

FORRESTAL VILLAGE COMMUNITY SERVICES ASSOCIATION, INC.

POLICY RESOLUTION NO. 50

WHEREAS, the authority for the Association's operations lie in legal documents which are the Articles of Incorporation, Bylaws, Declaration of Covenants and Restrictions and Supplementary Declarations of Covenants and Restrictions; and

WHEREAS, the scope and operation of the Association is further defined in the Book of Resolutions which contains the policy decisions of the Board of Directors which have been duly adopted; and

WHEREAS, the Association is a non profit corporation organized and existing under the laws of New Jersey and is charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents; and

WHEREAS, the Board of Directors has all powers for conduct of the affairs of the Association which are enabled by law or the Founding Documents which are not specifically reserved to Members, the Developer or the Covenants Committee by these Documents; and

WHEREAS, the Board of Directors shall exercise its power in accordance with the Management Standards Agreement; and

WHEREAS, the Board of Directors authorized the performance of a roof study in 1994, performed by Frost, Christenson & Associates, for Parcels III, IV, V-A, VI, VIII, IX, X, XI and XII, which included 347 homes; and

WHEREAS, the Board of Directors initiated litigation against the Developer and the State of New Jersey in 1995 regarding defective roofs with the presence of Fire Retardant Plywood, which litigation was subsequently amended to include additional construction defects, including the Parcel VI and X Garage Sidewalls/Stoops, representing 47 and 2 homes respectively, and the Parcel VII Engineering Transition Study and Audit Deficit, representing 47 homes; and

WHEREAS, the Board of Directors reached a court ordered mediated settlement in September, 1997 with the defendants and other parties, including insurers and subcontractors, in the amount of \$1,412,500 and has executed an agreement with the other parties to the action which confirms this agreement; and

WHEREAS, the Board of Directors has determined that each claim in this complaint advanced other claims in the complaint, resulting in a settlement amount greater than anticipated at the time of the original filing; and

WHEREAS, re-roofing of the 347 homes included in the litigation took place in 1995; and

WHEREAS, re-roofing expenses are capital expenses which were funded by the parcels through Special Assessments with varying contributions from existing long term reserves; and

WHEREAS, repair, replacement and/or correction of the Parcel VI and X Garage Sidewall/Stoop problems and deficiencies of the Parcel VII Engineering Transition Study have not taken place at this time; and

WHEREAS, the Board of Directors is currently reviewing a draft of a Capital Reserve Evaluation, and with the advice of the Association's counsel, engineer, auditor and managing agent has become aware of the serious under funding of capital reserves throughout the community and their fiduciary responsibility to address this issue; and

WHEREAS, the Board of Directors is addressing improvement of funding levels and has discussed these issues with the various Parcel Chairpersons and Parcel Finance Chairpersons, recognizing that the Parcel Committees are advisory in nature to the Board;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors determines that the disposition of mediation settlement funds to the Association shall be as follows:

1. From the total settlement funds of \$1,412,500 the following deductions shall be made:
  - a. An amount of \$122,000 being temporarily retained by the association as a legal fund.
  - b. Payment to the Township of Plainsboro in the amount of \$3,000.

c. Reimbursement to the General Fund for legal and professional fees and other costs related to the pursuit of litigation and mediation directly related to this matter in the amount of \$162,706.

2. The net settlement after the above deductions is \$1,124,794. This amount shall be shared equally among the 347 homes which were a part of the roofing issues, the 49 homes that are a part of the Garage Sidewall/Stoop issues and the 47 homes that are the subject of the Parcel VII Engineering Transition Study. Based upon a per share amount of \$2,545.36, as determined by dividing the net settlement by 443 "shares," the amounts to be dedicated to each parcel are:

