



## **111 E. Chestnut Condominium Association Bulletin – Winter 2014**

### **How a Blog is Costing You and Hurting Your Property Values**

The dynamics at 111 E. Chestnut can be confusing, not least because of an anonymous blog designed to appear as our condo Association's official website and which relentlessly criticizes our building and Board of Directors. The purpose of this bulletin is to assist current and potential homeowners in interpreting the blog.

#### **Who Writes the Blog?**

Based on clues in the website including its copyright, Illinois corporate license registration information and Board meeting attendance, we believe the anonymous blog is written by a disgruntled unit owner who was twice removed from our Board of Directors by a supermajority vote of homeowners.

#### **How Does the Blog Cost Homeowners and Lower Property Values?**

The extreme negativity and incorrect information within the blog chills sales in our building and takes its toll in other ways as well:

- On November 26<sup>th</sup>, a call to the Management Office from a real estate agent reported that the blog had caused a potential buyer to get cold feet about buying into our building.
- A prospective buyer expressed concern to the Management Office that a special assessment will be needed due to the City's recent life safety inspection. **(Note: The Board does not currently anticipate the need for a special assessment for any reason.)**
- Numerous real estate agents have remarked on the negative buzz the blog has created for our building, dissuading their clients from pursuing opportunities here. Mortgage brokers and attorneys representing new buyers in our building routinely express concern to our management regarding this unit owner's lawsuits and the negative publicity his blog creates for our building.
- The blog takes a toll on the volunteer members of your Board of Directors, who (as in every condo association), are unpaid and generally have busy careers. The blog also denigrates the fine people who work in our Management Office. Our management and board members are all doing their best to point 111 E. Chestnut in the right direction, and constant criticism based on deceptive, out-of-context facts is burdensome.

- The blog creates a negative atmosphere that may scare away rational homeowners who might otherwise be interested in volunteering their time to serve on our Board.

### **The Blog Talks a Lot about Lawsuits. What about Them?**

Any condo association is subject to “slip and fall” lawsuits, arguments over responsibility for repairing leaks, or elevator incidents, and as a 400+ unit building we have our share of those. **However, several of the lawsuits against our building and many of our legal expenses are a direct result of the suspected blogger himself.** Over the last several years, the suspected blogger’s 111 E. Chestnut-related legal activities have included:

- Assault charges filed against a former condo association Board member that were later dismissed with prejudice and expunged, after costing our insurance company a considerable sum of money and jeopardizing our future insurance coverage;
- A lawsuit regarding the manner of his removal from the Board, filed in 2012;
- A lawsuit filed in 2012 seeking recovery of an amount less than \$750;
- A lawsuit filed in 2014 after he was fined \$250 per each of four incidents in which he was claimed to have acted aggressively and obnoxiously toward other homeowners.

These lawsuits, though naming only Board members, nonetheless cost all homeowners in our building money. That is because, as a result of our litigation history, **the only insurance company that will provide us with Directors and Officers coverage excludes claims related to or filed by this unit owner.** In 2014 alone homeowners have paid over \$40,000 in additional assessments to cover the cost of legal fees in defending against this unit owner’s lawsuits...That money could have been better spent on improvements that the blog itself points out are needed.

In fact, our approved 2015 budget includes a separate line item for legal expenses directly attributable to this litigious resident. Because this has been a recurring expense over the past several years, the Board has found it necessary to allocate funds in the budget for anticipated similar expenses.

The blogger then adds insult to injury by criticizing our condo association for having multiple lawsuits against it.

### **The Blog Talks about Association Debt a Lot. What about That?**

In the blog, information about our building and condo association is presented in a “sky is falling” fashion and competing points of view are not presented. Facts are often selectively chosen and presented out of context so as to alter their true meaning.

As just one example, the fact that our condo association has bank borrowings and lower reserves than the blog author would prefer is treated as a catastrophe. The blog fails, though, to state the extent to which building improvements have successfully proceeded over the past few years, the value they’ve added to our building or the speed at which our reserve account is projected to regenerate.

Ironically, much of the debt that the blog author claims to abhor originated while he sat on our Board. Indeed, until 2011 (during his tenure on the Board), only interest was being paid on this \$1,600,000 debt. Current and recent boards, however, have been successful in paying down principal on the debt at the same time major capital projects were undertaken. They accomplished this by pursuing a disciplined strategy that leveraged a period of low interest rates and recessionary economic conditions. This should be lauded, not denounced.

As has been communicated to unit owners in the past, condo association debt can be appropriate when incurred at low interest rates to make urgent repairs. Through 2011, considerable maintenance required by our 40-year old building had been deferred and as a consequence had indeed become urgent.

Beginning in the summer of 2012, the Board set in motion repair of our leaky 40-year-old roof ( approximate cost: \$193,000), sealing of leaky windows (approximate cost: \$2 million), and replacement of 40-year-old water pumps (\$100,000), a 40-year-old hot water boiler (\$250,000) and a degraded loading dock (\$200,000) that was compromising the integrity of Commonwealth Edison's electric lines into our building. These and other crucial improvement projects are now completed, with ongoing annual maintenance and repair costs reduced considerably.

