

September 27, 2018

HOW TO OPT OUT OF OUR HOA

We want to be rid of our HOA that drives us batty with its rules, spends our dues money on unsanctioned underdrains, doesn't allow us to nominate or elect preferred candidates for the board, is secretive and unavailable, unfairly applies rules, is behind the drafting of the SSSF specious governing documents that seek to remove Homeowner rights for the benefit of the trustees, does not uphold their Bylaws, and does very little to nothing to improve our neighborhood. **The HOA founders provided a way to cease the HOA when the HOA ceased to properly serve the homeowners.**

SILVER SPRINGS SINGLE FAMILY HOMEOWNERS
NPO CORPORATION ARTICLES OF INCORPORATION

(1979) ARTICLE X—**Dissolution of the Corporation** – Upon the dissolution of the corporation, the Board of Trustees, after paying or making provision for the payment of all liabilities of the corporation, shall dispose of all the assets of the corporation in accordance with the laws of the State of Utah, and the appropriate provisions of the Internal Revenue Code of 1954, as amended. [SSSFHOA holds no assets to dispose of, no sanctioned liabilities.]

(2008) ARTICLE II
DURATION OF CORPORATION

The corporation shall have perpetual existence unless dissolved or terminated according to law, and according to the desires and requirements of the **51%** majority vote of the Silver Springs Single Family Homeowners.

(2010) UTAH LAW
at: le.utah.gov Title 16 Chapter 6A Part 14 DISSOLUTION

(5) The proposal to dissolve shall be approved by the votes required by Sections 16-6a-714 and 16-6a-715 by every voting group entitled to vote on the proposal to dissolve unless a greater vote is required by: (a) this chapter; (b) the articles of incorporation (**51%**);

16-6a-1402 Dissolution by directors and members.

2 (c) the members entitled to vote on the proposal to dissolve shall approve the proposal to dissolve as provided in Subsection (5)

Document continues for 12 pages.

We can dissolve our association by a majority of 51% or 96votes. We live in a single family home community with 188 residential lots, no big-ticket, high-maintenance amenities like a pool, clubhouse, etc. All our common use

amenities (the lakes, park and one tennis court) are owned by the Silver Springs Master Association for the benefit of the 513 Silver Springs Community Owners. Our annual \$175 (until amount is decreased) fee to the Master Association can be directly conveyed or mailed to the Master Association by the individual SSSF Homeowners or property management contractor.

Be aware that the board is not going to provide ballots they are going to provide proxies. See [The Difference Between a Ballot and a Proxy](#) on another email.

THE TRANSFER OF YOUR CHOICES BY PROXY TO THE BOARD WILL BE USED TO PASS THE SPECIOUS AND LITIGIOUS DRAFT CCRS WITH THEIR FOCUS ON THE UNDERDRAINS. DO NOT EVER GIVE UP YOUR RIGHTS TO CHOOSE OUR NEIGHBORHOOD'S FUTURE TO THE BOARD OR ANY PERSON SEEKING TO UNDERMINE OWNER AUTHORITY. WE HAVE BEEN DEMANDING THAT FULL BALLOTS BE PROVIDED TO OWNERS FOR ALL FUTURE ELECTIONS. NO MORE BLANKET PROXIES.

A proxy, is known as a "blank check". A proxy allows a Member's vote to be cast if the Member cannot attend the meeting in person in order to facilitate a quorum, however, the Members personal choices are not represented with the proxies of the past. The choices of the board are what are counted. That is a wholesale give away of Owners rights and choices.

Here's how easily we can go about being rid of the HOA and its board:

1. Read the Rules

The SSSF governing documents cover the dissolution process. If you want to see all the documents recorded for our subdivision [you can click to find the list HERE](#).

The board has been trying to pass specious documents written by Morris & Sperry since around 2015 to early 2017. [You can see and read them by clicking HERE](#). The Homeowners have rejected the acceptance of these documents. The current unsuccessful board then hired Richards Law to rehash the Morris &

Sperry 2017 specious documents which are to be presented to us on October 2, 2018. [You can view those by clicking HERE.](#)

For the same reasons we did not accept their documents in 2017, we will not accept them in 2018. There are even more reasons to reject them this year, we will continue to discuss the reasons via emails and get-togethers. We shall not accept the yoke domination and lost property rights, etc. detailed in the Richards Law rehash of the HOA governing documents. Without the over-reaching declaratory Covenants, Conditions & Restrictions there are no rules for the HOA to enforce.

