



Heather Gardens

METROPOLITAN DISTRICT

HEATHER GARDENS METROPOLITAN DISTRICT BOARD ACTION

DATE: OCTOBER 19, 2023

MOTION NUMBER: 2-10-19-23

MOTION: MOTION TO PROHIBIT MODIFICATION OF PARKING LOT

I move that the Heather Gardens Metropolitan District Board of Directors direct that HGA refrain from replacing any asphalt in the maintenance building parking lot without the prior written approval of HGMD, and further notice HGA that HGMD will not be responsible for any costs incurred by the unauthorized replacement of asphalt. HGMD authorizes the filling of the potholes by maintenance personnel.

ECONOMIC COST TO THE DISTRICT: \$0
APPROPRIATED BY: N/A

Motion by: Daniel Taylor

Second by:

Craig Baldwin
Audit Finance

Rationale: HGMD did not approve the capital expenditure request submitted by HGA. The Board referred it to the Joint Budget & Finance Committee which chose not to recommend it to the District Board. The District Board did discuss the project and did not move it forward as a priority over other existing and impending projects.

HGA determined at its Sept. 19th meeting to replace the asphalt on the District's property despite and acknowledging the District's had not approved the project.

First, the management agreement requires "specific approval of the District" to "upgrade, rehabilitate, retire, and/or replace the Properties."

Second, Motion 2-9-21-23 Adoption of Expenditure Policy adopted on September 21, 2023, requires that "Any contracts that bind or obligate the District or require the expenditure of District funds must be signed by the District President and the District Secretary." This policy including the requirement that the Treasurer approve all unbudgeted expenditures and budgeted expenditures over \$2,500 has been acknowledged by the HGA CEO on at least one occasion.

Third, although the HGA voted to pay for the replacement, its attorney sent an email dated September 20, 2023, wrongly stating that "our" B&F committee did not recommend the project, when it is a Joint B&F Committee; that HGA intends to undertake this work as agent, despite the foregoing; and that HGA reserves the right to seek reimbursement for expenses associated with the repairs, despite that not being the action of the HGA Board.

Fourth, at least 4 directors have toured the lot and agree that filling the potholes is sufficient at this time, and that maintenance is fully capable of doing that.

Debate: _____

Secondary Motion to : _____
Secondary Motion by: _____ Second by: _____

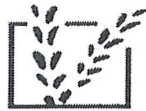
VOTE:

	Yes	No	Yes	No
Craig Baldwin	✓			
Rita Effler	✓			
Eloise Laubach	✓			
Robin O'Meara	✓			
Daniel Taylor	✓			
Total	5			

The secondary motion does/does not have a majority and passes/fails.
The main motion does/does not have a majority and passes/fails.

Robin O'Meara
Robin O'Meara, Secretary
HGMD Board of Directors

Daniel J. Taylor
Daniel J. Taylor, President
HGMD Board of Directors



Heather Gardens

METROPOLITAN DISTRICT

HEATHER GARDENS METROPOLITAN DISTRICT BOARD ACTION

DATE: SEPTEMBER 21, 2023

MOTION NUMBER: 2-9-21-2023

MOTION: ADOPTION OF EXPENDITURE POLICY

I move that the Heather Gardens Metropolitan District Board of Directors adopt the following policy with regard to oversight of expenditures on behalf of HGMD. All expenditures shall be approved by the HGMD Treasurer. The Treasurer may pre-approve reoccurring expenditures, and budgeted capital expenditures under \$2,500. All unbudgeted expenditures and budgeted capital expenditures over \$2,500 shall be approved by the District Board. Any contracts that bind or obligate the District or require the expenditure of District funds must be signed by the District President and the District Secretary.

ECONOMIC COST TO THE DISTRICT: NONE
APPROPRIATED BY: N/A

Motion by: Daniel Taylor

Second by:

Craig Baldwin

Rationale:

Whereas the Management Agreement between HGA and HGMD, dated August 23, 2018, delegates to HGA "the authority to engage independent contractors, within District budget constraints, on behalf of the District and in the District's name or in the Association's name to assist with the execution of the Delegated Duties..."(IV.4.); and

Such HGA authority is limited "subject to the District's Board of Directors' policies, budgeting, finances, and oversight" (I.1.); and

The District established a policy in the Joint Budget & Finance Committee Procedure Memorandum (JPM B-1), dated April 20, 2023, regarding spending authority without prior review by the District; and

The District Board intending to preserve its oversight of the propriety and reasonableness of expenditures of public money, whether budgeted or unbudgeted, hereby adopts this policy intended to supersede any and all prior policies, and to define the District's policy regarding expenditures under the Management Agreement;

Therefore, the District Board of Directors hereby adopts the following policy regarding expenditures. All expenditures shall be approved by the HGMD Treasurer. The Treasurer may pre-approve reoccurring expenditures, and budgeted capital expenditures under \$2,500. All unbudgeted expenditures and budgeted capital

expenditures over \$2,500 shall be approved by the District Board. Any contracts that bind or obligate the District or require the expenditure of District funds must be signed by the District President and the District Secretary.