Early estimates of dates by which our condo association borrowings would be repaid were extended due to the cost of new City of Chicago building mandates such as a life-safety system (approximate cost: \$393,000, plus additional costs to cover up new electrical conduit) and a required, lump-sum payment of \$162,000 to the Doorman's Union pension fund.

It is important to consider, however, that condominium buildings like ours have a guaranteed source of income in monthly homeowner assessments. Our condo association has assessment income that exceeds our operating expenses by close to \$100,000 per month, funding capital projects and operating budget overruns of over one million dollars per year. Based on this, reasonable people should not doubt that our Association's current borrowings can be repaid and our reserves brought to desirable levels within a few years.

It is unfortunate that the high profile of this negative website may cause current and future owners to overlook the prompt attention the Board has given to the structural issues addressed through low-interest loans, and the Board's attentiveness to other pressing issues both structural and financial. Indeed, there are other condo buildings in Chicago that are mired in special assessments and lawsuits as a result of keeping assessments artificially low and then being unable to afford necessary maintenance. As the adage "a stitch in time saves nine" suggests, deferred maintenance merely puts off to a later date required repairs and replacements, often leading to a more expensive fix based on the continued deterioration and related problems.

As you may know, your Board commissioned a reserve study in 2012. The study, prepared by an independent, respected engineering firm, created a schedule for needed maintenance over the useful lives of each capital asset so that the Board can keep the building in good repair on an ongoing basis. The reserve account funding that the Board has approved during the past three years has exceeded the

recommended reserve account funding in the 2012 study. The Board's five-year reserve plan projects healthy funding levels in future years as well.

It bears noting that comparing our building's reserve or debt levels to other buildings serves no purpose, since it fails to account for the extent to which those other buildings are, or are not, addressing needed infrastructure items.

### **What is the Status of the City's Life Safety Inspection of our Building?**

The City of Chicago undertook a comprehensive program in 2014 to inspect high-rise buildings in order to identify and recommend fire safety improvements. These inspections are highly subjective and largely dependent upon the findings of individual inspectors. While the City had provided a pre-inspection checklist, it did not cover the vast majority of categories included in the actual inspection. We are exploring our legal options with respect to the more questionable findings.

Since the time our building was constructed (about 45 years ago) many of Chicago's building codes have changed significantly. Code changes are typically *not* applied to buildings retroactively (since if they were, older buildings would be in a perpetual state of renovation). The inspector who visited our building indicated to our property manager that that we must conform to all current code provisions irrespective of our past compliance history.

The majority of our renovation expense resulting from this life safety inspection will relate to replacing doors in storage rooms and installing extra layers of drywall in fire escape stairwells. Though these areas were perfectly acceptable to the City when our building was approved for occupancy after its initial construction, a City inspector informed us that they are no longer grandfathered-in and must now be modified.

**During the inspection, it was not at all helpful for a certain blogger/unit owner to point the inspector toward perceived deficiencies in our building.** Later that day, this same person arranged an appointment with a City fire commissioner at our property to review more of his perceived fire safety concerns. Management witnessed a portion of this meeting and invited the official to review and discuss any questions he might have. Ultimately, the inspector stated that the concerns this unit owner had brought to his attention were unfounded.

### **The Blog Mentions High-Handedness by the Board. What about That?**

We do not believe that, if homeowners knew all the facts, they would criticize our Board of Directors for the actions it has taken to counteract this blogger's detrimental activities, which include disruptive antics at monthly Board meetings. The Board's intent is to responsibly discharge its duties to the condo association without turning their volunteer positions into full-time and unreasonably stressful and demanding jobs.

## **Does this Explanation Mean We Have No Problems at All?**

No. Every building has concerns, and a 40-year-old, 400+ unit building will always have challenges, including the need for ongoing capital spending and miscellaneous items like door staff union requirements, package receiving and handling, pets, and rules and regulations.

But we have professional management, a Board that is paying attention, good internal controls (competitive bids, a sealed bid process, third-party oversight of large projects, etc.) an annual external audit and a long-term reserves study.

We also have one of the best possible locations in a great city, good neighbors, and many 111 homeowners who are improving their units at 111 E. Chestnut in a way likely to increase property values. We can keep all of this going if we can engage in a civil manner about the issues that come our way.

## **What Should Homeowners Do?**

We ask only this, that:

- Anyone who reads the blog should do so with an understanding of the likely origins of the excessively negative point of view of the blogger.

(Note: Readers should be open to the possibility that anonymous quotes from a “former board member,” as well as anonymous comments on specific blog posts are created by the blogger himself.)

- The information herein be provided to prospective purchasers who mention the blog.
- Those who ask questions and make suggestions of the Board and the management company do so in the spirit of constructive comment, civil dialogue and benefit of the doubt.
- Please consult with our management office if any information about our building is ever conveyed to you (by any source) that sounds troubling or of questionable authenticity. Our property manager is the best source of factual information on this subject.

Sincerely,

111 E. Chestnut Condominium Association

Please click [HERE](#) to visit the 111 E. Chestnut Condominium Association web site.