

### **Disclaimer**

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### Introduction

Welcome - safety doors and telephones

What and who is Capitol Body Corporate Administration

Established 1996

### **Capitol Directors**

Ian D'Arcy, Josephine D'Arcy and Ashley Fox



### Introduction

### The Capitol team – introduce the team

- Community Relationship Manager (CRM)
   Body Corporate Manager
- All CRMs are supported by a Community Relationship Assistant
- Accounts team
- Insurance team
- Marketing and events



# Introduction

### **Our culture at Capitol**

Followers of: Fish! Philosophy and Speed of Trust Currently our team is receiving training from National College of Business

### What we do

- Agreed services (secretarial and treasury)
- Non agreed services (maintenance coordination)

We proudly support Act for Kids as our chosen charity





### Introduction

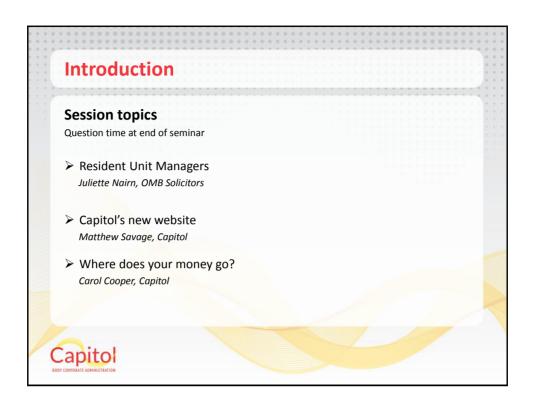
### Where are our offices located?

Brisbane | Gold Coast | Redcliffe

How to contact our team via our website

www.capitolbca.com.au











### **Agenda**

- What are Management Rights and how are they normally formed?
- Assignments
- Variations
- Common Complaints
- Practical ways to work with your RUM?
- Worst case how to enforce Duties and Performance by your RUM

Management Rights





# **Assignments**

- Normally a Committee decision
- Consent Five (5) Key Factors
- What is the current status of the performance/condition of common property?
- Interview
- Searches
- Concerned about the new/incoming RUM? 2nd Interview Expert engagement
- Documents/information Deeds, Motions and Legal Advice

Management Rights





### **Variations**

- Normally requested just prior to Management Rights being sold
- · Lot Owner Motion
- Opportunity to Negotiate (if strong Committee) support of lot owners?
- Documents/information Deeds, motions and Legal Advice

Management Rights





### **Common Complaints**

- · Length of Term
  - Check if contract is valid, options exercised (RUM responsibility), term remaining, licences and insurance, last review of terms and conditions (including duties)
- Amount of Salary
  - Salary review clause
    - CPI should be annual review should be reflective of market
    - Any further review? ought to be market value determined by appropriate valuer
  - 'Stuck' with salary clause in Caretaking Agreement
  - Pressure from term reducing may lead to negotiation of salary and more
  - QCAT Proceedings
    - Brought by RUM– most likely due to non-review of salary
    - Expert appointment time and motion study = not appropriate or reflective of market value of caretaking agreements
    - Costs defence insurance cover for bodies corporate (check your insurance!)

Management Rights





### **Common Complaints cont..**

- · Duties and Enforcement
  - Nominating a Committee liaison person
  - · All Committee members need to know Caretaking Agreement and duties
  - · Determining why there are performance concerns?
    - Does RUM understand Agreement and duties?
    - · Is RUM not fit to undertake some duties?
    - Is the RUM enjoying being on a 'good wicket'?
  - · Issuing monthly, quarterly, bi-annually directions by the Committee
    - "Walk around's"
    - Open communication
  - Negotiating with RUM
    - · What does RUM want?
    - · Negotiate sometimes difficult to get parties to "the table"
      - Maybe not all Committee liaison person only

Management Rights





### **Common Complaints cont..**

- · Strategies for difficult RUM
  - Conduct a Review time limits apply (normally 3 years)
  - Performance Reviews time consuming, costly and stressful
  - Allow contract to expire no extensions
  - · Purchase contract (caretaking agreement only)
  - Applying pressure by allowing term of Caretaking Agreement to reduce
  - · Lot owners removing lots from letting pool
  - Combination of all
  - Final step is Remedial Action Notice and legal advice on termination
- Options for bodies corporate
  - Consider the type of scheme small? Amount and type of facilities?
  - Consider the need or necessity of a full time, live on site RUM
  - Costs of a full time, live on site RUM per year (and over full term of agreement) vs separate contractors (i.e. Jim's mowing, local pool shop)

Management Rights





### Conclusion

- Lot Owners and Committees becoming more aware
- Implementing strategies
- Negotiating
  - What does the RUM want?
  - Why is the RUM not carrying out the duties?
  - What are the solutions?

