

# LITTLE BOW RESORT CONDOMINIUM ASSOCIATION

CONDOMINIUM CORPORATION NO. 931 1680

September 3, 2009

**TO: Little Bow Resort Owners**

**FROM: Little Bow Resort - Board of Directors – Tree Committee (Mike Geisler and Ron Girvitz)**

**Re: Tree Planting on Common Areas and Shoreline Lease Areas**

Over the past 2 years and most recently, there has been a great deal of discussion and concern expressed over the planting of trees on both common area lands and Shoreline Lease lands. The Board has received a large number of communications from unit owners expressing concerns regarding recent tree planting activities and the Board's actions taken in response. This newsletter is intended to clarify the Board's position regarding tree planting and to outline recent actions.

## **Background**

By way of background information, there are two areas to which the Board has recently addressed tree planting:

1. Common Areas – the Board is charged with the duty to maintain common areas for the benefit of all unit owners. Further, there is an entitlement for all unit owners that the common property will not be used in such a manner so to interfere with the use of enjoyment of another unit owner.
2. Shoreline Lease Areas – this land is owned by Alberta Environment and is leased to the condominium corporation. These lands include all property from the water's edge to the top of the berm. Included in these lands are our beaches, boat launches, boat launch parking areas and grass areas. No alteration of the shoreline lease areas is permitted except upon prior consent from Alta Env. Our lease expires in 10 years and there is no automatic right of renewal. Applications for approvals must be submitted by the Board and require a detailed survey of the area to be included with the request. The cost to submit such a request is generally in the order of \$2,000 to \$4,000 depending upon complexity and size of request which includes the cost of the survey and board manager time and expenses.

## **Concerns Arising**

Over the past few years, the Board has spent a considerable amount of time addressing tree planting issues on both common areas and shoreline lease areas. While everyone does enjoy the presence of trees, some unit owners do express reasonable concerns with the loss of their views and the adverse effect upon their use and enjoyment of the various common areas. For this reason, the Board has become more attentive to the planting of trees in both common areas and Shoreline Lease areas. The Shoreline Lease areas are of particular concern because of the necessity to preserve an existing cooperative relationship with Alberta Environment as it related not only to the future renewal of our Shoreline Lease but to the water removal permits and their continued implied consent to use the lake without restriction. As an aside, the September 3, 2009 Calgary Herald reported that the BC environment department responsible for Lake Windermere appears to be considering restrictions to the use of the lake as a result of overuse and environmental concerns.

## **Board Actions – Common Areas**

Last year, the Board implemented new criteria to address tree planting on common areas in order to balance the desire of unit owners to have more trees with the need to respect another unit owner's use and enjoyment of the property. Going forward, all trees planted on common areas will require prior consent of the Board and

be based on the following criteria: (1) the trees must be spaced at least 15 feet apart to allow for maintenance of grass between trees; (2) the location of the trees must have regard to other affected unit owners; this means that the Board will now solicit comments and concerns from unit owners affected; (3) no additional water shall be allocated to maintain new trees (arising as a result of our shortage of water); and (4) the trees must not be reasonably viewed to extend a unit owner's property boundaries.

Since implementing these new criteria, the Board has worked with unit owners to resolve outstanding concerns regarding tree locations pertaining to trees that were planted without prior approvals. Presently, there are no outstanding issues concerning tree planting on common area lands.

### **Board Actions – Shoreline Lease Areas**

Over the past years, and very recently, a large number of trees have been planted on the Shoreline Lease areas without either Board consent nor consent from Alberta Environment. While the Board was considering how best to address a recent situation (and a separate request for prior approval to plant on Shoreline Lease lands), we were advised that an inspection would be conducted by Alberta Environment as is their right under the terms of the Shoreline Lease. Our consideration of these issues was halted pending this inspection.

In the last newsletter, the results of this inspection were communicated to unit owners. The Board was ordered to come into compliance with the terms of the Shoreline Lease by September 10. The Board discussed this matter directly with the unit owners most affected by the presence of these trees and it was agreed that the newly planted trees and very small evergreens would be removed but the more mature trees (4 in total) would be proposed to be moved to common area lands. Accordingly, a proposal was submitted to the Board to move these mature trees and input from affected unit owners has been solicited. The Board also agreed to a request from a unit owner to request additional time from Alberta Environment by which to effect the safe relocation of the trees. Further, the Board has been notified that a further request to relocate an additional tree will be soon submitted.

At all times, the Board has sought to work cooperatively with the affected unit owners to effect a resolution that would achieve compliance with the requirements set forth by Alberta Environment and reasonably preserve the existence of more mature, established trees. The Board declined to request a retroactive omnibus approval from Alberta Environment for the unauthorized trees due to the cost involved, the likelihood that the newly planted trees would not survive the winter and the decision to start to implement a longer term tree strategy on both common and shoreline lease areas that would allow for the input from all unit owners.

As a consequence of these recent events, the Board has received a large number of communications from unit owners. It was thought that this newsletter might be a more time efficient and effective medium by which to communicate the attitudes and actions of the Board. The resolution of this most current issue depended upon the cooperation of a number of unit owners to which the Board is most appreciative.