

Save MarinaHills.org

Reestablish a democratic decision making process in Marina Hills

Mr. Calvin Wilson Resigns from Board

On December 22, according to the public agenda for the January board meeting, Mr. Calvin Wilson, who had first been appointed to the Board in 2001, and who last held the office of Secretary, resigned from the Marina Hills Board. He was believed to be connected to several controversies. No official reason for the resignation was provided by the Board or Mr. Wilson.

It was the private backyard of Mr. Calvin Wilson and his wife, Employee of the Board Cheryl Wilson, where association-paid workers were found working; it was in front of their house where the license plate of Mr. Strupat's car was stolen, it was in front of their house where a tire of the same car was slashed; and it was the same husband/wife team Wilson who caused the Conflict of Interest petition to arise from alarmed Marina Hills homeowners.

Did Mr. Wilson in the 2002 Directors' election publicly disclose that (a) he had been appointed in 2001 and (b) his wife was the Employee of the Board? ©

Davis-Stirling Act

California Civil Code Sections 1350 to 1376 is known as the Davis-Stirling Act. It specifies the rights of homeowners and the duties of directors in a homeowner association. The Directors of the Marina Hills Board recently violated the spirit of at least one section (1363.05d) of this law: they failed to easily make available, within 30 days, the meeting minutes of the November Board meeting. ©

Term Limits for Directors

Process of changing the CC&Rs to introduce Term Limits officially started on January 13

Laguna Niguel, January 13, 2004

During the first week of January more than 100 Marina Hills homeowners signed a petition to ask the Board of Directors to call a Special Meeting of the Members to decide on the proposed introduction of term limits for the directors on the board.

The signatures were obtained within a 6-day period

both through the traditional method of volunteers going from home to home as well as through an innovative "mini" mail campaign all across Marina Hills.

The proposed amendment allows a maximum of two consecutive 2-year terms and no more than three 2-year terms in the life-time of a director. That

means that an elected director can serve our community for four years, and then, after a one-term interruption, again for another two years for a total of six years.

In addition, the proposed term limit amendment will disallow the appointment of vacant director positions by the sitting

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Board defies homeowners

Fences are painted black after petition remains unanswered

Laguna Niguel, January 28, 2004

The Directors of the Board, in an apparent violation of the CC&Rs, ignored an official homeowner petition for a Special Meeting to democratically decide on the fence color and started to paint the wrought iron fences with the controversial black color. ©



Wrought iron bars painted black against the wishes of the majority of the effected homeowners. This photo was taken on January 28 in the Monaco District of Marina Hills.

Homeowners believe that the black color was chosen by the Employee of the Board, Mrs. Cheryl Wilson, to adjust the fence color of the community to the fence color of her house, which has already had a black fence since the spring of 2003.

1997

Szwajkos suppressed recall

Article VI, Section 6.3 of the Marina Hills Bylaws specifically prohibits the Board "to initiate legal proceedings" other than for collection of delinquent assessment fees". But this is exactly what Mr. Tom Szwajkos, then Board member Ms. Mary Ann Malamut and then President Tom Parsekian did in 1997.

The Szwajkos/Parsekian team sued nine Marina Hills homeowners and District Delegates (OC Superior Court case 78827), after the District Delegates initiated a recall campaign against the Directors.

The Marina Hills homeowners had voted overwhelmingly (74% to 96%) to recall the Szwajkos/Parsekian team. Wanting to hold on to their power beyond reasonableness, the Szwajkos/Parsekian team sued the Delegates, and asked

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January Board Meeting

Report regarding a well attended, but very streamlined meeting

The Directors, the Board's Lawyer Richard Tinnelly and Ms. Bergstrom and Ms. Powell from Keystone Pacific, who had conducted the private executive portion of the board meeting, invited the homeowners into the club house at about 6:15 P.M.

The meeting was attended by a rather large gathering of about 80 homeowners. In order for homeowners to be able to follow the meeting, SaveMarinaHills

had photographed and duplicated the agenda from the display case in front of the club house.

President Jane Dry announced that former Secretary Calvin Wilson's resignation had created a vacancy on the Board and suggested to fill this vacancy by appointment. The Board suggested Mrs. Linda Baker as the only candidate.

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History of 1997 Suppressed Recall

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the court for an injunction to stop the voting process from completing. Then they enlisted Keystone Pacific to collect proxies to change the CC&Rs, barring the District Delegates from being allowed to recall the Board.