Management Rights



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# **Management Rights 101**

Frank Higginson, Director

### **How about**



- Them Maroons
- The first day of the Ashes

(I hope)

# What are management rights?



They are contracts which include:

- Caretaking component
- Letting component letting appointments

Property (or property usage rights)

# How are they created?



- First EGM through developer
- · Later AGM through owners
- Never at committee level

# **Selling management rights**



- · Can be sold at any time
- Not a job interview but committee cannot unreasonably withhold consent
- · What that means

# **Current conditions**



- Buoyant market
- More informed bodies corporate
- · Refusals and conditions

# **Dealing with poor performance**



- You can always go the armageddon option but why start there?
- Treat it as a staff performance issue
- Educate, manage expectations, communicate

# Why any action will be contested



- The value of management rights
- · Financiers lending
- Body corporate spending

# Moral to the story



- How we approach these
- Understand the legal and commercial nature of what they are
- Find a way to solve it without real disputation

### **Contact**



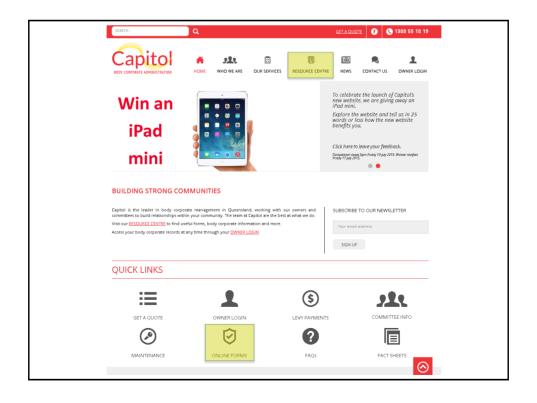
# Frank Higginson, Director

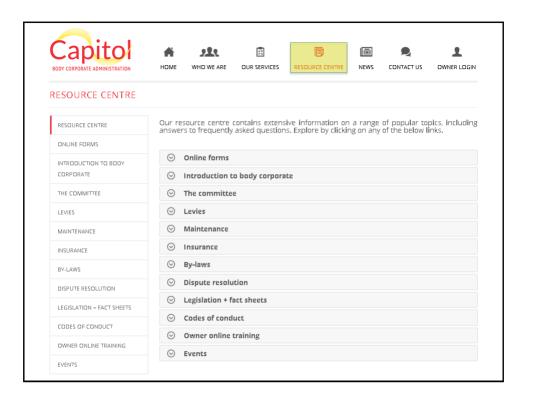
Frank.higginson@hyneslegal.com.au 07 3193 0588

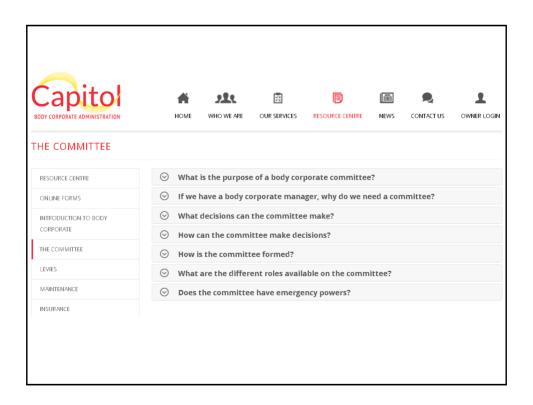
Have you subscribed to our free management rights newsletter?