Parcel III	44 shares for 44 homes re-roofed	\$111,995.80
Parcel IV	50 shares for 50 homes re-roofed	127,268.00
Parcel V	24 shares for 24 homes re-roofed	61,088.60
Parcel VI	47 shares for 47 homes re-roofed and 47 shares for 47 Garage Sidewalls/Stoops	239,263.80
Parcel VII	47 shares for 47 homes as part of the Engineering Transition Study	119,631.90
Parcel VIII	28 shares for 28 homes re-roofed	71,270.10
Parcel IX	36 shares for 36 homes re-roofed	91,633.00
Parcel X	38 shares for 38 homes re-roofed and 2 shares for the Garage Sidewalls/Stoops	101,814.40
Parcel XI	36 shares for 36 homes re-roofed	91,633.00
Parcel XII	44 shares for 44 homes re-roofed	111,995.80

3. Disbursement of funds within the parcels shall be as follows:

- a. Of the amounts dedicated to parcels for "shares" of net settlement funds related to re-roofing, an amount determined by a formula which takes into account parcel reserves and the amount of the re-roofing taken out of the reserves, and shown in appendix A to this resolution, shall be placed in the parcel's reserves. The remainder of the shares of the re-roofing settlement for that parcel may be dedicated to long-term reserves, maintenance reserves, or refunds to unit owners at the determination of a majority of the owners in the parcel. *If any option is determined to be a taxable event, that option shall be removed.-  
(text to be deleted after confirmed by accountant)*
- b. All shares for correction of Garage Sidewall/Stoop problems and the Engineering Transition Study shall be placed into segregated accounts within the parcel dedicated to the correction of these problems. In the instances of Garage Sidewall/Stoop remediations, the amount dedicated to the parcel shall be pro-rated so that each home shares equally in the amount available for correction of each home.

4. Disbursement of funds to the various accounts specified shall occur within thirty days of passage of this resolution.

## PARCEL EQUITY APPROACH TO DISTRIBUTING ROOF SETTLEMENT MONEY

Parcel	a 12/31/98 Cap Reserve Balance Required To Be Fully Funded	b 12/31/98 Estimated Actual Cap Reserve Balance	b / a = c Actual Cap Reserve Balance as a Percent of Required Balance	d Roof Litigation Settlement Amount	e Amount of Roof Repair Cost Paid From Cap Reserve	smaller of .67d or e = f Max 2/3 Roof Settlement Amount Used to Replenish Cap Reserve	b + f = g Cap Reserve Balance After Replenishment From Roof Settlement	g / a = h Replenished Cap Reserve Balance as a Percent of Required Balance	d - f = i Settlement Money Left After Cap Reserve Replenished	j Additional Settlement Money Needed to Reach an Initial Target of 40% - 50%	(g + j) / a = k Final Cap Reserve Balance as a Percent of Required Balance	i - j = l Roof Settlement Money Available To Distribute	l / d = m Final Percent Of Roof Settlement Returned To Homeowners
I	\$323,070	\$181,527	56%				\$181,527	56%			56%		
II	\$483,607	\$42,896	9%				\$42,896	9%			9%		
III	\$423,007	\$89,796	21%	\$111,996	\$137,722	\$74,668	\$164,464	39%	\$37,328	\$3,000	40%	\$34,328	31%
IV	\$289,864	\$52,733	18%	\$127,268	\$47,761	\$47,761	\$100,494	35%	\$79,507	\$16,000	40%	\$63,507	50%
V	\$255,614	\$70,478	28%	\$61,089	\$61,082	\$40,728	\$111,206	44%	\$20,361	\$0	44%	\$20,361	33%
VI	\$429,682	\$107,827	25%	\$119,632	\$0	\$0	\$107,827	25%	\$119,632	\$62,000	40%	\$57,632	48%
VII	\$292,510	\$122,526	42%				\$122,526	42%			42%		
VIII	\$215,591	\$68,679	32%	\$71,270	\$0	\$0	\$68,679	32%	\$71,270	\$17,000	40%	\$54,270	76%
IX	\$323,179	\$39,876	12%	\$91,633	\$25,489	\$25,489	\$65,365	20%	\$66,144	\$63,000	40%	\$3,144	3%
X	\$178,716	\$27,807	16%	\$96,724	\$47,353	\$47,353	\$75,160	42%	\$49,371	\$0	42%	\$49,371	51%
XI	\$303,011	\$36,007	12%	\$91,633	\$53,312	\$53,312	\$89,319	29%	\$38,321	\$31,000	40%	\$7,321	8%
XII	\$434,164	\$66,032	15%	\$111,996	\$123,092	\$74,668	\$140,700	32%	\$37,328	\$31,000	40%	\$6,328	6%