2. Check Your State Law

[Utah laws support termination of homeowners associations](#) (see box above) It can also extinguish an HOA's covenants if the homeowners association doesn't renew itself by recording the proper paperwork in the public records every 30 years (1985 to 2018), says Donna Berger, executive director of the Community Association Network, a lobbying group representing homeowners associations. If the homeowners association then doesn't pay its annual corporate fee to the state, some states will administratively dissolve the HOA. Some trustees, without conferring with the Homeowners, in January 2017 made our SSSFHOA the DBA of the developers' expired 1979 HOA by claiming they owned the Developers HOA, for what appear to be disingenuous reasons. To create the chain of authority from the Developers 1982 CCRs and to transfer the responsibility for the underdrains to the SSSF Homeowners. Without the sanction or support of Owners the HOA renewal of NPO status will be nullified.

3. We Need to Seek Out Every Homeowner Who Wants to Be Rid of our HOA

It takes a village to get rid of an association, a "yes to dissolution" vote from 51% of the homeowners before the next month's annual meeting. The Richards Law draft calls for 90% if the homeowners, the board is continually tweaking the rules to the disadvantage of the homeowners. If a homeowner doesn't participate in

the voting, that often will count as a no, not a yes for dissolution.

Florida is the state with the largest number of residents living in community associations, at approximately 14% of the U.S. total. That infers that other states have fewer than 14% of its residents living in community homeowners associations, and even fewer in single family home associations. (Source: Community Associations Institute National and State Review.) Proof that not accepting an Association is not unusual; actually a homeowners association has proven to be a disadvantage to home sales since many buyers are opposed to the constrictive HOA organization, board, rules, and fees. See [HOA posts on the Facebook page](#).

4. Determine What to do with Association Property

In a homeowners association, you own your home and lot and you'll still own them after we get rid of our HOA. Our homeowners association does NOT own any common area space, playgrounds, pools, tennis courts, roads, or walking paths. The amenities we have use of all belong to the Master Association.

The [Utah HOA Law blog](#) 2018 Legislative Session states it is a false notion that reserve analysis law, federal or state, requires an association to hold a reserve fund. In fact, the law specifically requires an association to provide an opportunity for homeowners to vote on whether to fund a reserve fund or not. This vote has not occurred in Silver Springs.

Associations are required to keep all of the association's funds in an account in the name of the association, and an association may NOT commingle the association's funds with the reserve funds, if accepted by owner votes, or the funds of any other person or entity. Reported in the 2018 SSSF Budget, the board has collected over \$10,000 for the unsanctioned underdrain reserves. Seems like homeowners are due a refund. The Master Association holds over \$35,000 in reserve...

5. An Alternative to Getting Rid of Your HOA ... STOP PAYING DUES

At the upcoming October 2018 Annual Meeting the HOA membership can vote to reduce the dues to zero and remove the couple of trustees that have created the majority of the problems. As united neighbors we can seek to elect to the board only folks who support dissolution of the HOA. The community association still exists, but it no longer collects dues or has a board. Therefore, a board cannot hire an attorney to fight the Homeowners. The dues we do not pay to the Association board can be held in a trust account to pay for an attorney to represent the Homeowners should we need one. Someday, if neighbors are inclined, we could rouse it, but for now, the board is creating documents to restrain our votes, infringe on our property rights, and harass us and our neighbors. The HOA does little to nothing to improve or benefit the Homeowners.

Some say that to dissolve the HOA can be a "damned if you do, damned if you don't" proposition. Our intention is to get a resolution we all can live with.

6. If we have to hire a Lawyer

We can't make the current board pay our legal tab unless we elect in October 2018 a slate of homeowners who support dissolution and who will vote for it. Getting rid of our HOA is a legal process, so we may need a good real estate lawyer. Legal experts guesstimate those fees will be \$10,000. and go up if there's opposition to getting rid of our HOA.

Homeowners in our community can agree to help pay the Homeowners' legal bill by donating their withheld dues to a legal fund to support our plan to do away with the association. Our HOA dues are \$375 per year. Multiply that fee times 188 lots, we can have \$70,500 in our legal fund; 51% of that will be nearly \$36,000. Ironically, a board opposed to our plan will likely spend the dues they manage to collect and the reserves you and everyone else paid for, to hire a lawyer to defend them from the dissolution of the Association pursued by the majority of Homeowners.

Williams, Gladson and Benson are the three trustees remaining on the board until October 2019. Four trustees end their terms this October 2018 (Robertshaw, Noland, Reynolds, Dittmer). Homeowners are advised to NOT vote for the four candidates the board pre-selects using a closed off process and without Homeowner participation. If you want to be a candidate let us know to include you in our separate ballot. In this way the Homeowners will regain the purpose and function of a Membership election.

Working for Positive Neighborhood Outcomes,
Lucy Archer
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