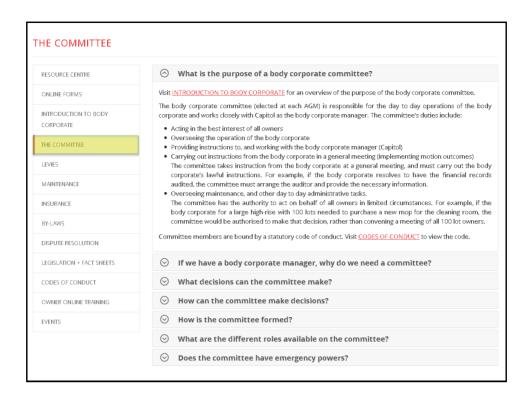
Visit www.hyneslegal.com.au/subscribe

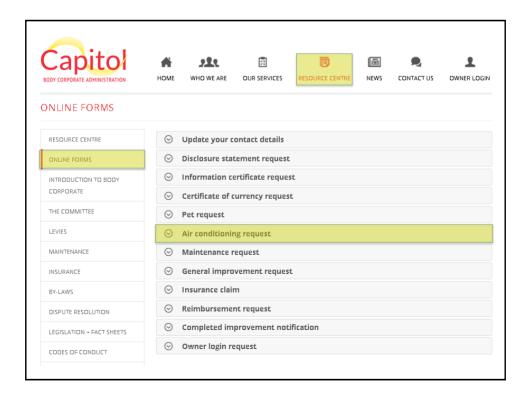




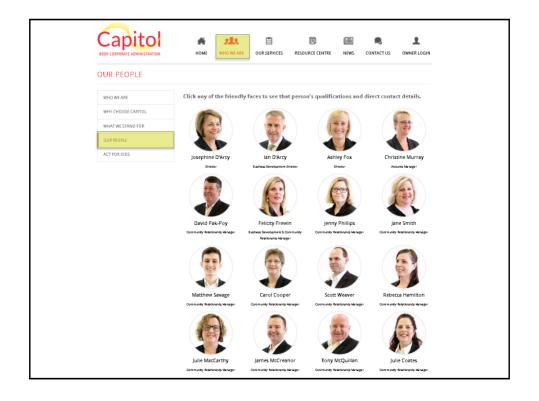


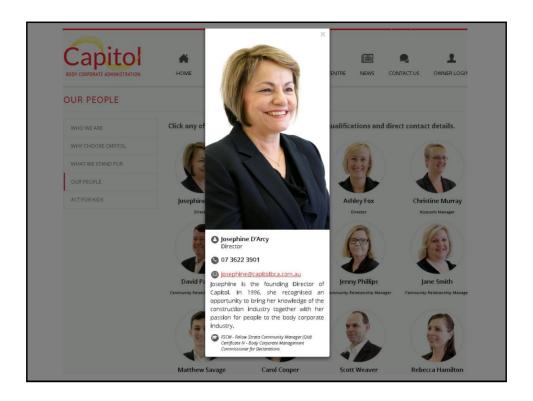


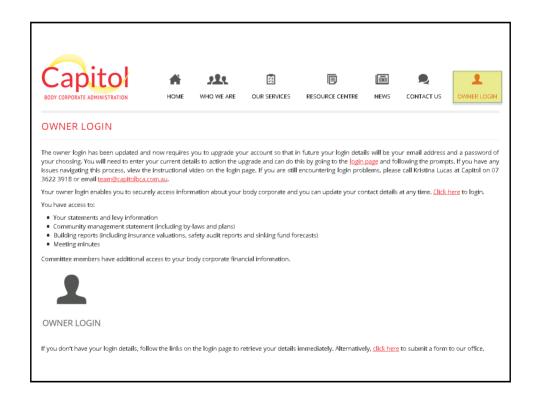




RESOURCE CENTRE	Process for obtaining co	mmittee approval		
ONLINE FORMS	any conditions include			rate by-laws so that you can add
INTRODUCTION TO BODY	<ul> <li>Should you wish for to owner.</li> </ul>		itside of a committee meeti	ng there will be a fee payable by
THE COMMITTEE		ovided to you within two days o ne quote, please allow up to 14 o		committee.
LEVIES	Property details			DOWNLOAD PDF
MAINTENANCE	Name of owner			
INSURANCE		First	Last	
BY-LAWS	Property address	Street address		
DISPUTE RESOLUTION				
LEGISLATION + FACT SHEETS		Address line 2		
CODES OF CONDUCT		City	State	
OWNER ONLINE TRAINING		Postcode		
EVENTS	Building name			
	Lot number			
	Lot number			







# **Owner login**

Your owner login enables you to securely access information about your body corporate and you can update your contact details at any time.

