

ORC 5312 and Reserve

MYTH VS. FACT and FAQ

- **MYTH:** ORC 5312 does not apply to Lost Hollow because we are a licensed campground under ORC 3729.
- **MYTH:** We are converting from 3729 to 5312
- **MYTH:** We are opting into 5312
- **FACT:** We are still and always will be a licensed campground under 3729. This is the primary law that governs the property use.
- **FACT:** 5312 is another law we must follow because we are a community sharing common assets. IE Pools, buildings, maintenance etc. This is no different than all of the other codes we must follow outside of 3729. Like ORC 1702 for nonprofits, ORC 6109 for safe drinking water as well as the many regarding minimum wage, OSHA, ADA etc. All businesses follow many codes in their operation. We cannot say we are not going to follow 1702 because we are 3729 nor can we tell the EPA we don't have to follow 6109 because we are 3729. 5312 is the same as the rest of the codes.
- **FACT:** No one can "OPT out of" 5312.
- **MYTH:** Changing our name to something other than LHPOA will allow us to avoid 5312.
- **FACT:** Changing our name will not change the fact that we are a community sharing common property and therefore have to follow 5312.
- **MYTH:** The reserve requirement in 5312 is just a suggestion.
- **FACT:** The Board and Association are required to budget for a fully funded reserve. The reserve must include funding sufficient to maintain, repair or replace all common assets.
- **MYTH:** The Board/Owners can decide not to maintain, repair or replace common assets as they desire.
- **FACT:** The Board/Association is legally required to maintain, repair and replace all common assets.

FAQ

- Question: How much is the required reserve assessment?
 - Answer: Currently it is \$240 per lot. Billed at \$20.00 per lot per month
- Question: Can we waive the reserve requirement?
 - Answer: Yes, the members must vote every year if they want to waive the reserve requirement. It takes 51% of lot owner's approval to waive the requirement for that year.

- Question: If we waive the reserve fund, will we have to pay special assessments?
 - Answer: Yes, the association is still legally obligated to maintain, repair and replace all common assets. So each lot owner will be billed a special assessment for all of the major repairs done that year. 2018 is expected to be \$402.50.
- Question: If we do the \$20.00 per month reserve fund, will we have to pay the \$402.50 special assessment this year?
 - Answer: No.
- Question: If we do the \$20 per month reserve fund, will we ever have to do a special assessment?
 - Answer: Most likely no. The point of the reserve is to have the funds already in place when repairs are needed. Providing there were no major UNEXPECTED repairs that exceeded the fund, there should not be a need for special assessments going forward.
- Question: Why did the state pass a law requiring us to have a reserve fund?
 - Answer: Because special assessments are very hard for people to manage in their budgets. Especially people on fixed income. The state does not want associations creating hardship and foreclosures due to large special assessments. A small reserve amount monthly is much easier for people to manage and therefore reduces hardship on the lot owners.
- Question: Is the \$20 per month just this year or ongoing?
 - Answer: The funding of the reserve is ongoing in order to keep the reserve funded for future repairs.
- Question: Why is the special assessment 402.50 if the reserve funding is only \$240?
 - Answer: The reserve fund is a level fee accounting for all repairs over time vs the actual expenses in any given year. Some years the actual expenses will be more than the \$240 and some years they will be less, but they will average \$240 per year. This removes the large swings in special assessments. The 402.50 is based on the actual expenses for 2018.
- Question: Can we decide not to be a POA any longer?
 - Answer: No. However, the POA can be dissolved with 100% vote of the lot owners. Part of that would be to eliminate common property including water, sewer etc.