

Summary of the Proposed Litigation Concerning Solivita Infrastructure and Amenities

At its November 2025 meeting, the Solivita HOA Board of Directors voted to retain legal counsel to prepare and file a lawsuit against the community's developer, Taylor Morrison (also known as Avatar Properties, Inc.), seeking a total of \$24.6 million in damages. As explained at the December 9, 2025, Town Hall, the proposed litigation consists of three related claims.

The first and largest claim concerns the construction of certain Solivita roadways. Engineering studies commissioned by the HOA Board indicate that portions of the road system were not built in accordance with the approved Engineer Drawings, Polk County Code, or Florida construction standards applicable at the time. As a result, these roads will require significant repair, replacement, or upgrading much sooner than expected—some within only a few years. The estimated cost of correcting these deficiencies is approximately \$20 million. If the developer is not held responsible, these costs would ultimately be borne by homeowners through increased HOA fees or special assessments.

The second claim seeks recovery of approximately \$4.6 million related to accounting and financial practices during the period when Taylor Morrison operated both the HOA and the Club amenities. The Board alleges that certain funds were miscategorized, overcharged, or improperly expended, including home sale fees, infrastructure repair costs, cable television and insurance charges, and other accounting discrepancies. The Board believes these practices benefited Taylor Morrison at the expense of the HOA and its members and that recovering these funds is a matter of fairness and responsible governance.

The third claim asserts that Taylor Morrison is in violation of Chapter 720 of the Florida Statutes, which governs homeowners' associations. Specifically, the developer has not transferred ownership of the Club Amenities properties or

turned over unspent amenities operating and reserve assessment balances to the HOA, as required by law.

At the December Town Hall, HOA attorney Patrick Howell outlined the expected costs and timeline. He estimated that preparing and filing the lawsuit would cost approximately \$10,000. If fully litigated, total costs could reach about \$1 million (plus or minus 20%) over two to three years. However, based on his experience, most lawsuits of this type settle out of court within months, with legal fees more typically in the \$100,000 to \$500,000 range.

Because Florida law requires approval by a majority of homeowners voting before litigation may proceed, the Board placed a referendum on the February 2026 HOA election ballot. However, a statutory filing deadline of January 31, 2026, required the Board to authorize filing beforehand to preserve the HOA's legal rights. If homeowners approve the referendum, the Board will proceed under strict cost and oversight controls. If homeowners reject it, the lawsuit will be withdrawn, limiting costs to the initial \$10,000.

The Board unanimously endorses a "YES" vote, believing that pursuing these claims protects homeowners from avoidable future costs, restores funds owed to the HOA, and secures long-term local control of Solivita's amenities—an essential element of the community's financial stability and quality of life.

Proposed Litigation Quick Facts

- 17 **THE VOTE:** In February 2026, residents will decide to continue the lawsuit or withdraw it.
- ฿ **THE BENEFIT:** Recover \$20 million from the developer to correct roadway defects, plus \$4.6 million in miscategorized home sale fees, infrastructure repairs, cable tv and insurance overcharges, and accounting discrepancies.
- 🚧 **THE MAIN PROBLEM:** Core samples prove a portion of our roads were not constructed according to the Engineer Drawings, Polk County Code and community standards within the State of Florida at the time of construction. Repairing or replacing will cost \$20 million. Taylor Morrison should be held responsible.
- ⚡ **THE COST RISK:** If we move forward with the lawsuit and ultimately reach a settlement—which is the most likely outcome—the estimated legal costs would range from \$100,000 to \$500,000 in legal fees. That equates to approximately \$19 to \$92 per homeowner. If voters choose not to proceed, we will withdraw, the claim will be permanently forfeited, and residents will ultimately bear the full additional \$20 million required for future road repairs.
- ⌚ **THE TIMELINE:** This is not a class action lawsuit and unlikely to be prolonged. Mandatory “cool-off” laws encourage early talks; similar lawsuits have settled within 6 to 18 months.
- ➡ **THE AMENITIES:** A “Yes” vote further pressures Taylor Morrison to transfer amenities ownership and the unspent amenities expense and reserve homeowner assessment balances to residents—faster and at a fair (or no) price.

	Voting YES (Continue Lawsuit)	Voting NO (Withdraw Lawsuit)
Potential HOA Recovery	~\$20M for roads, plus ~4.6M for refunds, fees, overcharges.	\$0. Forfeit any recovery opportunity.
Immediate Cost	Estimated \$100,000 to \$500,000 if settled.	\$0. No immediate legal fees.
Future Road Repairs	Covered. Winning funds the \$20M needed for repairs without raising homeowner fees.	Residents Pay 100% and likely face special assessments or higher fees to cover the \$20M in long-term repairs.
Ownership of Amenities Properties	Turn over ownership of the Solivita Amenities properties to the HOA as required by law	The developer retains ownership and control of the Solivita amenities.
Unspent Club Operating and Reserves	Returns unspent millions in Club operating and reserve assessments.	Lost. That money remains with the developer.
Bottom Line	Small upfront risk to save thousands later.	Save pennies now to pay thousands later.

Frequently Asked Questions on Proposed Litigation Concerning Solivita Infrastructure and Amenities

1. What decision are homeowners being asked to make in February, and why does it matter?

Homeowners will vote on whether the HOA should continue or withdraw the HOA's lawsuit against Taylor Morrison. A "YES" vote authorizes the HOA to proceed; a "NO" vote requires the HOA to withdraw the lawsuit. This decision is significant because it determines whether the HOA preserves or permanently gives up its legal right to pursue recovery for road defects, financial discrepancies, and amenity ownership under Florida Statute 720.

