



Owners Update - February 9, 2024

AFTER NEARLY A DECADE OF INTIMIDATION, APCOA WINS LEGAL BATTLE

Background

The 67 units that make up Anchor's Point condominiums (whose association is Anchor's Point Condominium Owners Association Inc. (APCOA)) were built in the early 1990s as part of a resort development called Kimberling Inn. As a part of the resort, APCOA owners had access to resort amenities including three swimming pools, a tennis court, and exercise room.

Because the APCOA condos, the timeshare units, and the hotel (since destroyed) were built together, they shared common "infrastructure," primarily a water well, water distribution system, roadways, and grounds (the open areas around the buildings that require mowing and maintenance). Legally, each entity (timeshare, hotel, and condominium) must share the expenses of maintaining the "infrastructure."

In 2014 the Kimberling Inn developer sold the entire resort (less the 67 units that are owned outright by APCOA owners) to several companies, all of which were controlled by Jay Steed. The resort was renamed Table Rock Resort (TRR). Upon taking ownership, Steed took away all resort amenities from APCOA condominium owners.

The APCOA Board at that time met with Steed to ensure good future working relationships; however, Steed insisted that he could charge APCOA whatever he pleased for "infrastructure." Over the next several years, as subsequent APCOA Boards tried tirelessly to find a negotiated and fair-for-all settlement, Steed continually threatened to shut off water supply to our condos and to block access on the roadways, claiming APCOA owners had no easement allowing them to travel across TRR land to access our condos. This was demonstrated last summer when TRR allowed one of its tenants to block Anchor's Point Lane so that APCOA owners could not get to their units.

Trying to deal with the volatile Mr. Steed was incredibly frustrating and Board members suffered many sleepless nights trying to find solutions so as to protect APCOA owners' investment in their units. The Board proposed many settlement agreements, some of which Steed would agree to, then renege on later. Other proposals he would ignore but continue to threaten.

Six years ago the Board filed a lawsuit against Steed's companies, asking the court to determine how much APCOA should pay for services. APCOA's position was APCOA should pay its share of costs, while TRR's position was that TRR could charge whatever it pleased.

Since 2014 TRR has invoiced APCOA exorbitant amounts for infrastructure, but APCOA has paid an amount the Board believed was appropriate for its share of cost. TRR sued APCOA for the difference, which was over \$300,000.

Because of the ongoing threats to shut off our water, APCOA owners in 2021 voted to drill our own well and install our own water system. That meant APCOA owners' investment in their condos was secure from the threat of having water shut off, but an additional benefit has been great water. Owners who had units prior to the startup of our own water system can recall how incredibly nasty and smelly the TRR water was.

The Case Goes to Court

After years of expensive legal wrangling, our case was heard in court on August 8 and 9 of 2023 and the judgement was rendered in December and subsequently updated and finalized this week.

The judge's decision is a total vindication of the APCOA Board's position. We Won!

- **Road Easement:** TRR claimed that APCOA owners and guests had no legal right to use Anchor's Point Lane and that TRR could charge for access. In its judgement, the court awarded APCOA an Implied Easement and alternately an Easement of Necessity. This means that Anchor's Point owners will never again need to be concerned about accessing their unit(s) via Anchors Point Lane. This easement will be filed in Stone County and will remain in effect regardless of who owns the complex around Anchor's Point.
- **Water Easement and Price:** Because APCOA built its own state-of-the-art water system in the Spring of 2021, having our own water supply eliminated the need for a Water Easement. However, having our own water system provided valuable information as to the cost of operating and supplying water to Anchor's Point units. Our water-related costs proved to be somewhat less than the \$15.00 for water and \$5.00 for water system reserves per unit per month (\$1,340.00 per month) that APCOA paid TRR for water all along. That proved to the judge that APCOA has been paying our fair share of water. In his judgement, he said what APCOA has been paying all along "was very likely an overpayment of costs when compared with its own cost of water."
- **TRR's Claim for Unpaid Invoices:** With respect to the \$300,000 TRR claimed that the association owed, the court found the following:
 - **Water Usage:** The Court found that the monies that the APCOA paid to TRR for Water and Reserves were fair and reasonable and that no monies were owed to TRR.

- **Road Reserve:** The Court found that monies APCOA paid to TRR for road maintenance have not been used and will be set in a Trust for Anchor's Point COA future road expense and the APCOA will no longer pay a Road Reserve to TRR or any future owner. The balance of the APCOA Road Reserve payments and the amount established in the APCOA Road Trust is \$35,395.24.
- **Grounds Maintenance:** The Court found that since the association took over these responsibilities and at no time did TRR performed any Grounds services, no Grounds monies were owed.

Summary

Board feels that this judgment is a complete vindication of APCOA's long held position. The TRR claim that the association owed over \$300,000 to them was entirely rejected. The judge determined that all of our payments were fair and reasonable and that the unused portion of our Road Reserve payments has been preserved in an APCOA Road Trust for future road projects.

This Board and all the members who served on previous Boards have fought this battle legally under the duress of continual threats of road closures and water shut-offs, while enduring volatile temper tantrums and legal chicanery.

This judgment is a total victory for the Anchor's Point owners past and present who have supported this fight emotionally and financially.

The Board is very appreciative of all owners' support, cooperation, and encouragement throughout the years.

Your APCOA Board

Jim Heimann
Joe Golding
Ray Loehr

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