

The Broadmoor Breeze



January 2023

A Publication for the homeowners/residents of The Broadmoor Huntington Harbour Community Association

President's Message:

*Should auld acquaintance be forgot
And never brought to mind?
Should auld acquaintance be forgot
And the days of auld lang syne?*

Happy New Year 2023 Broadmoor Huntington Harbour!!! 2022 is now "Officially" in the books and we look forward to a less eventful, but productive 2023.

Great news regarding the Superior Court's recent judgments in favor of Broadmoor in all three legal battles filed by one of our owners (see *Litigation Update* article below for details). Needless to say, we hope that issues within our community can be resolved "in house." It is comforting to receive the court's confirmation that the various actions taken by the association are legal, that the board is acting in the best interests of the entire community, and that the board's decisions are consistent with the CC&R's as currently stated.

The lagoon's final phase is very close to completion, but your board wants to make sure it was done properly and that the warranty will be honored. We are awaiting the coating manufacturer's confirmation that the contractor applied its product correctly before we address filling the lagoon.

In addition to the CC&R Restatement, the Board has approved a fumigation contract to tent all remaining buildings in 2023. If your building was fumigated in 2021 or 2022, then you aren't impacted. The board is currently working out a schedule for the remaining buildings, hopefully starting around April. Once a tentative schedule is finalized, notices will be posted in the newsletter, by email blast, on the association's website, and by direct mail.

I want to thank the community for your trust you have placed in the board this past year. A lot of deferred maintenance (woodwork and paint project) was addressed as well as attending to two large, unexpected

issues (lagoon leak and rebuilding the three bridges). The completion of these vital tasks should help preserve the infrastructure, increase our property values, and enhance the quality of life here at Broadmoor.

Finally, thank you for the kind words and support from so many of you for the board's efforts this past year.

Ben Goldberg
President

Litigation Updates

Robert Martin v. Broadmoor

No change from the November 2022 newsletter update.

Jeffrey Ball v. Broadmoor

No change from the November 2022 newsletter update.

Anthony Sellas v. Broadmoor

Homeowner Tony Sellas filed three lawsuits against Broadmoor in Orange County Superior Court, small claims division. The three trials were held on December 14, 2022. Director Ronald Lee drafted the legal briefs submitted to the court; Director Ben Goldberg argued the matters on behalf of the association.

- Election Fraud:

Tony Sellas sued the association for \$10,000 in damages, alleging fraud in the February 2022 election of the board of directors on two grounds:

1. Sellas alleged that it is illegal for completed ballots to be mailed by homeowners to the Inspector of Election in care of Powerstone Property Management or delivered in person to the front entry guard house. *The court ruled in favor of Broadmoor and denied Sellas any monetary damages.*

The court stated: "Civil Code § 5115(c)(2) specifically permits the inspector of elections to designate the location where the sealed envelopes may be mailed or hand delivered. More importantly, it does not restrict the location and/or person or entity to which the sealed envelopes may be mailed. The fact that Powerstone and/or Allied's guards collected the sealed ballots does not establish election fraud."

2. Sellas also claimed that it is illegal for the R-1 Grimaud homeowners to vote for the five director positions on the board. *The court rejected Tony's assertion, citing the association's bylaws which provide that all record owners are members of the association and, therefore, are entitled to vote for all board positions.*

- Paint Project:

In the second lawsuit, Tony demanded \$1,500 in damages and injunctive relief to stop the board from changing the paint colors for the buildings and garages located on Germain Circle and to paint his building in the color he prefers. *The court ruled in favor of the association, denied Sellas any monetary damages, and dismissed Tony's request for injunctive relief.*

- Removal of A/C Unit:

In the third lawsuit, Tony sought \$1,500 in damages and demanded the association make one specifically-targeted homeowner remove her air conditioner condenser, claiming such installation requires the approval of the association members. To date, over 51 condominium owners (more than 20%) have installed air conditioners. *The court ruled in favor of Broadmoor, denied Sellas any monetary damages, and rejected Tony's request for injunctive relief to have the homeowner remove her A/C unit. The court stated: "The Court concurs with Plaintiff's definition that an air conditioning compressor is a "fixture" for purposes of Civil Code § 4145, and thus would qualify as exclusive use common area. Nevertheless, Civil Code § 4600(b) provides exceptions to the required affirmative vote required for exclusive use – specifically (b)(3)(E) states, 'To transfer the burden of management and*

maintenance of any common area that is generally inaccessible and not of general use to the membership at large of the association.' Broadmoor's 244 condominium units do not have any side or private yards. Therefore, the condenser units are placed in areas that are not of general use to the membership. Thus, the Court does not find that Defendant was required to comply with Civil Code § 4600(a) – affirmative vote of members owning at least 67 percent of the separate interests in the common interest development. Nor, does the Court find that the Board violated the CC&Rs by granting RLAs [revocable license agreements] to those property owners installing air conditioning compressors. Nothing in the CC&Rs prohibits the association from granting residents permission to place objects in the common area. Moreover, the RLAs hold the homeowner responsible for maintenance of the A/C condenser, maintenance of the common area on which the A/C condenser pad sits, and transfers responsibility to the homeowner for any damage the A/C condenser may cause to the building and common area. Judgment in favor of Defendant [Broadmoor]."

