

Warrenton Mill Condominium Association

c/o REI Property Management

SMOKESTACK COMMITTEE MEETING

October 24, 2016 5:00pm

Warrenton Mill Management Office

ATTENDEES:

Ann Watson, Domenico Russo, Frank Troha, Gloria Terenzio, Roigina Britting
Meeting called to order at 5:05pm

Unit Owner: #81

TOPIC OF DISCUSSIONS:

○ COMMITTEE RECOMMENDATIONS

- The smoke stack committee recommends that the board send the Verizon proposal to a professional in the field of cell tower negotiations. The committee recommends approaching Hugh Odom.
 - ❖ From Frank Troha's discussions with Hugh Odom, it appears that a cell tower negotiation involves three phases and that we could expect to pay from \$3,000.00-\$5,000.00. The committee is concerned that the board would refuse a consultant due to the cost.
- We have a question about Chris Leonard's letter from December 4, 2015 where he states that according to the Warrenton Mill documents, we can proceed with a cell tower negotiation.
 - ❖ Would a cell tower qualify as a commercial venture? Is this in violation of prohibiting commercial business being conducted on the property?
- The association could end up with a small financial gain and then a telecommunication company can find an excuse to run us into the ground with a minor matter (this concern is one of the reasons we want the board to hire a consultant.)
- Attached are notes Frank Troha took during several conversations with Hugh Odom that reflect why we are so concerned.
- If the board does not want to spend money for the consultant, would the board proceed with negotiations anyway?
- Once we let one company use the smokestack as a cell tower do we have to accept other companies? What is the legality?
- We would like the final Verizon contract to protect the Association from any future costly or inconvenient demands.

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- We want something that is fantastic and protects the community.
- We would like a second meeting with Verizon to be considered before a vote, this is something Hugh Odom can help with AFTER Hugh gives us advice.
- The committee is uncomfortable with only the lessee being able to cancel. Lessor needs the same right.
- There is usually a bonus amount just for signing up.
- The committee researched that it would cost Verizon \$200,000-\$300,000 just to build a free-standing tower.
- Warrenton Mill Condominium Association is a valuable community and we want a fair deal.
- Is there a letter from the Historical Society that indicates a willingness or support for the smokestack to be used for a cell tower? If so can the committee/association receive a copy of the letter.
- The committee wonders if the association should just not accept the deal and cease to pursue this course.
- \$1,600.00 per antenna a month seems to be the going rate for the church steeples in our area.
- The committee wondered if it would make sense for the board to have a conference call with Hugh Odom. We understand that Mr. Odom would not charge for this call. A request was made that this conference call be recorded so it could be shared with the committee.

ADJOURNMENT

Minutes submitted by A. Watson

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Frank Troha

Notes from my conversations with Hugh Odom:

Regarding the compensation indicated, Mr. Odom said we'd be "severely underpaid". He added, "As they get more, you should get more, but a 3% increase per year locks you in." He then said, much to my surprise, "The deal is worth millions to Verizon." (Note: I was told by Mr. Odom and Ms. Mims, a competing negotiator, that WiFi negotiators have access to databases and other information that *enable them to know what a particular site is worth to a telecom.*)

Mr. Odom also said (about his services), "I can tell you here's what it (the lease) says, why it's in there (especially, the standard "gray areas" that can potentially trap lessors) and how they can use it." He added that WiFi negotiation "is a different game", which is why a regular contract attorney -- as good as they may be -- can fail lessors. He added, "When you commit to a long term (WiFi) contract, you'd better get it right."

He rapidly pointed out a number of weaknesses in *standard attachment lease agreements* prepared by Verizon*, and which I'll attempt to accurately present here (since the chair of the smokestack committee has requested the contents of my notes) starting with: Apparently we must maintain the smokestack throughout the term (in our case apparently as long as 25 years) and "they (the telecom) can walk away any time while you cannot." Another one involves lessor liability (i.e., our potential liability): If we do damage, we must repair it and pay for it. Also, we must pay for losses (that is, any lost revenue incurred by Verizon that can be attributed to us), and the reason could simply be the result of our being unable to give the telecom prompt access to repair or maintain their equipment due to a major storm (as I understood him to say). Also, there's nothing in the standard lease that would "adjust the insurance" upward over the lease's duration. Mr. Odom asked rhetorically: "What happens if the smokestack becomes unsound down the road?" "What if you want to do something else with the property down the road; are you bound to Verizon?" Note: If the antennas or backup generator were to be shut down for a reason that can be attributed to us, it appears that we would be liable for Verizon's losses -- and we would be liable for repairs, not they, according to Mr. Odom (a point which I previously touched on in this section above -- all based on my handwritten notes and to the best of my recollection). Furthermore, the wording of the lease may allow the lease to be "sold to anybody", Mr. Odom added. (I believe he mentioned that such sales must be FCC approved and the buyer must be telecom in each case, not an investment firm or a private investor, for instance.)

*Note: A "standard attachment lease agreement" is a type of lease that involves the attachment of equipment to an *existing* structure, such as a tall building's roof, church steeple, smokestack, etc. It's different from a lease that includes building a new tower.

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As I believe I wrote in an email that went to you and the rest of the board about a month or so ago, Mr. Odom pointed out that on one page of the standard Verizon lease it indicates the lessor can choose whether to renew annually (or not) while on another page it says Verizon can renew whenever it chooses to. He presented this contradiction to me as just another example of why an expert needs to be involved in the interpretation and negotiation of such leases. (I couldn't write fast enough to note everything he said during our conversations. Obviously it's important for the board to do its due diligence concerning any agreement with Verizon by speaking directly with Mr. Odom, Ms. Mims (notes pertaining to her below) or someone else having their specialized capabilities and extensive, proven experience.)

Aside from the above mentioned issues based on what's in the standard attachment lease offered by Verizon, according to Mr. Odom, he said some important language may be missing from the lease. And one thing that appears to be missing -- based on my skimming of the lease -- is the sign on bonus that's typically displayed on the first page, according to Mr. Odom.

He cautioned that smaller lessors are often very unlikely to overcome demands made by a large telecom's attorneys when a significant disagreement occurs, often over a "gray area" in an executed lease. Big telecoms have deep pockets, extensive legal expertise and the financial resources to outlast and prevail over most lessors virtually every time, based on the information Mr. Odom shared with me. (A well qualified expert can provide great value by identifying and addressing potential loopholes and gray areas in order to protect the lessor.)

Mr. Odom would welcome the opportunity to speak directly with the board.

Here's his contact information:

Mr. Hugh Odom

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