

## March 2014 Newsletter

Dear Middle Island Property Owners:

The purpose of this email is to provide an update as to the status of negotiations with Young Realty / Middle Island Plantation LLC.

We have come a long way but still have a number of issues. As you recall from prior correspondence and proposals, we have had available to us free of charge a professional engineer who is a Board Member and who has done estimates for us of what it would take to get certain assets in good shape for turnover and to establish an appropriate reserve for other partially depreciated assets. For several of the key amenities (the road rebuilding, the dock replacements, and the entrance gate), we also have a bid from a competent, qualified contractor. Our estimate is \$720,362, approximately \$176,000 more than Young Realty's current offer of \$544,000.

There are also some other issues that need satisfactory agreement. The notable ones are as follows;

### Racquet and Swim Club and Parking for Beach Access

Swimming pools often pose challenges for homeowners' associations, and MIPOA is no exception. Pools have high operating costs, since they require daily inspection and maintenance, and recurring expenditures for major repairs of pool surfacing, decks, equipment, and furniture. There were differing opinions among property owners surveyed by the Board and among members of the Board regarding whether the Association should assume the responsibility of operating the RSC and, if it did, how its operating expenses and reserves could be equitably funded. These discussions were made moot by Young Realty's decision to remove the Racquet and Swim Club from consideration. Young Realty has suggested that it would join the property to the adjacent building lot and offer the joined property for sale. As a courtesy they have also offered to offer it for sale to Middle Island Property Owners before combining it with the adjacent lot for sale. Your Board believes that if the RSC is not transferred to the Association, the final agreement with Young Realty must include a commitment that the parcel will not be commercialized and that, if it were to remain a Racquet and Swim Club, the membership would have to be predominantly Middle Island property owners. What ever the final agreement about the RSC, the parking areas south and west of the RSC would be transferred to the Association to provide additional parking for the beach access.

### Indemnification

Young Realty's most recent proposal requires the Middle Island Property Owners Association to indemnify them from any actions by individual property owners. The Board cannot agree to this broad indemnification regarding all the developer's prior acts, but if the transferred assets are in a state of good repair or (preferably) are accompanied by the funding necessary for the Association to bring them to a state of good repair, the Association Board will explore appropriate wording providing the developer with assurance that the Association will assume all responsibility for bringing the transferred assets to a state of good repair and maintaining them appropriately in the future.

### Reserved Area #4 at the end of Lands End

Because the docks at the Marina property are in an "open shellfish area", they are limited to a maximum of 10 slips. We believe this will not be sufficient when Middle Island approaches build out. Twenty of the current 37 homeowners have expressed interest at some point in having a power boat and most owners

have a canoe or kayak. For more than 10 years, Young Realty has identified Reserve Area #4 as the appropriate site for a future additional deep water dock (see, for example, the attached initialed plat, indicating that the Reserve Area is to go to the Association.)

Young Realty is now not including the parcel in the assets to be transferred, believing it would reduce the value of lot 1200, which has not yet been sold. Your Board believes that an additional dock at that location could be a valuable amenity both for the owner of lot 1200 (who would have what would amount to a semi-private dock nearby) and for the other eventual purchasers of the far western lots. But more importantly, we believe that the Reserve Parcel will be vital to the Middle Island community in the future, since it is the only site for an additional deep water dock to serve the community.

#### Lease for Boat House at Marina.

Young Realty has requested to be able to retain the use of the Boat House at the Marina via a leaseback for nominal rent. While the Board has no objection to their retaining use of the Boat House, the amount of rent, terms of lease, insurance, maintenance indemnification, and other lease terms have not been negotiated.

#### Next steps

In order to resolve these remaining issues and to determine the appropriate level of funding to accompany the transferred assets, the Association has proposed - and Young Realty has accepted - mediation. We have identified a mediator and retained highly experienced counsel to assist the MIPOA Board in the mediation and any subsequent document preparation. The mediation session will take place on April 15. If the mediation successfully resolves the remaining issues, the agreement will be put in writing at the end of the mediation, and we will begin drafting a revision of the Middle Island covenants to adopt the Planned Community Act and to establish a dues structure to maintain the roads, docks, beach access, and other amenities that are so essential to our enjoyment of the land and to the value of our properties.

The agreement and the revised covenants would then require the approval of the owners of at least 67% of the lots on Middle Island. The agreement would also need to be formally ratified by the Boards of the Young entities that currently own the roads and other assets of the development. We would plan to present the proposed agreement, the revised covenants, and an initial budget and dues proposal for discussion by the property owners, both at meetings on the Island as well as emails and posting to our website.

We are hopeful we will reach an Agreement that all Board members and Young Realty can strongly recommend to the Property Owners, and that the Property Owners will endorse.

We will keep you advised. In the interim, please feel free to contact any and all board members at any time.

Board of Directors

Middle Island Property Owners Association