

The Broadmoor Breeze



June 2022

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

President's Letter

Schools are getting out, most days provide spectacular weather, and the full summer season is on its way. Soon we will be smelling wood burning fire pits on the beach. All to remind us we live in paradise. I hope you make the time to read this newsletter as there is vital information for you.

To be brief, the painting project is more than half completed. The woodwork, except for the bridges, is 99% completed. The lagoon bridges are approximately two months from completion if the new arch beams are delivered on time. The lagoon bottom has been sand blasted, the cracks are now being sealed, and soon the first of three sealant coats will be applied.

At its last several meetings, the board discussed the projected draw down of reserve funds for the ongoing paint and woodwork project (\$1,200,000), to rebuild the three lagoon bridges (currently estimated at \$250,000 to \$270,000), and to repair and seal the leaking lagoon (\$350,000). These three expenses exceed allocated reserves by approximately \$800,000, as detailed in the May 2022 newsletter. The good news is that we have the funds to complete all the work. The bad news is we have depleted our reserve funds to a dangerous level, and we must rebuild those balances.

In May, the board approved a \$90 per unit per month increase of maintenance fees for 36 months, commencing August 1, 2022, through the end of July 2025. At the end of July 2025, the \$90 monthly maintenance increase must end. The entire \$90 increase will go to rebuild reserves. The anticipated impact of this temporary increase will be to restore the reserve funding from the projected low level of 22% to a more acceptable 44% level. (According to industry standards, all associations should strive for a minimum funding level of 67 to 70% - which is considered healthy - with an ultimate target of 100% funding.) To be clear, this is an increase in maintenance fees, not a special assessment.

Please be sure to update any auto debits and payments to reflect the new regular assessment of \$613 effective August 1, 2022. If it softens the blow, keep in mind that these investments to upgrade the complex only enhance your property values.

All my best,
Garry Brown

Restatement of the Covenants, Conditions, and Restrictions (CC&Rs) of Broadmoor

Over the next few issues, the board wants to provide you with background regarding the need to rewrite the CC&Rs and then list the revisions that will be proposed. Keep in mind, each homeowner will have the opportunity to vote to approve or reject the rewritten CC&Rs.

Broadmoor's CC&Rs were adopted in 1977 and the complex was built between 1978 and 1980. The CC&Rs set forth the contractual terms governing the association's operations and the relative responsibilities of the association and its members. Since our CC&Rs were first created, many state and local statutes have been enacted (and California case law issued) which address or alter the rights and responsibilities of associations and their members. Over time, many of these regulatory provisions began to conflict with other statutes, creating confusion for all associations and their members.

In 1985, the California legislature adopted the Davis-Stirling Act which, at 25 pages long, aggregated the various scattered laws governing HOAs, resolved any conflicts among existing statutes, and codified those regulations under one title of the Civil Code. The Act

brought stability and clarity to associations by providing safeguards, disclosure requirements, reserve and insurance standards, and other provisions which facilitated association's governance through its elected directors. Since that time, however, many provisions of the Act have been amended, revised and new sections added to the point that its length and complexity became difficult to understand. Therefore, in 2014, less than 19 years after its first adoption, the Davis-Stirling Act was completely re-written, but was now 100 pages in complexity.

Throughout the 45 years since Broadmoor's CC&Rs were adopted, and the 37 years since the Davis-Stirling Act was first enacted and then completely revised, Broadmoor is still operating under our old, out-of-date CC&Rs. Since many of the Act's provisions supercede our CC&Rs, it is difficult for any homeowner to determine when the CC&Rs apply or if later-adopted Civil Code provisions govern. The association's legal counsel and property management company both advise that Broadmoor should restate its CC&Rs and bylaws to bring them current and consistent with both modern Civil Code, case law and industry practices.

The website, Davis-Stirling.com, states: ***Governing documents** are the heart of any homeowners association. If documents pre-date laws addressing important topics such as assessment collection, election rules, document disclosures and water damage claims or they are not properly written, an association can be exposed to potential liability and needless legal expenses. To avoid potential problems, CC&Rs should be amended or restated."*

The site further provides several reasons for restating governing documents:

- **To match current laws under the Davis-Stirling Act**
- To remove **Declarant provisions related to the** original developer of the project
- To remove all legalese and put all provisions in plain English so board members and homeowners alike can understand what they are reading
- **To clarify** ambiguous maintenance responsibilities and provide an easy reference for respective maintenance obligations
- **To conform with** current election rules
- **To add** rent restrictions permitted by the Act

The board contacted several law firms for proposals to rewrite the CC&R's and bylaws. Each firm proposed starting with a modern model template of legally compliant CC&Rs and bylaws, and then adapting that template to include the various rules and policies unique to Broadmoor. A red-lined version of our old CC&Rs was not an option.

