

Further Comments on the Proposed Articles of Incorporation

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Article III of the Articles lists the powers of the Association, and Articles Section VI.1.c says that any such power not reserved to the membership is a power of the Board. Furthermore, the Bylaws Article XIV.2 says that the Articles control if there is a conflict with the Bylaws.

Therefore, under the proposed changes, the Board has these powers:

- fix, levy, collect and enforce payment by any lawful means Dues
- fix, levy, collect and enforce payment by any lawful means Fees
- fix, collect and enforce payment by any lawful means Assessments
- own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property
- have and exercise any and all other powers, rights and privileges which a corporation organized under the nonprofit corporation law of the State of Colorado by law may now or hereafter have or exercise
- do any and all other lawful thing that will, in the opinion of the Board of Directors, promote the common benefit and enjoyment of the residents of the properties
- borrow money (according to Articles VI.1.j; conflicts with Articles X.c)

The Committee, the Board, and membership might think that under the proposed Articles and Bylaws increasing Dues requires a vote at a meeting, but the Articles say that the Board can do this alone. (Recall Bylaws XIV.2.)

Also, the Articles say that the Board alone can fix, collect and enforce payment by any lawful means Assessments. A super-majority of the membership is required to *levy* Assessments, but I can see a future fight over, say, “levy” vs. “fix, collect, and enforce payment”.

Finally, the “have and exercise any and all other powers, rights and privileges” and “do any and all other lawful thing” are so broad as to allow the Board, without a vote of the membership, to do a wide spectrum of potentially objectionable things.