Outside Decals

2022 outside parking decals expired December 31, 2022. Residents can obtain a 2023 outside decal by submitting a new Parking Pass Application. Inside parking decals remain valid.

Break-ins

Recently, two condo residents reported that their vehicles were broken into. In the first case, items were taken from the resident's unlocked vehicle parked in their driveway. In the second incidence, the homeowner opened the garage door then went upstairs for a few minutes. When they returned, both vehicles in their garage had been searched by an intruder. Fortunately, nothing was taken from those vehicles. Residents are reminded to lock their vehicles and keep garages doors closed.

On Friday, January 6, burglars broke into a R-1 Grimaud home 6:48 p.m. The homeowners, who were away for the evening, were notified by their video alarm system. The police were called and responded. Prior to the police arriving, the homeowner urgently called a condo board member that the burglars were currently on video carrying bags out of his home. The board member quickly ran out to the street and unsuccessfully tried to catch a glimpse of the robbers or their vehicle. Cash, jewelry and other valuable were taken from the home.

All residents are encouraged to keep an eye out for their neighbor's homes. Report any suspicious activity immediately to the front guard house.

Election Ballots

Ballots for the 2023 election of directors will be mailed to all homeowners in mid-January. Please be sure to complete and return your ballots as soon as possible. Ballots can be mailed to Powerstone or deposited in the locked ballot box at the front entry guard house. For your ballot to be accepted, all information on the outer return envelope must be completed accurately.

SB326 Balcony Inspections

The new state-required visual engineering inspection of the association's "exterior elevated elements" (balconies) was completed at a cost of \$32,000. This inspection is required every nine years. The engineer's report noted several balcony decks covered by homeowners with ceramic tiles, wood tiles, turf, and rugs. Other balconies show evidence of mildew caused by improper drainage and plants without trays. These issues can lead to serious and expensive deterioration of one's balcony, the report noted. One critical balcony issue was identified where water leaking through tiling

on the balcony deck has damaged the cantilevered structural beams. That homeowner is in the process of rebuilding that balcony.

Each homeowner is responsible for maintaining their balcony decks and drains. In the next few months the board will review the engineer's specific negative findings and will send corrective action letters to affected homeowners where potential issues were identified. The board cautions that the engineer's inspection was visual only. Consequently, unseen or undetected water seepage through deck surfaces can be degrading your balcony or deck's substructure, which damage may not have been identified by the report.

The association strongly recommends that each homeowner has their own contractor inspect their balcony decks. Every two to three years, waterproof decks need to be resealed. And every 5 to 7 years, your deck should be resurfaced. If your deck is original it is definitely beyond its useful life and a new waterproof deck system (including new flashing and drains) should be installed. Tile absolutely should not be installed on decks.

BOARD OF DIRECTORS 2022/2023

President: Ben Goldberg
Vice President: Ronald Lee
Treasurer: Annette Merriam
Secretary: Suzanne Beck-Hammoud
R-1 Grimaud Director: Jordan Armitage

BROADMOOR CONTACTS

Broadmoor website: broadmoorhh.com
Front guard house: 562.592.4213
Powerstone Property Management: 949.716.3998
Property manager: Michele Rossi
mrossi@powerstonepm.com 949.535.4538
Maintenance issues: Ross Paulino
rpaulino@powerstonepm.com 949.508.1621
GateKey Vehicle Pass System: gatekey.com/resident-login

MONTHLY BOARD MEETINGS

Third Wednesday of each month at 6:00PM at Calvary Chapel of the Harbour, 4121 Warner Avenue. All homeowners are encouraged to attend.

RESIDENT SERVICES CONTACTS

SPECTRUM COMMUNITY SOLUTIONS (\$53 of the monthly assessment includes 300Mbps internet, cable TV, DVR, internet modem/router & Showtime Premium Channels): 855.895.5302

BUTIN'S PLUMBING (for individual and common area plumbing issues): 714.670.1900

HUNTINGTON BEACH POLICE

Front desk/noise complaints: 714.960.8811
Parking control (non-emergency): 714.960.3998 ext #0

REPUBLIC SERVICES (trash and recycling):

Monday to Friday 7:30A – 5:00P: 714.847.3581

ORANGE COUNTY ANIMAL CONTROL

Monday to Friday 8:00A – 5:00P: 714.935.6848
After hours: 714.935.7158

COMMITTEES AND THEIR MEMBERS

* Chairperson
** Board Liaison

Architectural Committee (Condominiums)

Condominium Board Members

Architectural Committee (R-1 Properties)

R-1 Board Member

Architectural Advisory Committee (Condos)

* Chris Gray
Barbara Blodgett
Carlos Bosio
Arlene Speiser

Inspector of Election

Greg Copeland
Carl Palazzolo (alternate)

Landscape Committee

* Melanie McCarthy
Kim Hendrix
Kathy Turner
** Suzanne Beck-Hammoud

Parking Committee

* Jeff Pennington
Ellen Brown
Chris Gray
Bill Selfridge
Tony Sellas

Reserve Study Committee

Chris Gray
Stefan Steinberg
** Annette Merriam

The **Broadmoor Breeze Newsletter** is posted by the 15th of each month on the association's website www.broadmoorhh.com. A copy of the newsletter is included with monthly statements. Any comments or suggestions should be emailed to the Powerstone property manager.

Email alerts: Always be up to date with important association information by signing up for automatic email alerts on the website.