The board intends to circulate a draft of the proposed restated CC&Rs and bylaws to all homeowners. One or more town hall meetings with our attorneys and members will be scheduled to discuss the drafts and receive homeowner input for additional revisions. Eventually, final draft versions will be provided all homeowners and a voting ballot sent to homeowners for approval. *[Next month – a discussion of some of the proposed changes to the governing documents.]*

Flower Pots in Common Area

The association currently permits residents to display plants in common area entryways and on patio/balcony parapet walls. Such plants should be kept at a tasteful number and reasonable size. In addition, to prevent drainage stains and damage to the newly painted stucco, stairs and entryways, all plants in common area must have a waterproof saucer underneath each pot. Please help keep our community sparkling by culling the number of plants in common area and protecting the entryway surfaces and stucco walls by using saucers.

California Unclaimed Funds

Did you know that the state controller's office is safeguarding \$9 billion in unclaimed funds belonging to Californians? Betty Yee, the state Controller, is asking owners to take the steps to retrieve it. California's Unclaimed Property Law requires banks, insurance companies, corporations, and certain other entities to report and submit their customers' property to the State Controllers' Office when there has been no activity for a period of time (generally three years) according to the office's website. To search the controller's database go to claimit.ca.gov or call 800-992-4647. Be sure to search both business and individual accounts. It takes up to 90 days to process and receive the funds.

The board recently found \$3,218.77 in potential funds belonging to Broadmoor going back over 10 years to the previous management company. The board has filed a claim for the funds with the state on behalf of the association.

Cost Impact of Homeowner Disruptions

The purpose of a homeowners association is for a majority of members to elect a board of directors, which is then tasked with governing the association's operations. While no decision taken by a board is going to please all homeowners, each director should exercise his or her fiduciary duty by acting in the best interests of the community as whole. Despite having elected representatives, some Broadmoor homeowners feel they have a right to disrupt or impede the actions of the board. Sadly our association is beset by some of the ills of today's American politics such as conspiracy theories and election denial. One homeowner in particular has been chronic in their constant accusation of wrongdoing by the board. This person repeatedly challenges the board's authority to provide certain services to members or to undertake maintenance projects to maintain or upgrade the community. Examples include allegations that a board member illegally executed the contract to provide residents with high-speed low-cost internet, that directors have received kickbacks from homeowners for approval of home modification applications, that the board does not have the authority to determine the building paint colors, and that the termite tenting agreement is illegal. This person has also demanded and threatened litigation if the board does not require homeowners to remove air conditioners. Their most recent allegation is that the current board rigged the February association elections and now is threatening litigation over that matter as well as demanding that the board suspend its efforts to restate the CC&Rs.

It is one thing to disagree with a board's direction. But when a person's opinion is accompanied by allegations of board malfeasance, fraud or illegal conduct, with demands under threat of litigation that the board take action that would harm the collective interests of our residents, the board is compelled to refer such allegations and demands, however spurious, to our association attorneys for legal review and response. This process imposes a significant drain on association funds, which we all end up paying. In the past two years, this one owner in particular has cost you, the homeowners, attorney legal fees approaching \$10,000. And there is nothing to show for it. The complaints and accusations have resulted in no proven allegations or policy changes. Instead, one individual's quest to obstruct the board's efforts is costing you money.

Unleashed Dogs and Dog Waste Pickup

Each month the association receives residents reports of unleashed dogs. Unleashed dogs are a violation of both the City of Huntington Beach laws and the Broadmoor Huntington Harbour rules. The board takes this very seriously and must strictly enforce the CC&R provision that dogs in the common area must be leashed at all times.

Please note that having the leash in your possession and not attached to your dog, nor a dog with a leash hanging loose, is not considered having a dog on leash. We all deserve a safe neighborhood and **unleashed dogs can be dangerous**. Pets and people have been attacked by loose dogs. Owners can be injured fending off attacks.

Furthermore, complaints have been received regarding the increased volume of **dog waste** within the complex. Please be respectful of your neighbors and our workers and pick up your dog's waste and dispose of properly. Animal **fecal matter serves as a food source for rats** and will encourage a rat infestation if it accumulates on the grounds of the community.

Our association dues pay for the green doggy bags and labor to refill the dispensers and empty waste disposal canisters weekly. Do the responsible thing and make good use of our expenditure of funds.

Please report any violation to Michele Rossi at Powerstone and provide the time, date and violating resident. Disciplinary action will be taken by the board. If you cannot identify the resident, send a picture and we may be able to help identify the owner. Also, please report the resident to the Orange County Animal Control at the phone number listed on the last page of this newsletter.

BOARD OF DIRECTORS 2022/2023

President: Garry Brown
Vice President: Ben Goldberg
Treasurer: Annette Merriam
Secretary: Ronald Lee
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: Oscar Hernandez
ohernandez@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 Huntington Bay Club, 4121 Warner Avenue. All residents are encouraged to attend.

RESIDENT SERVICES CONTACTS

SPECTRUM COMMUNITY SOLUTIONS (\$53 of the monthly assessment includes 200Mbps 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
Don Kujat
Arlene Speiser

Inspector of Elections

Greg Copeland

Landscape Committee

* Suzanne Beck-Hammoud
Ellen Brown
Kim Hendrix
Cynthia Wityak
** Garry Brown

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.