

**Date:** September 9th, 2020

Executive Summary:

JBMI authorized a legal committee to conduct a study into the costs associated with legal counsel. The committee was asked to review the last 18 months of legal consultations and produce a path forward with successful strategies. The JBMI LRC engaged counsel openly without further cost to JBMI via Zoom. A comprehensive review was conducted by the members. The recommendations reflect the will of the committee.

The JBMI Legal Counsel Review Committee recommendations follow.

Recommendations include:

- The formation of a standing legal committee.
- Draft a new bylaw to address the community's approach to short-term rentals.
- Expedite and prepare JBMI for electronic voting.
- Institute changes to the nomination, election and ballot handling process.
- Establish a system of prioritization and adoption of amended bylaws.
- Act to secure JBMI assessments against short term rental landlord.

Introduction:

Jantzen Beach Moorage Inc (JBMI) incurred legal costs of over \$31,000 in the eighteen-month window from January 2019 through June 2020. In July 2020, the current leadership of JBMI acted unanimously to create a new Legal Counsel Review Committee to conduct an in-depth analysis of all legal services requested by JBMI and provided by its legal counsel, Mr. Ryan Harris of the law firm Vial Fotheringham for the aforementioned timeframe.

The committee was established in late July, consisting of the following members:

Mark Thommen, Chair of the committee and current board member with a background in Project Management.

Rich Lang, current board member with a background in IT and Cyber Security and extensive experience working with corporate attorneys.

Ron Schmidt, JBMI member with a background as a provider of legal services.

Nikki Charlton, RN, JD, JBMI member, retired nurse, and attorney.

The committee's Charter for the project was submitted and approved in August and can be found in the Appendix of this document.

## Findings:

During the expository review, the following findings were unanimously agreed upon by the committee members:

Mr. Harris has been operating in good faith based on the information he has received from the leadership of JBMI.

The concern regarding the lack of aggressive action by counsel was replaced with understanding and awareness due to the flawed communication channel and lack of full disclosure by JBMI board.

There has been, and continues to be, a lack of oversight and protocol on behalf of JBMI regarding the point of contact(s) authorized to contact legal counsel and any type of checks and balance as to the need to contact legal counsel. This has contributed to the excessive legal costs incurred over the eighteen-months. It is an inefficient process for dealing with legal matters and results in a lack of closed loops and prevents clear and necessary communication.

There is a major communication breakdown between JBMI leadership, legal counsel, and the board of directors, which ultimately impacts members as well. The criticality of, and reliance on legal counsel in carrying out fiduciary duties of the Board and Officers demands clear and consistent communication between the President and Moorage Manager (Daily Operations) and the Board of Directors (Governance and long-term planning).

## **LRC Recommendations:**

The LRC recommends immediate action and adoption of the following practices. The intent by the LRC is to cauterize the bleeding off of funds, implement a call to action regarding legal oversight and produce a knowledgebase to lead future leadership actions.

### 1. Establish Standing Legal Committee

- Comprised of members with professional legal experience (law, high level of interaction with legal matters) and with members serving across annual leadership changes (2-3-year cycles).
- Establish a liaison / point of contact between JBMI and legal counsel. Assignment of one or two members authorized to approve legal counsel contact).
- Day to day operational issues should not warrant email or phone call legal counsel. The Office Manager should not make contact without going through the channel proposed in the above bullet.

### Look for Efficiencies:

- Reduce legal costs by reducing 'random' access to legal counsel.
- Ability to weigh necessity from a broader perspective and reduce redundancy.

- Develop a professional relationship between the JBMI and our legal counsel.
- Maintain continuity across yearly leadership changes (no re-invention of the wheel).
- Consistent, timely and focused communication.

2. Draft the language necessary to lock down our short-term rental policy bylaw. This should be done immediately to end the discussion. We likely will not recover assessments or fines, but it will finally draw the line in the sand.

- This should be done even prior to setting up the electronic vote mechanism
- This should be done by the board in coordination with the legal committee and presented to Mr. Harris to ensure it meets the standards necessary.

3. Expedite the adoption and implementation of Electronic Voting to enable the systematic and priority-based selective updates of JBMI bylaws rather than a mass update.

- Clarify the critical nature of the Bylaws. Comprehensive updates must be done to prevent future conflicts caused by outdated language in our present Bylaws.

4. Prioritize JBMI bylaw amendments with an accountable schedule and project plan.

- Increase JBMI communication
- Increase JBMI bylaw transparency while addressing doubts and fears
- Systematically review and amend necessary bylaws while leveraging past legal analysis and effort by the previous board work

Conclusion:

The LRC recommends that JBMI continues its legal counsel representation with Rya Harris, and that the recommendations he set forth be acted upon prudently by the board.

Addendum:

Categorization of Legal Costs January 2019 thru June 2020

\$7,000.00+ AirBnB issue

\$6,000.00 Bylaw Amendments

\$3,000.00 Member Harassment Sara Joy / Same member Demand Letter

\$6,000.00 Two elections issue, libel/ slander letter to members, harassment, property damage

\$6,400.00 HUD complaint

\$28,400.00 of total \$31,537.00