# PARCEL EQUITY APPROACH TO DISTRIBUTING ROOF SETTLEMENT MONEY

## Overview

The board has designed the "Parcel Equity Approach" to achieve three equally important goals:

1. Repay the homeowners, at least in part, for the money raised through special assessments;
2. Replenish the Capital Reserves for money withdrawn from the Reserves up to a limit of two-thirds of the settlement amount; and
3. Achieve a greater degree of parity among the parcels in the extent to which Capital Reserves are funded.

## Explanation of Data

Following is an explanation of the various columns of data contained on the spreadsheet:

**Column a:** The Capital Reserve account balances necessary at the end of this year to fully fund the replacement of parcel capital assets as their useful lives expire. The numbers shown take into account the current age of the parcel, the replacement costs of its various assets, and the useful lives of those assets. The data are taken from the latest reserve report prepared by Frost, Christenson & Associates.

**Column b:** The Capital Reserve balances expected to be on hand at the end of this year.

**Column c:** The estimated actual Capital Reserve account balances on December 31<sup>st</sup> as a percent of the balances required to be fully funded, or Col. b divided by Col. a. Using Parcel I as an example, the year-end actual balance will be at 56% of full funding, or a little more than half of what is needed to be in full compliance with the Association Covenants.

**Column d:** As indicated in draft Policy Resolution 50, the amounts shown are the share of the roof litigation settlement allocated to each parcel. Parcels I & II were not eligible to participate in the litigation and the Parcel VII settlement award was for Transition Study issues, not reroofing.

**Column e:** Seven parcels paid for the reroofing through a combination of special assessments and withdrawals from their Capital Reserves. This column shows the amount of the reroofing cost paid for from the Capital Reserves. Zero indicates that the full cost of roofing was covered through an assessment.

**Column f:** If Col. e is smaller than two-thirds of Col. d, then the amount shown in Col. f is the same as Col. e. This means that the full amount of the money taken from the Capital Reserves is being put back. If Col. e is larger than two-thirds of Col. d, then the amount of repayment is capped at two-thirds of the settlement money. This calculation has the effect of replenishing the Capital Reserves with a maximum of two-thirds of the settlement money. This achieves Goal 2, above.

**Column g:** The new balance of the Capital Reserves after the money from the roof settlement (Col. f) has been added to the estimated actual balances in Col. b.

**Column h:** An updated version of Col. c, Col. h shows the effect of Col. f reserve replenishments on the degree to which parcel Capital Reserves are fully funded.

**Column i:** The amount of roof settlement money left after placing the amounts in Col. f back in the Capital Reserves.

**Column j:** The board has established an initial target for Capital Reserve funding of 40% to 50% of full funding. Two parcels, V and X, have already achieved the target and no further settlement money is being transferred to the reserves for those parcels. In the other seven cases, enough additional settlement money is being transferred to the Capital Reserves to reach the minimum of the target range, or 40%. As an example, Parcel III needs an additional \$3,000 in its Reserves to reach 40% of full funding. Parcel IX, whose Reserves are much lower, needs an additional \$63,000 in its Reserves to reach 40% of full funding. This achieves Goal 3, above.

**Column k:** The resulting percentages of Reserve full funding after taking the actions described in Col. f and Col. j.

**Column l:** The amount of roof settlement money to be returned to the homeowners, or the total settlement amounts (Col. d) minus the two contributions to the Capital Reserves (Col. f and Col. j). This achieves Goal 1, above.

**Column m:** Shows the percentage of the roof money being returned to the homeowners.