1 STANLEY FELDSTOTT, #45128
2 Feldstott, Lee & Feinberg
3
4 Marina Hills Community Association
5 Plaintiff
6 vs. Marina Hills District Delegates
7 Defendants
8
9 I, Stanley Feldstott, declare:
10 - On February 9, 1997 in accordance
11 with the Association's governing
12 documents, President Tom Parsekian was
13 personally served with a petition signed
14 by the members demanding the calling of
15 a meeting of the district delegates for
16 the purpose of recalling the board of
17 directors and electing a new board of
18 directors.
19 - In March, sensing a loss of almost
20 all community support, the Szwajkos/
21 Parsekian team attempted to avoid the
22 recall by changing the voting procedures
23 at Marina Hills.
24 - The votes of the district membership
25 meetings came in:
26 District 7 96% for board recall
27 District 1 85% for board recall
28 District 10 84% for board recall
29 District 9 80% for board recall
30 District 5 75% for board recall
31 District 2 74% for board recall
32 Due to the unequal size of the districts
33 the recall became a practical certainty.
34 - The members have voted. The
35 Szwajkos/Parsekian team has lost. You do
36 not get to have a recall election, and
37 then, when dissatisfied with the results,
38 ask the court to nevertheless maintain
39 you in an office the membership has
40 overwhelmingly voted to remove you.
41 - It is incredible to me that the
42 Szwajkos/Parsekian team does not simply
43 resign.
44 - It should be obvious what is going
45 on. The Szwajkos/Parsekian team, noticed
46 the membership meetings, counted the
47 votes, and after realizing that they had
48 lost the election, now seek the aid of
49 the court to circumvent the demographic
50 process. The membership has spoken, by
51 a 3 to 1 margin; they have rejected the
52 Szwajkos/Parsekian team.
53 I declare under penalty of perjury,
54 under the law of the State of
55 California, that the foregoing is true
56 and correct.
57
58
59

STANLEY FELDSTOTT

Sworn declaration (under penalty of perjury) from attorney Stanley Feldstott about manipulation by the Szwajkos/Malamut/Parsekian majority Board members to stay in power after between 74% to 96% of Marina Hills homeowners had voted to recall the Board.

The above declaration was significantly abbreviated and edited for clarity. For the full text of the un-edited declaration see <http://www.SaveMarinaHills.org/1997FeldstottDeclaration.html>

Beyond belief they were successful, and Mr. Tom Szwajkos and his supporter Mrs. Jane Dry (see article in official Marina Hills newsletter February 1997) still continue their reign over Marina Hills homeowners.

A written request for comment on the above declaration was not returned by Mr. Szwajkos. ©

January Board Meeting

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The remaining Board members seconded these proposals and all sitting board members voted to appoint Mrs. Baker as the fifth board member. Mrs. Baker, who is also the sitting Vice President of the

The Directors knew about the plan to present the Term Limit Petition and the wishes of the homeowners to eliminate director position appointments before the Board Meeting. (See Letter to Tinnelly form Jan. 13 on the web site.). Yet, despite this knowledge, the Directors appointed a new director, the other clearly defying the will of the homeowners.

This whole process, from declaring the vacancy to filling the vacant director's position, took less than 90 seconds.

Next, the agenda called for the activity report from the Employee of the Board Cheryl Wilson who normally sits with all Directors in the front of the room. But Mrs. Wilson was talking to other homeowners in the back of the room, so no activity report was given.

Within the next literally 60 seconds the board members approved

about ten issues (Agenda points VII- through VII-J). This was done without any discussion and even without specific announcement so the listening homeowners would have a chance to follow what was going on. Among other issues the Board decided to kill the calendar on the official Marina Hills web site, because Keystone Pacific feels that publishing dates in the official newsletter, which comes out every two months, is sufficient.

At 6:25 P.M., more than half an hour ahead of schedule the homeowner forum started. At

The official Marina Hills newsletter and web site should contain accurate and timely information about the proposed and past actions of the Board. Neither the web site nor the self-serving newsletter lives up to this requirement.

the homeowner forum every member is allowed to speak for three minutes and ask the Board questions.

First, about four homeowners read prepared statements against SaveMarinaHills. One Homeowner stated that Marina Hills really needed to be saved from individuals who initiated trouble, like Mr. Strupat. Local realtor Steve Christian stated that he had difficulties selling houses because a certain Mercedes with a sign was parked all the time within the community. Another homeowner stated that Mrs. Cheryl Wilson was a "wonderful lady" and that she should not be attacked.

President Jane Dry then allowed opposite voices: A Vistara homeowner spoke out against the board-manipulated survey of the fence color and the threatening October 11, 2003, letter from Richard Tinnelly.

Mr. Strupat presented the Term Limit petition with more than 100 homeowner signatures to the Board. He asked the Board why two other petition, presented to the Board on or about November 20, 2003, had not been acted upon. The Directors of the Board refused to answer.

