



## Walnut Creek Mutual No. Sixty-Eight

February 14, 2017

To: All Members of Walnut Creek Mutual No. Sixty-Eight

Re: **Update Regarding Common Area and Need for Special Assessment**

Dear Mutual Members:

The purpose of this memorandum is to update you regarding recent findings of the Mutual's geotechnical experts. The issue confronting the Mutual is that its Common Area and Common Area Improvements at 3101 and 3103 Grey Eagle Drive are failing due to the existence of a deep-seated landslide. In order to mitigate the damages presented by this serious condition, the Mutual requires a significant loan secured by a Special Assessment.

### **Summary of Current Conditions on Slope**

The ground underneath and adjacent to the Mutual's Common Area and Common Area Improvements at 3101 and 3103 Eagle Drive is no longer static. Inclinometers (which measure subsurface earth movement) and piezometers (which measure ground water) installed by the Mutual's geotechnical consultants reveal a substantial amount of subsurface movement (.6 of an inch in 30 days) underneath the Manors at 3101 and 3103 Grey Eagle Drive. Similar amounts of subsurface movement have been detected in the inclinometer installed on the GRF's open space slope below 3101 and 3103 Grey Eagle Drive. This new movement has caused significant damage to 3101 and 3103 Grey Eagle Drive.

Because of potential health and safety risks, and pursuant to the advice of the Mutual's geotechnical consultants, the Board has already taken the following actions: (1) the residents of 3101 and 3103 Grey Eagle Drive have been told to vacate the premises immediately; (2) the utilities (gas, water, electric and sewer lines) will be capped at the two Manors as soon as the owners have left; and (3) the inclinometer/piezometer monitoring schedule has been reduced from a 30-day to a 14-day interval to provide more frequent information.

### **Potential Repair Options**

As more information is gathered, a specific plan for repair will be approved. At this time, the repair options are generally as follows:

- Razing the two Manors and performing minimal repairs needed to stabilize, but not repair, the landslide;
- Temporarily moving the two Manors, performing repairs needed to repair the lots and stabilize the landslide, restoring the two Manor to their current location, and then renting or selling the restored Manors;

Mutuals' Board Coordinator  
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- Permanently moving the Manors to another location in the Mutual and performing minimal repairs needed to stabilize, but not repair, the landslide.

### "Buy Out" of Residences at 3101 and 3103 Grey Eagle Drive

The Mutual is a condominium project, which means that generally each owner's interest includes a particular unit (essentially an airspace box not including the residential building structure), an undivided interest in certain Building Common Area (which includes "Improvements," i.e., the residence structures located on a particular Lot as shown on the Subdivision Maps), and a membership in the Mutual. However, and as is often the case in projects such as ours, maintenance responsibility is **not** allocated in the same manner as ownership. Pursuant to Section 8.1 of the CC&Rs, the Mutual **as a whole** (not just the owners of certain Building Common Area) is responsible for the maintenance, repair and replacement of all of the Common Area (including all Building Common Area and all Project Common Area). Accordingly, the Mutual is responsible for the maintenance, repair and replacement of the building structure for all of the residences, including those located at 3101 and 3103 Grey Eagle Drive.

The Board has decided, after consultation with legal counsel and its geotechnical consultants, that the most cost-effective solution is to "buy out" the residents of 3101 and 3103 Grey Eagle Drive. This action gives the Mutual the flexibility to engage in any repair activities necessary and also resolves any potential dispute or future legal action with regard to the Mutual's maintenance, repair and replacement obligations and activities. The value of the Manors will be determined by a qualified appraiser; but, at this time, we estimate the approximate amount needed to purchase the two Manors is \$3,000,000.

### Proposed Loan Secured By Special Assessment

The Mutual does not have sufficient reserves to complete these transactions (i.e., the buyout and the slope repair), which are estimated to cost in excess of \$4,000,000. A special assessment of \$17,021.28 per Manor would be required to raise this capital immediately. The Board recognizes the burden that this would present to the Mutual's Members and, as a more palatable alternative, has received a proposal from Scott Valley Bank to obtain a loan, amortized over 20 years, in the amount of \$4,000,000. Issuance of the loan is contingent upon the Mutual's Members voting to approve a Special Assessment in the amount of \$80.00 per month per Manor.

### Other Funding Sources

The Board continues to explore all available options to fund the repair costs made necessary by the ongoing earth movement. These options may also include contributions from GRF and insurance coverage. However, **because no other funding source is guaranteed and the need for repairs is urgent**, the Board has determined that it must pursue funding via a loan and Special Assessment immediately.