### You have access to:

- Your statements and levy information
- Community management statement
  - By-laws
  - Plans
- Building reports
  - Insurance valuations
  - Safety audit reports
  - Sinking fund forecasts
- Meeting minutes

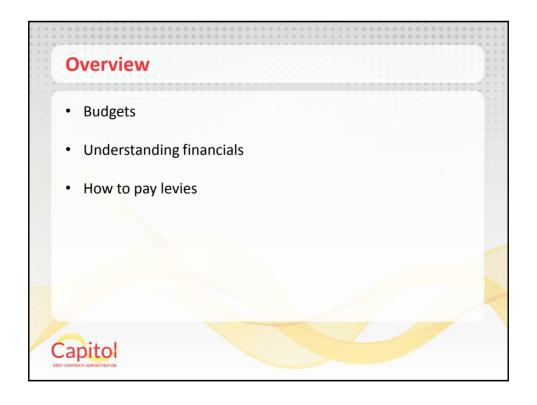


# **Owner login**

- · Owner login recently updated
- · Requires an upgrade next time you login
- Use existing details to 'create' an account
  - Even if you already use the owner login, you will still be required to use the 'create' function
- You will be prompted to enter your email address and a password of your choosing
- Click upgrade to activate your account
- Each time you login in future, you will use your email address and your new password







# **Budgets: administrative fund**

Statutory requirements: administrative fund

- Contain estimates for the financial year of necessary and reasonable expenditure to cover:
  - The cost of maintaining common property and body corporate assets
  - The cost of insurance
  - Other expenditure incurred annually or more frequently (called recurrent expenditure)
- To fix the amount to be raised by contributions to cover the estimated expenditure
- Admin budgets are like a household budget



A DACINISTE A TIME FUND	ACTUAL	BUDGET	BUDGET
ADMINISTRATIVE FUND		01/09/13-31/08/14	
INCOME			
Levies - Administrative Fund	65,300.00	65,300.00	66,000.00
Insurance Levv	6.000.00	6.000.00	6.400.00
Interest On Overdue Levies	90.71	0.00	0.00
TOTAL ADMIN. FUND INCOME	71,390.71	71,300.00	72,400.00
EXPENDITURE - ADMIN. FUND			
Audit Fees	1,276.00	650.00	0.00
Bank Charges	0.00	35.00	0.00
Bank Charges (Gst Incl)	(2.20)	55.00	0.00
Cleaning	895.00	0.00	0.00
Community Power	8,394.34	10,000.00	10,000.00
Fees & Permits	113.00	50.00	120.00
Fire Protection	2,184.90	2,500.00	2,500.00
Income Tax Returns	132.00	132.00	132.00
Insurance	8,726.67	8,726.76	9,089.00
Insurance Valuation	0.00	0.00	728.00
R & M - Building General	440.00	800.00	600.00
R & M - Plumbing	693.00	650.00	600.00
R & M - Grounds Contractor	3,965.94	3,500.00	4,000.00
R & M - Electrical	688.74	250.00	300.00
Management Fees	3,997.60	3,960.00	4,382.40
Management Fees Additional Svc	286.00	500.00	300.00
Maintenance Co-Ordination	236.50	200.00	300.00
Pest Control	220.00	500.00	220.00
Disbursements	982.54	700.00	600.00
Stratamax License Fee	355.20	356.00	356.00
Fixed Disbursements	1,570.48	1,561.00	1.584.00
Resident Manager Contract	34,116,54	32,692.00	33,694.00
Resident Unit Manager Outlays	0.00	200.00	0.00
Swimming Pool Maintenance	575.10	500.00	600.00
Swimming Pool Chemicals	322.90	700.00	400.00
Workplace Health & Safety	517.00	517.00	517.00
TOTAL ADMIN. EXPENDITURE	70,687.25	69,734.76	71,022.40
SURPLUS / DEFICIT	\$ 703.46	\$ 1,565.24	\$ 1,377.60
Opening Admin. Balance	(1,555.15)	(1,555.15)	(851.69)
ADMINISTRATIVE FUND BALANCE	\$ (851.69)	\$ 10.09	\$ 525.91
NUMBER OF UNITS OF ENTITLEMENT:		1,000	1,000
AMOUNT PER UNIT OF ENTITLEMENT:		\$ 65,3000	\$ 66,0000

# **Budgets: sinking fund**

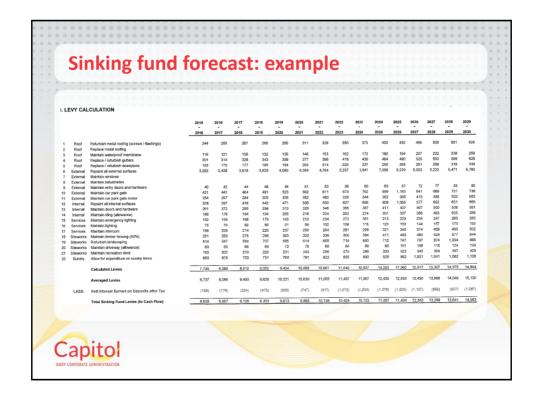
Statutory requirements: sinking fund

- Provide for necessary and reasonable expenditure from the sinking fund for the financial year
- Reserve a proportional amount to meet anticipated expenditure over a least the next nine years after the financial year in question, after taking into consideration:
  - Anticipated expenditure of a capitol or non-recurrent nature
  - Periodic replacement of items of a major capital nature
  - Other expenditure that should reasonably be met from capital
- Fix the amount to be raised from contributions to cover the estimated capital amount



