

Read by Rick Hovey during 10/14/14 SSSF HOA Annual Mtg.

Rick -

I understand the pressure you feel. I experienced some of that as I was advising your master association and had to respond to emotional arguments, often not constrained by the facts. The facts, and my opinions and advice were twisted and taken out of context then as they have been here.

I do not believe ANY further investigation into the history of the underdrains is warranted. An exhaustive amount of research has already been done by our office and by people in your subdivision. We have traced the history through the documents and have learned that the drains were required by the County, that a private bond was posted to secure their installation, that the bond was released and that the responsibility for the drains was expressly assumed by (or left to) the HOA. We know that the County will not accept current responsibility for them. That is where we are. It doesn't matter at this time who signed the agreements that were recorded or what their authority was at the time they were signed. I cannot recommend that you spend your limited funds on legal action against the County or the original developers. You would be wasting money that might be better spent on evaluation and solution. None of the documents or arguments about them will change the facts that the drain system is in place in your community, that it is only partially mapped, and that it is only partially, if at all, functioning. As a practical matter, it is your HOA's problem either to deal with or ignore.

You can spend time and money in further documentary research but, in my informed opinion, you are not likely to learn anything more that is material to the decision the HOA needs to make: Knowing of the drain system do you choose to ignore it and let it be, hoping no basements or crawlspaces will be flooded and that no one will sue you and claim you could have prevented it, or do you embark on a course of investigation to obtain an assessment of the system in its current condition and professional recommendations relating to your risks and options. I think the latter option is the only prudent one for your board to make. No one is recommending that streets and back yards be dug up at this time, only that the HOA obtain more knowledge so decisions can be made on the basis of fact and professional advice rather than emotion. The professional recommendation may ultimately be to do nothing or may be to make only targeted repairs. Those decisions do not need to be made now. In time, each decision will have to be made by your board, not by a lawyer or an engineer or a vigilante. My advice to you is that your decisions will be better and more reasonably made on the basis of a professional, retired engineer's evaluation and recommendation. That is the legal and practical basis for the recommendation I have made.

presented to the homeowners for their VOTE!
Barnes has had a number of personal conferences with Bill Noland. Differing viewpoints have been hard-pressed to receive any consideration.

Despite all the ranting and possibly defamatory references in the attached email, this is a simple, binary decision at this point: do you ignore a known problem and assume risks you have decided not to assess, or do you take reasonable steps at a pace you can afford to obtain information from the engineers that will allow you to assess those risks and evaluate options to address them? In my opinion, investigation is the prudent course of action, the one most in keeping with your board's fiduciary obligations to all of its members.

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Forgets the Board receives its authority from the Homeowners. Homeowners should be given a voted choice on this potentially serious invasion of private property and at great cost to each of them.

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