

QUESTIONS & ANSWERS FROM AUGUST 28, 2010 MEMBER MEETING

1. What are the terms of the proposed settlement of the lawsuit brought by Woodcroft and Legacy against the Davis Lake Community Association (DLCA)?

The DLCA Board has agreed to allow Woodcroft and Legacy to separate from Davis Lake, and Woodcroft and Legacy have agreed to dismiss their lawsuit, but only if the following two conditions are met:

- A. The DLCA membership must vote to allow this separation. The vote will be held pursuant to the rules set out in the DLCA bylaws, and its Declaration of Covenants and Restrictions. A Special Meeting must be held. A quorum (60% of owners) must vote, and 67% of those voting (after quorum) must vote to allow separation; and
- B. All 105 owners within Woodcroft and Legacy must relinquish all property rights in Davis Lake common areas, including the pool and clubhouse, the tennis courts, riding trails, lake, etc. They must do this by executing and recording a “quitclaim deed” and it must be unanimous. However, those Woodcroft and Legacy owners who wish to continue using the DLCA amenities will be given an opportunity to do so by paying a user fee. (See Below)

2. If the DLCA membership approves the separation of all Woodcroft and Legacy owners, what will be the effect on membership assessments?

The 105 members in Legacy and Woodcroft are approximately 12% of the DLCA membership. If they leave, DLCA annual revenues will decrease by approximately 12%. This is about \$62,000 annually. The association cannot absorb that revenue loss by simply reducing expenditures. Therefore, it is likely that assessments will increase. The Board is only authorized to raise assessments by 10% annually. Because the assessments were due to be raised in any event, the Board anticipates an increase for at least two successive years.

3. If membership assessments are going to increase, why should any DLCA member vote to allow the Woodcroft and Legacy members to separate?

Woodcroft and Legacy have sued the DLCA for money damages. If they win in court, the association will have to pay damages. In addition, it will continue to incur attorney fees, win or lose. Either way, assessments will likely increase anyway. The DLCA Board’s decision to support this separation amendment is a way to manage or minimize this risk.

4. What are the risks? What is the probability that the DLCA will lose and have to pay money damages to Woodcroft and Legacy?

While the DLCA's attorneys believe it will prevail in this lawsuit, Woodcroft and Legacy attorneys also believe they will prevail. The outcome of litigation is notoriously unpredictable and anything is possible. In addition, because of the complexity of the issues raised in this case, it is likely that the losing side will appeal, which would result in years of additional litigation and attorney fees. In order to avoid these uncertainties, risks, and costs, the parties have compromised. The Board will support separation without payment of any money.

5. Under the terms of this proposed settlement, will any DLCA money be paid to Woodcroft or Legacy or its attorneys?

No.

6. What will happen if the Davis Lake community votes against separation of Woodcroft and Legacy, or if all owners in Woodcroft and Legacy do not agree to relinquish their property rights to Davis Lake common properties?

The parties will return to court and the lawsuit will proceed to trial, probably in late 2010 or early 2011.

7. The DLCA Board opposed separation in 2008. Now they have agreed to support separation. Why has the Board changed its position?

After four years of acrimony, and two separate lawsuits, the 2010 Board has voted that separation is in the best interest of the entire community for the following reasons:

- There is some financial risk to Davis Lake of continuing to litigate. This risk is erased if this settlement proposal succeeds.
- Win or lose, it is likely that the DLCA will continue to pay attorney fees during any appeal. Separation stops the bleeding.
- There is a value to the entire community in ending the acrimony and fostering community harmony.

8. What will happen to the Woodcroft and Legacy members who want to continue to use the Davis Lake amenities, such as the pool and tennis courts?

The parties have agreed that the present Woodcroft and Legacy owners will be given the opportunity to pay a user fee equal to Davis Lake assessments in order to continue using the Davis Lake pool, clubhouse, tennis courts, etc. Those who have no desire to use the amenities will not have to pay (but cannot use the amenities). Those who wish to use the amenities will pay to the DLCA what they have always paid, except the payments will be a user fee rather than an assessment. The only difference is that this contractual right to use the Davis Lake amenities will not be transferable to new owners. Eventually, as present owners transfer their properties, either by sale or inheritance, this will lead to complete separation of the sub-developments from Davis Lake.

9. Who will be responsible to pay for maintenance and upkeep of the median on Davis Lake Parkway?

The median north of David Cox Road, within Davis Lake proper, is the responsibility of the Davis Lake Community Association. The median south of Davis Cox Road, along Woodcroft and The Shoppes At Davis Lake, is the responsibility of The Shoppes At Davis Lake. The outcome of this vote has no effect on those responsibilities.