SINKING FUND	ACTUA 01/09/13-31/0		BUDGET 01/09/13-31/08/14	1 (	BUDGET 01/09/14-31/08/1
INCOME					
Levies - Sinking Fund	14,800.	00	14,800.00		18,000.00
Interest Received	1,214.	52	0.00		0.00
TOTAL SINKING FUND INCOME	16,014.	52	14,800.00		18,000.00
EXPENDITURE - SINKING FUND					
Fire Equipment	2,981.	50	0.00		4,200.00
Income Tax	419.		0.00		0.00
Maintenance	0.	00	10,000.00		10,000.00
TOTAL SINK. FUND EXPENDITURE	\$ 3,400.	89 5	10,000.00	s	14,200.00
SURPLUS / DEFICIT	\$ 12,613.	63 \$	4,800.00	\$	3,800.00
Opening Sinking Fund Balance	53,752.	84	53,752.84		66,366.47
SINKING FUND BALANCE	\$ 66,366.	47 5	58,552.84	\$	70,166.47
NUMBER OF UNITS OF ENTITLEMENT:			1.000	-	1.000
AMOUNT PER UNIT OF ENTITLEMENT:		5		\$	18.0000

CASH FLOW	FORECAST SUMMARY						
Year	Date	Opening Balance	Averaged Sinking Fund Levies (Excl GST)	Estimated Sinking Fund Expenditure (Excl GST)	Interest Earned	Tax on interest	Closing Balance
	- 2015	-					6,240
1	2015 - 2016	6,240	8,628	(650)	256	(77)	14,397
2	2016 - 2017	14,397	8,907	(676)	463	(135)	22,952
3	2017 - 2018	22,952	9,126	(703)	679	(204)	31,850
4	2018 - 2019	31,850	9,353	(3,543)	869	(261)	38,268
5	2019 - 2020	38,268	9,613	(760)	1,067	(321)	47,868
6	2020 - 2021	47,868	9,883	(791)	1,310	(393)	57,877
7	2021 - 2022	57,877	10,138	(3,353)	1,532	(468)	65,734
8	2022 - 2023	65,734	10,425	(855)	1,763	(529)	76,538
9	2023 - 2024	76,538	10,723	(6,364)	1,968	(590)	82,275
10	2024 - 2025	82,275	11,057	(925)	2,184	(655)	93,936
11	2025 - 2026	93,936	11,404	(72,754)	1,582	(475)	33,693
12	2026 - 2027	33,693	12,343	(1,001)	984	(295)	45,725
13	2027 - 2028	45,725	13,299	(1,041)	1,296	(389)	58,890
14	2028 - 2029	58,890	13,641	(9,408)	1,525	(458)	64,190
15	2029 - 2030	64,190	14,063	(4,589)	1,723	(517)	74,870



# **Budgets**

Body corporate committees must prepare the proposed budgets for the consideration of owners at each annual general meeting (AGM). A copy of the proposed budgets must be included in the notice of an AGM.

The role of the body corporate manager is not to set the budget or approve the budgets.

Standard SCA administration agreement states that one of the duties of a body corporate manager is:

Prepare a draft budget for each financial year



# **Budgets**

The body corporate manager prepares the draft budget and takes that to the committee.

The committee then, in consultation with the manager, considers the budget in detail ensuring adequate funds to cover all expenses, a budget that the committee is happy with and that can then go to the owners.

The last step in the process is for the owners to consider and approve the budgets at the AGM.



