

Jerry D. Dunn, ARM
716 Elmhurst Circle
Sacramento, Ca. 95825

July 25, 2024

To: Nepenthe HOA Board

Re: Board's July 2024 Response regarding Flood Insurance

Last month I sent you a letter requesting **HOA Flood Insurance be put on a ballot to be voted on by the homeowners**. Valid financial reasons for doing so were provided.

Your response did not mention the request for a vote. Instead, it was evasive and filled with false statements. You said it would be a breach of the board's fiduciary responsibility and that you would be negligent. **You intentionally included "fire and storm" with flood which was misleading.**

Fire and storm are required, but Neither Davis-Sterling nor Nepenthe's CC&R's require flood insurance for the buildings occupied by homeowners. CC&R's only mentions flood insurance for Personal Property in common areas like the clubhouse and cabana, **but you knew that.**

I also reviewed the November 17, 2023 response you referenced.

You did state the Association would need to carry flood insurance for the clubhouse and cabana, but that is not a huge expense. You intentionally omitted the fact that flood insurance is not required for buildings occupied by homeowners, **again misleading Nepenthe residents.**

Your options for resolution were false too.

1. There is no law requiring proof of flood or HO-6 insurance coverage be provided by homeowners to HOA's. **You fabricated that requirement.**
2. You stated there would be an expense and need to change the CC&R's **which is not true** since flood insurance in the CC&Rs **is shown as optional, if affordable. - Sec 10.1 (c)**
3. Additional reserve funding **would not be required** either since it's not required by law.

All were misleading false statements with intent to confuse and dismiss.

Your responses are constantly filled with untruths, false narratives and frightening scenarios of no merit. Your deceptive ways of responding and doing as you wish has been a common theme and have cost Nepenthe residents millions of dollars in unnecessary expenses.

I'm not saying flood insurance is not important. I'm just saying it should be decided on by a majority vote of homeowners, not just a few board members.

Let the homeowners decide and put it to a vote.

Jerry D. Dunn, ARM

2 attachments

Subject: Commend Finance Chair; Cash Flow

Board Response: Thank you for your comments.

CORRESPONDENCE

1. Steve and Robert Dunn, homeowners: They have a sign on their back gate directing delivery people to drop packages over the fence. They have received a violation notice and would like the Board to develop guidelines for homeowner signage to address the problem of potential package theft.

Subjects: Homeowner Signage Directing Package Delivery

Board Response: We appreciate your concern; the Board will review the situation and the current signage rules.

2. Jerry Dunn, homeowner: Requests Board review of the flood insurance coverage currently carried by the Association as there is little flood risk and homeowners can possibly purchase insurance at a lower cost.

Subjects: Flood Insurance

I ASKED THAT IT BE PUT TO A VOTE.

Board Response: Nepenthe CC&Rs require that the Association maintain the siding, roofs, and fences of community units. As the Board is charged to preserve, protect and maintain these assets, the Board would be negligent if it did not insure against potential losses, whether for fire, storm or flood. Not covering those risks would breach the Board's fiduciary responsibility. Please see the November 2023 Response to Homeowners included in the December 2023 Open Board Meeting packet for more discussion of the flood insurance issue: <https://nepenthehoa.com/wp-content/uploads/2023/12/Nepenthe-2023-12-06-Open-Session-Packet.pdf>, beginning page 74, and attached to the December 2023 Nepenthe Newsletter.

*FALSE
"OPINION"
ONLY*

*FLOOD INSURANCE IS AN OPTION ONLY
"NOT REQUIRED BY DAVIS-STERLING"*

3. Ashley Tangeraas, homeowner: Believes approving proposals in Executive session by this Board is incorrect and that prior to this Board, approvals were done in Open session.

Subjects: Approval of proposals

Board Response: Upon advice of legal counsel, approval of proposals fall within the scope of Executive meetings. It is incorrect that all prior Boards have approved proposals in open meetings. One Board, 2021-2023, did do that, choosing to ignore legal advice. Vendor proposals are binding agreements for work and payment, thus contractual. This Board will continue to rely upon the advice of legal and financial experts with experience in HOA law and finances.

RESPONSES TO NOVEMBER 2023 OPEN MEETING COMMENTS and CORRESPONDENCE

If individual owners have the option to carry flood insurance rather than have universal coverage, there is risk that not all owners will carry the insurance. To indemnify Nepenthe and protect our reserves in case of loss, each policy would need to show Nepenthe as the loss payee for exterior repairs. In the event there is loss without insurance, the Association would be forced into legal action against any owner who could not pay the costs of the exterior repair. Under this model, homeowners that did carry insurance but did not show Nepenthe as loss payee or those who chose to self-insure would still need to comply with CC&R regulations and community standards in the repairs. The Association would need to carry flood insurance for the clubhouse and cabanas and those cost would be passed to the homeowners as part of operating expenses. Alternatively, the Association might self-insure by significantly increasing reserves. *(THIS IS MINIMAL AMOUNT OF EXPENSE)*

There are options, but the costs, when compared to continuing with universal coverage (what we currently have and will continue to have through at least 2024) are significant.

OPTIONS:

1. Maintain universal NFIP insurance *- OVER PRICED / POOR COVERAGE*
2. The Association becomes self-insuring. This would require creating a new Reserve line item and increasing monthly dues to reach a to-be-defined amount within a to-be-defined time frame. After the amount is achieved, monthly dues could be reduced. Or, there could be a special assessment to raise the funds. During the fund-raising period, universal insurance would be maintained but canceled once self-insured goals are attained.
3. By official ballot in compliance with CC&Rs and requiring a voting quorum (legal, filing and election processing fees would be incurred), change the CC&Rs to require that each homeowner purchase and annually show evidence to the Association proof of a valid flood insurance policy. The Association would be liable for the clubhouse and cabanas and might choose to purchase insurance for those properties, costs of which would be part of operating expense in computing dues.
4. By official ballot in compliance with CC&Rs and requiring a voting quorum (legal, filing and election processing fees would be incurred), change the CC&Rs to eliminate coverage of the exteriors and fencing on Nepenthe structures. This would significantly reduce monthly dues. However, full responsibility would fall to the homeowners to comply with needed maintenance and repairs in compliance with community standards. The Association would be liable for the clubhouse and cabanas and might choose to purchase insurance for those properties, costs of which would be part of operating expense in computing dues.

FALSE STATEMENT

FAKE STATEMENT

FALSE STATEMENTS