these items in the immediate or long term – leaving the community in a perpetual state of crisis and disrepair.

The Reserve budget covers reserve items as "future expenses." Reserves, being future expenses, can only be anticipated by the association as part of a Reserve Survey, which we have done and worked into the budget accordingly. The Reserve Survey can be best described as a "cost roadmap" for the repair, replacement, maintenance and upkeep expenses expected for the community, and to ignore this would put the community at risk of further deterioration. Indeed, significant deferred maintenance is, and has been, an ongoing and ever-present issue for Spyglass – which will only continue to worsen if the funds are not available to address these issues in a timely manner. The Reserve Survey, in concert with the deferred maintenance issues, has resulted in the monthly assessment increase.

Q: We are not like Portofino on Pensacola Beach; this increase is going to hurt a lot of people!

A: We whole heartedly sympathize with the difficulty of this situation on our community. It is truly unfortunate; however, the Board must place the needs of the Community first. We would be remiss if we did nothing, which could result in greater harm to life and property in Spyglass Point. While we are not a large, multi-story Condominium complex like that of Portofino, the collapse of Seaside in South Florida has served as a call to all condominiums in the state to take repair and replacement of reserve items much more seriously. The Seaside board of directors was faced with similar reserve funding issues and the community and board failed to act. Their failure resulted in the unfortunate compromise of their building and the eventual, but avoidable, collapse of the condominium building and loss of life.

As a result of the Seaside collapse, the regulatory and legal landscape is changing, and we have been informed by the attorney that Board's and Condominium communities across Florida will soon be *required* to maintain reserves for structural items (i.e. Communities no longer get to ignore them in an effort to avoid the expenses to maintain/replace these critical items) all but ensuring increased costs to come.

This board is working hard to get ahead of these requirements before they're fully enacted for communities of our size that we know are pending. We fully acknowledge that this is indeed painful for everyone, but we will be ensuring that Spyglass Point continues to be a safe place to live for the foreseeable future with reserves secured and ready to support the Community as a whole.

Q: Did the Board come up with this budget?

A: The proposed budget was created in full consideration of the feedback of our attorney, and was informed by the Reserve and Engineers reports and our regulatory-required fiduciary responsibility to the safety and security of our Community. The board did not make its decision lightly, and now that the Board and the Community have documented, material information which has significant impacts and implications for the continued safety of our Community, the Board has no discretion at this time to continue to defer the maintenance and reserve requirements and ignore these issues. To do so would be a breach of our legally prescribed fiduciary duty to the Community. We would also be placing the safety of our Community of owners at risk of significant safety and quality of life concerns if we ignored these issues.

Q: Don't unit owners get to vote on the budget?

A: As owners ourselves we understand your concerns, however there is no owner vote required for the passing of the Board's proposed budget, this is done regularly as a normal course of business for the association and is voted on by the board.

Q: How do I have a greater say in the budget?

A: The Board of Directors is an all-volunteer organization of elected owners who serve the community, if you would like to serve on the board and have a greater say over the annual budget, we encourage you to submit your candidacy for the board before the annual meeting on November 17th, 2023. You can serve as a “member” or as an “officer” (i.e. President, Vice President, Treasurer, or Secretary).

Q: Why did we get to vote on the Special Assessment?

A: Special Assessments, as in the case of the Insurance Shortfall Assessment, require a majority approval of the unit owners – the Board can only Special Assess unit owners without approval in the event of a casualty loss (example: Hurricane damage). Florida statute requires the board to fully fund the reserves, as such the Board cannot leave these items to the discretion of unit owner approval.

Q: Is it possible to do a special assessment in place of high monthly COA fees?

A: The Board is limited on its Special Assessment authority for reserve items in that anything accounted for in reserves is considered a "future expense." The Board cannot Special Assess unit owners for monies needed *in the future*. Special Assessments are only used for money needed "now." Reserves, being future expenses, can only be anticipated by the association as part of a Reserve Survey, which we have done and worked into the budget accordingly – this has resulted in the monthly assessment increase. The Reserve Survey can be best described as a "cost roadmap" for the repair, replacement, maintenance and upkeep expenses expected for the community, and to ignore this would be a breach of our legally prescribed fiduciary duty to the Community and we would be placing our Community of owners at risk of significant safety and quality of life concerns if we, like the elected Boards before us, chose to ignore and failed to act to support Spyglass Point.

Q: Can't the board “Special Assess” for the upcoming reserve items marked for repair/replacement in the coming year (2023) and reduce the monthly fees – aren't those “now” expenses?

A: Unfortunately, no. Florida statute requires the board to fully fund the reserves. Since reserve items are “future expenses” and none of these items are of in need of immediate “emergency” repair or the result of casualty loss, the Board has no discretion to Special Assess the owners for these items. They must be accounted for and apportioned appropriately in the annual budget – to our knowledge, a Reserve Survey has never been completed for Spyglass Point and therefore could not have anticipated the coming reserve costs. The 2022 Reserve Survey is what has informed the current board’s increase in the monthly assessments.

This is precisely why, given the above reference to Seaside, that the Board must make these tough decisions in order to fully fund this community's reserve accounts and ensure we have the funds available for the repair and replacement of the reserve items necessary to keep the community safe and maintain quality of life for all the owners. We are sure you can understand that, if left up to a vote of the ownership, the interest and security of our 120 unit owners in the property would be at severe risk of being compromised if left up to an owner vote. The board has a legal and fiduciary duty to uphold the safety and security of the community now, and in the future. We sympathize deeply with this situation; however, integrity calls us to do the right thing, and not the easy thing.