Debate: _____

Secondary Motion to :
 Secondary Motion by: _____ Second by: _____

VOTE:

	Yes	No
Craig Baldwin	✓	
Rita Effler	✓	
Eloise Laubach		✓
Robin O'Meara	✓	
Daniel Taylor	✓	
Total	4	1

Yes	No

The secondary motion does/does not have a majority and passes/fails.

The main motion does/does not have a majority and passes/fails.

Robin O'Meara
 Robin O'Meara, Secretary
 HGMD Board of Directors

Daniel Taylor
 Daniel J. Taylor, President
 HGMD Board of Directors

Daniel Taylor

From: Jennifer Ivey <jivey@isp-law.com>
Sent: Wednesday, September 20, 2023 4:55 PM
To: Suzanne Leff
Subject: RE: Letter Regarding District Properties

Suzanne,

I will have to gather information about the asphalt contract before I can address that matter.

In the meantime, can you advise on the status of the meeting requested from my letter? I know a meeting with Darkhorse occurred today but it seemed that it may have a limited scope so an additional meeting may be necessary, do you have additional information about that?

Jennifer L. Ivey

jivey@isp-law.com

Direct: 303.867.3003 Mobile: 810.287.1978

Facsimile: 303.292.9101

4725 South Monaco Street, Suite 360

Denver, Colorado 80237



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From: Suzanne Leff <sleff@wlpplaw.com>
Sent: Wednesday, September 20, 2023 4:44 PM
To: Jennifer Ivey <jivey@isp-law.com>
Subject: RE: Letter Regarding District Properties

Jennifer,

I have provided my client with your correspondence related to HGMD properties and have some follow up on this topic based on meeting decisions that I understand have occurred this week. Namely, my client has informed me that HGMD's Budget and Finance Committee did not recommend entering into a contract to resurface the asphalt on HGMD property at the maintenance building, despite the apparently degraded and hazardous condition of the asphalt and previously contemplated expenditure of HGMD funds for this purpose. It is my understanding that committee members recommended that HGA pay for and fix the asphalt rather than having HGMD incur this expense. Whatever the circumstances, HGA's Board subsequently determined that inaction on the asphalt stands to create liability for HGA and decided to contract for asphalt work in this area at the September 19th HGA Board meeting.

While HGA has the authority to undertake this work as agent for HGMD, HGA does not hold any obligation to incur expenses to resurface HGMD property. However, due to safety issues, concern for the well-being of HGA employees who frequent the maintenance property site, and recognition that cost for this work will only increase over time, the HGA Board approved asphalt repairs in this area. HGA currently intends to undertake this repair work as agent for

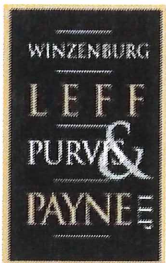
HGMD and reserves the right to seek reimbursement for expenses associated with work. HGA expects to complete the work before the end of the season.

If HGMD plans to move forward with the asphalt repairs on the property near the maintenance building, please advise on anticipated timing for contract approval. If HGMD does not plan to move forward with asphalt repairs and does not permit HGA to proceed with this work, please allow this communication to serve as notice of concern about hazardous conditions on HGMD property and the fact that HGA will not bear responsibility for any damages or injuries that result from inaction by HGMD.

Thank you,

Suzanne

[Click here](#) for the latest commentary and opinions on the law affecting homeowners associations. Sign up for e-mail updates, or subscribe to our convenient [RSS feed](#) for automatic updates.



Suzanne M. Leff

Attorney at Law

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From: Jennifer Ivey <jivey@isp-law.com>

Sent: Wednesday, September 13, 2023 3:24 PM

To: Suzanne Leff <sleff@wlpplaw.com>

Cc: Noel Nail <nnail@isp-law.com>

Subject: Letter Regarding District Properties

Suzanne,

Please find attached a letter related to requests of the District related to HGA activities regarding its properties.

Thank you

Jennifer L. Ivey

jivey@isp-law.com

Direct: 303.867.3003 Mobile: 810.287.1978

Facsimile: 303.292.9101

4725 South Monaco Street, Suite 360

Denver, Colorado 80237



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