2. Why did the Board authorize filing the lawsuit before homeowners voted?

The HOA faces an approaching expiration of legal rights on January 31, 2026, for filing these post-turnover claims. Waiting until after the February vote would have eliminated the HOA's rights entirely. Filing first preserves homeowner choice; if residents vote no, the lawsuit will be withdrawn and limited costs will remain.

3. What exactly is the HOA alleging in this lawsuit?

The lawsuit asserts three transition causes of action:

- That portions of Solivita's roads were improperly built and will cost approximately \$20 million to repair.
- That Taylor Morrison improperly retained or diverted about \$4.6 million in funds related to funding, fees, and accounting practices.
- That Taylor Morrison has not turned over community amenities as required by law.

4. Why did the HOA combine all three issues into a single lawsuit?

This course of action was taken both to conserve resources and to respect judicial economy by avoiding the repeated presentation of the same issues and underlying facts and evidence before the court and counsel.

5. What is the strongest reason supporters give for voting YES?

Supporters argue that without litigation, homeowners will almost certainly bear the full cost of major road repairs and continued amenity control by the developer. A successful lawsuit could shift those costs to the developer, protect reserves, reduce special assessments, and secure long-term homeowner control of key community assets.

6. What is the strongest concern raised by those leaning toward voting NO?

Opponents emphasize risk and uncertainty. Litigation outcomes cannot be guaranteed, timelines may extend, and even limited financial exposure may be unacceptable to residents who value predictability and short-term financial stability.

7. How strong is the evidence supporting the road defect claim?

Independent engineering studies, including proper roadway core samples, indicate that some roads lack required base materials and fail to meet the developer's own drawings which were submitted to and approved by Polk County at the time of construction. Supporters view this as compelling physical evidence; skeptics note that not all roads are failing and question whether the projected repair costs represent worst-case assumptions.

8. What happens if the HOA wins or reaches a favorable settlement?

If the HOA prevails, recovered funds will be used to repair roads, increase our capital reserve, and offset past financial discrepancies. While repairs would still take time to design and construct, homeowners would avoid bearing the full cost directly through dues increases or special assessments.

9. What happens if the HOA loses the lawsuit?

In a worst-case scenario, the HOA could be responsible for its own attorney fees and possibly the developer's attorney fees. Current estimates place this exposure at up to \$2.4 million for both (approximately \$439 per home) as a one-time cost. Counsel considers this outcome unlikely, but it remains a real risk.

10. How likely is it that the lawsuit settles rather than goes to trial?

Unlike with class action litigation, Florida law requires pre-suit notice and encourages early negotiation in construction defect cases, which often leads to settlement within 6–18 months. However, there is no guarantee, and a determined defense could prolong the case.

11. How is this lawsuit different from the prior class action that took many years?

Because this lawsuit is not a class action, it does not involve class certification, individualized claims, or extended appellate review. While still litigation, it is procedurally simpler and typically resolves faster than large class actions.

12. Are HOA reserve funds being put at risk by pursuing litigation?

No. Legal costs will be paid from the HOA operating budget on a "pay as we go" basis.

13. Why pursue claims related to construction decisions made many years ago?

Supporters argue that the financial consequences of those decisions are only now becoming unavoidable and that homeowners will pay regardless unless recovery is pursued. Critics feel the age of the issues makes litigation less appropriate and potentially harder to justify.

14. Why not continue negotiating instead of litigating?

Negotiation and mediation with the developer have been attempted multiple times over several years without resolution. Supporters believe litigation provides necessary leverage; skeptics argue it hardens positions and reduces the chance of a cooperative outcome.

15. What does the amenities turnover claim really mean for homeowners?

Homeowners already pay for amenity operations and capital reserves. Turnover would transfer ownership and control to the HOA, allowing residents to set budgets and priorities. Supporters view this as essential to long-term stability; skeptics worry about unforeseen capital costs and management responsibilities.

16. Could owning the amenities end up costing homeowners more?

Possibly. Ownership brings full responsibility for maintenance, staffing, insurance, and capital improvements. Supporters argue control allows better cost management; critics fear new obligations could offset the benefits. At present, Taylor Morrison's operation of the amenities is financially opaque, and homeowners do not have full visibility into revenues, expenses, or profitability—though it is widely believed the amenities generate a sizeable profit.

17. Will winning the lawsuit immediately fix the roads?

No. Even with funding, repairs require engineering, bidding, and construction. However, without recovery, repairs would still take time—while homeowners would bear the full cost directly.

18. Could the lawsuit negatively affect home values or sales?

Some buyers may be cautious about communities involved in litigation. Conversely, unresolved infrastructure problems without a funding plan may pose a greater long-term risk to property values.

19. Is the Board acting responsibly under its fiduciary duty?

The Board believes filing preserves homeowner rights and avoids breaching its duty to protect HOA assets. Some residents remain uncomfortable with the compressed timeline and limited ability to delay the decision.

20. What if homeowners vote YES and later regret the decision?

Once litigation proceeds, reversing course may be difficult due to sunk costs and strategic commitments. However, voting NO permanently eliminates recovery options, whereas voting YES preserves the possibility of settlement or claim withdrawal.

21. What is the central trade-off homeowners should weigh when voting?

Whether to accept limited legal risk now in exchange for the possibility of substantial recovery and long-term cost control, or to avoid litigation risk entirely while accepting full responsibility for future infrastructure and amenity costs.