In total about ten homeowners had the opportunity to speak.

Finally, the district delegates were called upon to deliver their reports. Because of the unusually early time, most district delegates were not yet present. Resa Blinkovitch from the Bel Fiore District reported that many homeowners in her District were still hoping that the Board would finally listen to the homeowner's complaints and wishes regarding the fence color. Again, the board gave no indication of following the homeowners wishes.

At 6:50 P.M. the meeting was adjourned. ©

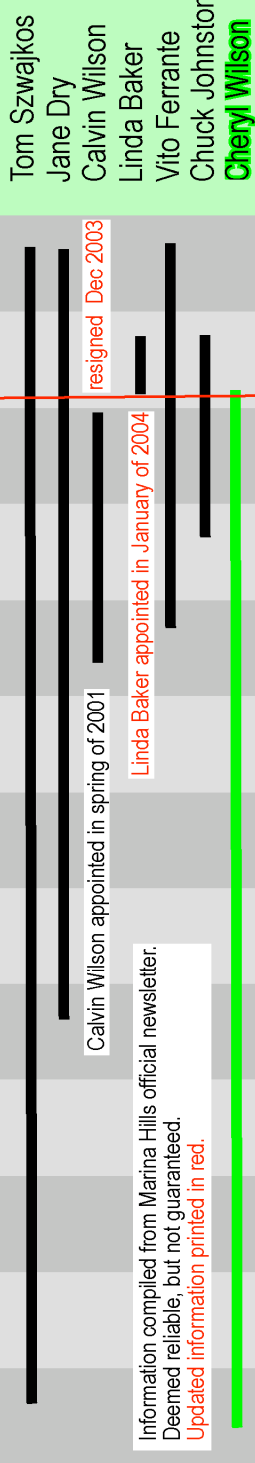
Homeowner feedback:

I did attend tonight and what a disappointment. Nothing happened. How do we get Cheryl out of her job???
When does the board reply to what has been said, or do they just sweep it under the rug and never comment??

Vistara Homeowner 0401140020

Updated Time Line of Service for Sitting Directors (—) and Employee (—) of the Marina Hills Board

1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005



Information compiled from Marina Hills official newsletter.
Deemed reliable, but not guaranteed.
Updated information printed in red.

Term Limits

Continued from page 1

remaining board members.

Presently, as it happened in the January 13 Board meeting (see related article), the sitting directors have the **power to appoint** a **friend** of theirs onto the board.

In these cases the homeowners do not have a chance to get to know their new "leader", nor do they have a chance to vote for or against this new appointee director.

In the past these appointed directors, in a very misleading practice, have run as incumbents at the next election, **without disclosure** of their appointee status to the homeowners.

This tactic, we are informed and believe, was employed for Mr. Calvin Wilson in August 2002.

The new amendment requires that vacancies of the board are filled by election of the members.

Finally, the amendment requires, that upon passing, those directors who have served more than the allowed time, must resign immediately. The positions now vacant will be filled by the members through a democratic election.

For a verbatim text of the amendment, as well as a 'before

and after' look at Article IV of the Bylaws, see the web site under Term Limits.

Hans Strupat publicly presented the petition with the homeowners' signatures to the Board of Directors during the homeowner forum of the January 13, 2004, board meeting.

The passing of this amendment will have the practical effect that, as of this writing, the sitting Directors Tom Szwajkos (Director since 1993) and Jane Dry (Director since 1997), will have to resign and make the director positions available for democratically elected members.

Mr. Tom Szwajkos had been recalled by approximately 85% of the Marina Hills homeowners in 1997, but managed to stay on by suing (at great cost to the homeowners, because homeowner association funds were used) nine of the eleven at District Delegates and manipulating the CC&Rs (see related Article).

The above time line has been updated since the December 2003 newsletter. If any homeowner has additional information to supplement the time line information, SaveMarinaHills will put that information in the next issue of the newsletter.

Call for Action

Please participate in YOUR Homeowner Association

In order to insure success for the upcoming Term Limit amendment vote SaveMarinaHills wants to record all votes in favor of the amendment **before** presenting them to Keystone Pacific. This will guarantee proper and democratic counting and prevent wrongful rejection of proxies (see web site) as in the recent driveway / garage amendment vote.

The positions of Linda Baker and Chuck Johnston will come up for re-election in the August 2004 election.

According to the Marina Hills CC&Rs (Article IIIA, Section 3A03 of the Bylaws) the Directors of the Board have the duty to call a "Special Meeting of the Members" within 20 days of the receipt of the petition (that is no later than February 2, 2004). Practically, that means that Keystone Pacific, upon an order from the Board, has to send the exact text of the proposed amendment and a

proxy to vote on the amendment to each homeowner. The process should be the same as the recent amendment vote for the garage door / driveway CC&R change.

