

To: Carleton Davidson

TAX EXEMPTIONS AND DUES

January 24, 1964.

The foregoing leads me to the MEMBERSHIP DUES angle referred to in your letter of January 12, 1964. First, if a refund from IRS be obtainable, this legally and morally is money which belongs to the individual members who paid it. To withhold information from our members about such a refund would be dishonest and might lead to dissension. Certainly, the members will have to have it explained to them why suddenly EXCISE tax on their dues will no longer be collected. I think that you will be duty-bound to proffer a refund of the 1963 or earlier EXCISE tax amount(s) to each member if you succeed in retrieving it (or them) from IRS, BUT you may include an APPEAL for each member to approve retention by your Board to help defray unpaid bills outstanding or anticipated, the appeal to be supported by copy of your this year's BUDGET. I have an idea that many members will say to you, "KEEP IT", being happy that we were successful finally in securing the exemption for the future. (But, remember again, this exemption covers INCOME tax which the Association has never paid, and you'll be seeking a refund of past paid EXCISE tax on dues alone.)

Now, on the question of the Annual Dues themselves, \$10.00 for lot-owners, and \$30.00 for homeowners, as you say, these are specified in the BYLAWS and may not be changed except through the legal procedure set forth by those same Bylaws which originally were adopted by majority vote of the entire membership of the Association. The Board has unique power, but the Bylaws establish control in the aspects included in their Articles and Sections. Your letter of January 12, 1964, seems to suggest that for 1964 you would prefer making no attempt to propose an actual amendment to the Bylaws, but instead to bill each member for his or her regular current dues (including the lot-owners???) and adding what will amount to an ASSESSMENT of \$10.00. The Bylaws and Covenants with the Deeds of our owners refer to a possible Assessment at one time or another, but I am afraid "assessing" just won't work, from past experience. You will find that "the few" will pay the assessment, but many, even those who make constant use of Association facilities, will not. This would in time require the filing of additional Statements of Indebtedness to record further liens on such owners' Deeds.

I would rather see you arrange for three members propose an appropriately worded amendment to the Bylaws. If there is going to be any such amendment, purposing to increase the annual dues to meet running expenses, I consider that, this time, the increase should apply also to the lot-owners, as well as the home-owners. Why should the lot-owners go free of any additional payment, either of Dues or Assessment? Not using their premises, in my opinion, is no excuse, any more than many waterfront owners likewise making no use of Association facilities. Omitting the lot-owners is discriminatory; they do not have any lesser vote in Association details under our Bylaws.

If the Board decides to go the route of a Bylaws amendment, I would think that a \$5.00 increase (from \$30 to \$35) annually, for the homeowners would get by, and I would recommend an additional \$2.00 for lot-owners (from \$10 to \$12). We no longer have to figure presumably, on taxability of the \$10 dues. (At this point, I should like to express gratitude over the fact that the IRS Determination apparently eliminates the grave prospect which the Association faced, of paying a penalty for failure to have filed a return each year for, and making payment of, EXCISE tax on the \$10 dues secured from lot-owners, due to a misunderstanding of the initial advice received from IRS years ago. One of my first Memos on the subject showed the possibility of such a penalty.) Proposing my suggested increases on a permanent basis, and trying to have them passed by the necessary vote at a Special Meeting of the Association early in May, following out the procedure outlined in the Bylaws in notifying members, etc., it would appear would give the Board sufficient additional funds to administer the Association's affairs sensibly. Few members would believe that if the increase were larger, ostensibly on a temporary basis, they could expect, after Bryant and other settlements, ~~they would expect~~ a reduction in a later year. By all means, a copy of your 1964 Budget should be annexed to the proposed amendment.

Yours very truly,

Henry J. Heidern, Chairman, Legal Com.

P.S. Whatever happened re Water System, if anything?