# **Understanding financials**

- · Balance sheet
  - · Balance of administrative and sinking fund
  - Assets cash at bank and term depositions
  - Liabilities outstanding creditors
- Income and expenditure
- Budgeted amount to actual amounts



OWNERS FUNDS		ACTUAL 31/08/14		ACTUAL 31/08/13
Administrative Fund Sinking Fund		(851.69) 66,366.47		(1,555.15) 53,752.84
TOTAL	\$	65,514.78	\$	52,197.69
THESE FUNDS ARE REPRESENT	ED BY			
CURRENT ASSETS				
Cash At Bank		48,690.85		35.067.96
Term Deposit Macquarie		33,901.66		32,687.14
Prepaid Tax		430.00		136.00
Other Arrears		88.93		0.00
Sundry Debtors		0.00		31.90
TOTAL ASSETS		83,111.44		67,923.00
<u>LIABILITIES</u>				
Creditors		570.74		445.50
Accruals		6,152.32		0.00
Levies In Advance		10,110.10		14,194.05
Other Payments In Advance		763.50		1,085.76
TOTAL LIABILITIES		17,596.66		15,725.31
NET ASSETS	\$	65,514.78	s	52,197.69

ADMINISTRATIVE FUND	ACTUAL	BUDGET 01/09/13-31/08/14	ACTUAL	
	01/09/13-31/08/14	01/09/13-31/08/14	01/09/12-31/08/13	
INCOME				
Levies - Administrative Fund	65.300.00	65.300.00	60.580.00	
Insurance Levy	6,000.00	6.000.00	5,760.00	
Interest On Overdue Levies	90.71	0.00	45.37	
TOTAL ADMIN. FUND INCOME	71,390.71	71,300.00	66,385.37	
EXPENDITURE - ADMIN. FUND				
Audit Fees	1,276.00	650.00	638.00	
Bank Charges	0.00	35.00	32.95	
Bank Charges (Gst Incl)	(2.20)	55.00	51.70	
Cleaning	895.00	0.00	0.00	
Community Power	8,394.34	10,000.00	9,430.51	
Fees & Permits	113.00	50.00	32.10	
Fire Protection	2.184.90	2,500.00	2,369.60	
Income Tax Returns	132.00	132.00	132.00	
Insurance	8.726.67	8.726.76	8.261.75	
R & M - Building General	440.00	800.00	662.63	
R & M - Plumbing	693.00	650.00	639.75	
R & M - Grounds Contractor	3,965.94	3,500.00	2,452,46	
R & M - Electrical	688.74	250.00	0.00	
Management Fees	3.997.60	3.960.00	3.806.88	
Management Fees Additional Svc	286.00	500.00	436.13	
Maintenance Co-Ordination	236.50	200.00	0.00	
Pest Control	220.00	500.00	64.50	
Disbursements	982.54	700.00	674.73	
Stratamax License Fee	355.20	356.00	355.20	
Fixed Disbursements	1,570.48	1,561.00	1,500.40	
Resident Manager Contract	34.116.54	32.692.00	31.962.08	
Resident Unit Manager Outlays	0.00	200.00	0.00	
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Swimming Pool Chemicals	322.90	700.00	606.76	
Workplace Health & Safety	517.00	517.00	517.00	
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SURPLUS / DEFICIT	\$ 703.46	\$ 1,565.24	\$ 1,411.39	
Opening Admin. Balance	(1,555.15)	(1,555.15)	(2,966.54)	
ADMINISTRATIVE FUND BALANCE	\$ (851.69)	\$ 10.09	\$ (1,555.15)	
			(-,)	

SINKING FUND	0	ACTUAL 1/09/13-31/08/14	ı	BUDGET 01/09/13-31/08/14	ı	ACTUAL 01/09/12-31/08/13
INCOME						
Levies - Sinking Fund		14.800.00		14.800.00		14.800.14
Interest Received		1,214.52		0.00		1,438.56
Insurance Claim Proceeds		0.00		0.00		762.00
TOTAL SINKING FUND INCOME		16,014.52		14,800.00		17,000.70
EXPENDITURE - SINKING FUND						
Fire Equipment		2.981.50		0.00		738.00
Income Tax		419.39		0.00		257.47
Insurance Claim Costs		0.00		0.00		762.00
Maintenance		0.00		10,000.00		2,308.10
Electrical/Lighting		0.00		0.00		555.50
Swimming Pool		0.00		0.00		601.50
TOTAL SINK. FUND EXPENDITURE	\$	3,400.89	\$	10,000.00	\$	5,222.57
SURPLUS / DEFICIT	\$	12,613.63	s	4,800.00	\$	11,778.13
Opening Sinking Fund Balance	-	53,752.84		53,752.84		41,974.71
	_					
SINKING FUND BALANCE	\$	66,366.47	5	58,552.84	5	53,752.84

# Example levy notice payment slip Payment options