Some questions have come up repeatedly during discussions with fellow homeowners and from email feedback: Why are these "volunteer" Directors holding on to their positions so fiercely and tenaciously, especially in the face of past and present adversity? Are there any secret benefits known only to the Employee of the Board and the sitting directors? ●

The Paradox of having an Employee of the Board

A business employee is expected to help her employers achieve their goals and generally serve the best interest of her employers. Homeowners in an association expect their board members to make decisions to serve the best interest of the homeowners.

An unbridgeable conflict is created when an association hires an employee who is also a homeowner.

Mrs. Cheryl Wilson, the homeowner, would expect the Board to work for her Employee? ●

best interest, yet Mrs. Cheryl Wilson, the Employee of the Board, would be obligated, against her best interests as a homeowner, to serve the best interest of the board, her employer.

Why was this employee position created? Why isn't this position filled by a non-homeowner employee of the management company. Who is supervising this employee on a daily basis? Are some Directors receiving undisclosed benefits from their Employee? ●

When you receive the proxy for the Term Limit amendment from Keystone Pacific, **do not send the completed proxy to Keystone Pacific.**

Send the completed proxy to SaveMarinaHills.org, 30251 Golden Lantern, Suite E263, Laguna Niguel, CA 92677-5993. You can cut out the address label on the bottom right corner of this page.

Consult our web site for additional instructions. Please feel free to call us at 949-218-7408 with any question you may have. ●

SaveMarinaHills.org
30251 Golden Lantern, Suite E263
Laguna Niguel, CA 92677-5993

LA Times Agrees

"Directors' duty is to be available"

In last month's newsletter we reported that the SaveMarinaHills.org web site was started because of the refusal of the Board's President Mrs. Jane Dry to listen to homeowners' concerns and engage in any dialog with Marina Hills homeowners.

A Los Angeles Times article from Sunday, January 18, 2004 discusses a similar refusal of a director in another homeowners association. This director wants to "protect his privacy", by making himself unavailable to the homeowners.

<http://www.SaveMarinaHills.org/Duty> or <http://www.latimes.com/classified/realstate/printedition/la-re-associations18jan18,1,590112.story>

SaveMarinaHills.org

- Term Limit Petition successfully started
 - *Did you know that the Board was recalled in 1997?*
 - Director Calvin Wilson resigned without explanation!
 - January Board Meeting disillusioned many participating homeowners
 - Board appoints another Director rather than allowing homeowners to vote
 - Directors of the Board defy homeowners
- Read More inside this newsletter.**

SaveMarinaHills.org

30251 Golden Lantern, #E263

Laguna Niguel, CA 92677

Fax: 360-935-3576

Phone: 949-218-7408

email: info@SaveMarinaHills.org

He is asking the homeowners to first direct all concerns to the management company.

Stephen Glassman and Donie

Vanitzian from the LA Times sharply disagree with that position and explain that the homeowner has "every right" to contact the Board directly. They say that

Los Angeles Times

the Directors of the Board have a fiduciary responsibility to every homeowner and the board members have an obligation to listen to homeowners: "No board member is in a position ... to delegate that duty because doing so would be a breach that could expose the director to personal liability."

The Directors of the Marina Hills Board do NOT have their phone numbers listed in the official newsletter or on the contact page of the official web site.

There is no mechanism for members to engage in a dialogue. The Board's lawyer Tinnelly states in a letter from November

5, 2003: "The Board Members value their personal time and receive no compensation for their duties. When they are at home they are 'off duty' and do not want to be contacted and or forced to deal with official Association matters."

Glassman and Vaitzian suggest: "Board members always have the option to resign." @

Feedback from last month's newsletter.

Please continue your endeavor to educate our Association Members and fellow neighbors. I value the time and energy you are spending and without your initiative, I am worried that the possibility of abuse of power might prevail.

Marina Hills Homeowner 0312302230
Your page is as informative as it is troubling. I completely agree that it is unethical for the family of board members to be hired as employees and that board members should not accept free services.

It is unfortunate that the people that often join boards do so for their own interest and at the expense of others. I would be more than happy to vote you or someone that your web site recommends to the board at the next election, please keep up the good work.

Marina Hills Homeowner 0312302230
Did Mr. Wilson know the result of fence color [survey] in advance that they painted their fence in black 8 month ago.

Bel Fiore Homeowner 0401060856

**Come to the next Board Meeting
on Wednesday, February 11, at 6 P.M.
Express your concerns to the Board!**
Check SaveMarinaHills.org for possible surprise recheduling!

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