Bridge Claim

On June 19, 2019 a Kimley-Horn structural inspection team advised Grand Harbor and Oak Harbor Transition LLC that it had found serious issues with the northern most bridge on East Harbor Village Drive in Grand Harbor and that the eastern side of the bridge needed to be closed to all traffic and traffic on the western side restricted to vehicles under 10,000lbs.

GHCA management was informed and the needed barrier and signs put in place. GHCA then conducted its own inspection, which confirmed the KH team's findings. It has been determined that the bridge deck, supporting beams, and skirts need to be replaced at a reported cost of $550,000- $600,000.

At the annual budget meeting to approve the 2020 budget GHCA advised members that the replacement of the bridge would be paid for by using the Comcast Rebate Fund and the existing Road Reserve. The proposed budget was approved over the negative vote of the two resident directors of GHCA.

This is an inappropriate use of GHCA funds to replace a bridge that was damaged due to the failure of the developer to perform its obligations under the Declaration of Covenants. The condition of the bridge is the result of the failure of the developer to maintain and operate the bridge in accordance with its duties as a fiduciary to GHCA.

GHCA owns and is responsible for the maintenance of the bridge. The developer and its predecessors have had complete control of operations, budgeting, and maintenance of GHCA and its assets since the development began in 1986. This bridge was built around 1990-1992 as part of the marina expansion and estuary construction. The developer has failed to properly maintain the bridge and failed to properly manage traffic passing over the bridge with the result that the bridge's useful life was shortened by 50%.

There are two possible causes for this failure. One is that a load exceeding the maximum safe design load passed over the bridge causing the structural damage. The developer has had complete control and failed to post any signs at the bridge to advise trucks exceeding the maximum load not to cross and has further failed to instruct the GHCA security contractor to assure that no trucks exceeding the maximum load be allowed to cross the bridge.

The second possible cause is that there came a time when the bridge structure did not meet the original design specifications because of a construction flaw or because of structural deterioration through the lack of appropriate maintenance.

It is unlikely a construction flaw is the cause because this was a fully permitted bridge subject to IRC and State inspections and approvals at the time of design and construction. On the other hand, there is ample evidence of lack of maintenance. Photos now available make clear the extensive rusting of the steel reinforcing rods in the two failed beams over a number of years. Major spalling and cracked concrete allowed moisture to penetrate, causing oxidation. This bridge should have been inspected every 3-5 years and any cracks should have been patched. There are no inspection reports or any evidence of patching. Residents in the area advised GHCA multiple times for many years that rust and cracking were evident and were told that the bridge had been looked at and was perfectly fine. If this bridge was properly inspected periodically and repaired the failure would not have happened.

The proposed use of the particular GHCA funds for the bridge repair is itself inappropriate. The covenants specifically state that the GHCA Board, which has been completely in control of the developer, is required to create capital reserves. Other than a Road Resurfacing Reserve ordered as a result of a dispute with residents, no capital reserves have been created to replace bridges or any other infrastructure item under GHCA responsibility. The use of this reserve for the bridge is for a purpose outside the scope of the agreement establishing the reserve. While the developer added a legend to the 2020 budget, for the first time in the history of Grand Harbor, claiming reserves could be used for any purpose approved by the Board, this constitutes too little/too late and does not overcome the developer's failure to comply with the Declaration.

The use of the Comcast Rebate Fund is a diversion of funds established for completely different purposes and not intended to replace the developer's obligation to create a proper bridge replacement reserve as required by the GHCA covenants.

The use of GHCA funds from the existing reserve or the Comcast without approval by voting members of GHCA is not permitted.