10. Why is The Ridge At Davis Lake (RDL) included in this vote?

The parties to this lawsuit have agreed to allow the community to vote whether the 28 owners in RDL can also separate. This decision was based upon the following factors:

- Some of the owners in RDL have requested that they be allowed to go their own way.
- Until recently, no one in Davis Lake or RDL knew that RDL was a part of Davis Lake.
- They have never paid assessments and have never used any of the amenities.
- They are geographically separated from Davis Lake. You have to leave Davis Lake and drive through Davis Ridge, in order to get to RDL.
- The short term cost to the DLCA of collecting assessments from absentee owners, and bringing all the homes in RDL into compliance with DLCA covenants will be substantial.
- If RDL owners agree, separation will merely return everyone to the *status quo ante* (the way it always was before we discovered RDL was a part of Davis Lake).
- The same two conditions apply to RDL separation. The Davis Lake community must vote to approve separation, and all RDL owners must relinquish their property rights in Davis Lake. If those two conditions are not met, RDL will continue to be a part of Davis Lake.

11. If separation is successful, will the Woodcroft and Legacy sub-associations raise assessments for their members?

The Boards for Woodcroft and Legacy have no plans at present to increase their member assessments.

12. Are any of the residents of Woodcroft or Legacy opposed to separation?

This question will be answered by the vote and by the signatures obtained on the Master Quit Claim Deeds whereby those owners will relinquish their DLCA rights. If any Woodcroft and Legacy owners decline to relinquish those rights, then presumably they oppose separation, and this settlement proposal, as presently agreed upon by the litigants, will fail.

13. Does the vote have to be 100% to let the Woodcroft and Legacy members separate?

One hundred percent of Woodcroft and Legacy owners must agree, but only 67% of *all* voting DLCA members must agree, after quorum. There must first be a quorum of 60% of the owners (a minimum of 512 votes cast), and then 67% of the votes cast must be for separation. This means it is possible for the community to approve separation with only 343 affirmative votes ($853 \times .60 \times .67 = 343$). Because all 105 Woodcroft and Legacy members are also DLCA members, the minimum single-family-home votes necessary to approve separation is 238, even though there are 748 single family members ($853 \times .60 = 512 \times .67 = 343 - 105 = 238$).

14. Will there be on-line voting?

No. You can vote in one of the following ways:

- a. You can attend the meeting on Saturday, September 18th and cast your vote;
- b. You can designate a proxy by writing the proxy's name on the ballot. Cast your vote and deliver it to your designated proxy. However, your designated proxy must attend the September 18th meeting. If your designated proxy does not attend the meeting, your vote will not count. Therefore, speak with your proxy before designating him or her;
- c. You may send your vote by mail to the DLCA, 9000 Davis Lake Parkway, Charlotte, NC 28269. **If you vote by mail, do not designate a proxy.** By mailing your ballot, you agree to appoint former Board member Doug King as your "default" proxy. Mr. King will be attending and voting on behalf of all "mailed ballot" members.
- d. Between now and the date of the meeting, some of the members have volunteered to canvass neighborhoods to retrieve ballots at members' homes. If you are canvassed, you do not need to designate a proxy (though you may if you desire). Doug King will be the "default" proxy of all ballots obtained through neighborhood canvassing.

15. If Woodcroft and Legacy owners are allowed to separate, but owe past assessments, will the DLCA be able to collect these assessments?

Yes. The proposed Amendment I specifically authorizes the DLCA to collect any assessments from Woodcroft and Legacy owners who were delinquent on the day the separation becomes effective.

16. If the Davis Lake community allows Woodcroft and Legacy members to separate, do we have to allow them to continue using Davis Lake amenities, such as the pool?

This is part of the proposed settlement agreement negotiated by the parties and their attorneys at mediation. It was included to help obtain the approval of all Woodcroft and Legacy owners who wanted to use the pool and tennis courts.

17. What costs will the DLCA incur by keeping The Ridge At Davis Lake (RDL) in the DLCA, and have any of their homes been “liened” for non-payment of assessments.

The DLCA sent out its first assessment notices to RDL owners for the second quarter of 2010. Non-payment triggers a process that takes a few months, culminating in the filing of a lien. At this time, no liens have been filed against RDL owners.

There are 28 RDL owners. If they all pay their assessments in a timely manner, this would bring in annual revenues of about \$19,500. However, if a significant number do not pay assessments (as we’ve seen so far), not only does the DLCA not collect those revenues, but it has to pay its management company and its attorney to send notices, hold hearings, file liens, and if necessary, foreclose on homes. In addition, the DLCA must go through a similar process for all the ARC violations in RDL. It is too soon to know what the financial effects of RDL delinquencies will be, but Cedar Management, the DLCA management company, foresees years of such expenditures to enforce assessment and ARC compliance.