

# The Broadmoor Breeze



July 2022

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

## President's Message

The Fourth of July has now passed, and I have never heard the festivities sound more like an active war zone. I hope everyone enjoyed the holiday in your festive way. As we are full into summer, Huntington Beach will be busy with events of all types throughout the summer. After a two year hiatus, the U.S. Open of Surfing will hold its event next to the pier beginning July 30th and ending on August 7th. They anticipate 500,000 visitors that week. Great for people-watching, or you might be wise to avoid downtown altogether. It is your call.

As an update on our major projects, the painting continues to progress. They are now on Bordeaux. Your cooperation is critical to our progress; please clear your patios and get your decorations off the walls and your plants to a central area. It is incredible how much non-compliance by homeowners is delaying and slowing PrimeCo's progress.

Next week, California Waters will be here to continue its preparation of the lagoon bottom for the final third coat of sealant. The final coat will be applied just before the lagoon is to be re-filled. Their work schedule is guided by the tide charts indicating the water level under the lagoon. In addition, the newly restored hydrostatic pressure valves along the center will allow water into the lagoon to relieve pressure caused by high tides.

The production of the laminated arches for the two lagoon bridges is on-time with their anticipated delivery in three weeks. With delivery, installation, and the needed re-building of the bridges, we are optimistically looking at an end of September date for total completion.

At the July board meeting, two issues of interest will be considered: (1) a contract to apply a slurry coat to Grimaud (every five years, it is recommended that a slurry coat be applied to protect and seal the pavement from water penetration, to extend the life of the road), and (2) the removal of four trees. Three trees are for safety and due to the damage the root systems are

causing to adjacent walkways and buildings. In addition, one small tree is not doing well and needs to be replaced.

These are stressful times for all of us. I don't think we have ever witnessed strife, conflict, and violence to this extent before. Inflation and the economy are alone stressful enough. So let's try to treat each other better here at Broadmoor.

Some of you received an email from me that I didn't send. It is a phishing act of a hacker. Like I really needed that to happen.

Lastly, with all the projects and activities underway in Broadmoor, most homeowners are appreciative but silent, while a few owners loudly criticize almost every effort by the board. Despite that, several board members have taken the commitment of board service to a new level. These directors walk the complex daily, respond to homeowner issues, oversee our contractors, and manage the painting project unit-by-unit. This effort is not what a typical board member does in an HOA complex. You, the homeowners, are the beneficiaries of the many hours these dedicated volunteers spend each week ensuring Broadmoor is a great place to live. I am the exception, as I already have more than a full-time job, but I observe in amazement the hours these individuals are willing and able to devote to our community. I hope you appreciate their effort even if you disagree with a decision now and then.

All the best,  
Garry Brown

## Comparison of Association Assessments

Recent newsletters announced and your August monthly billing statement reflects a \$90 per month increase in the monthly assessment to \$613. This increase is limited to 36 months with a sunset date of July 2025. The entire amount will go to replenish reserves, which are anticipated to drop to 22% after

completion of the current repair and upgrade projects, but should recover to a 44% funding level in 2025. Restoration of reserves is necessary to avoid any “emergency assessment” or further delays in critical long term maintenance like our streets and other hardscape infrastructure.

Units in Broadmoor continue to sell at their highest prices ever. And despite the temporary assessment increase, Broadmoor remains in the lower end of nearby association assessments, especially when you compare the amenities offered by our association. Please review the following table.

COMPARISON OF ASSOCIATION FEES								
Amenity	Broadmoor	Mariner Drive	Weatherly Bay	Harbour Lane	Bayport **	Seagate	Bay Club	Portofino Cove
<b>Monthly Assessment</b>	<b>\$613*</b>	<b>\$450</b>	<b>\$551</b>	<b>\$625</b>	<b>\$657</b>	<b>\$762</b>	<b>\$857</b>	<b>\$875</b>
Staffed guard house	✓							
Heated pool and spa	✓		✓	✓	✓	✓	✓	✓
Cable TV	✓							
High-speed internet	✓							
Tennis courts	✓				✓	✓		
Pickle ball courts	✓							
Sauna room							✓	✓
Maintenance staff	✓							
Outdoor BBQ								✓
Docks (some units)			✓	✓		✓		
Decorative lagoon/water feature	✓							
Extensive greenbelt areas	✓							
Club house			✓	✓		✓	✓	
Garage parking	✓	✓	✓	✓	✓	✓	✓	✓
* \$523 w/out \$90 36-month temporary increase; includes \$54 for cable and internet.								
** Currently pursuing a \$38,000 per unit special assessment.								

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

This is the second in a series of articles regarding the proposed restatement of Broadmoor’s CC&Rs and Bylaws. Please review the June 2022 newsletter article which describes the reasons for the need to update and restate the governing documents. This month’s article introduces many of the proposed changes to the CC&Rs and Bylaws:

**A. Davis-Stirling provisions:** The Davis-Stirling Act contains a vast number of provisions that modern CC&Rs must contain. They are too many to list but must be included in the restated governing documents. Since the Act was enacted eight years after Broadmoor’s CC&Rs were adopted, the association’s governing documents lack these new provisions.

*The proposed restated CC&Rs and Bylaws will include the various statutory provisions and language required by the Davis-Stirling Act including, for example, limitations on the ability of the association to restrict rental of units, displaying of signs and flags in units and common area, elimination of proxies for elections, election rules and balloting procedures, and more.*

**B. Maintenance responsibilities:** The CC&Rs define what is common area (buildings, beams, roofs, foundations, plumbing lines, electrical wiring, etc., which is owned by the association) and what is part of the homeowner’s unit and residential element (interior surfaces of the walls, floors, ceilings, windows and doors and the space encompassed thereby, which is owned by the homeowner). The CC&Rs also define who is responsible for maintenance and repair of various elements, regardless whether or not common area. For

example, even though the plumbing lines and wiring in a home is considered common area, the homeowner is responsible for repair and maintenance of those systems.

The primary provision which sets forth homeowner maintenance responsibilities is Section 24 of Article VIII of the CC&Rs:

Section 24. Each Owner of a Unit shall be responsible for the maintenance and repair of the glass doors, if any, and windows enclosing his Residential Element, the interior of his Residential Element, the interior of his Garage, Patio and Balcony, and shall also be responsible for the maintenance and repair of the plumbing, electrical and heating systems servicing his Unit and located within or underneath the outside perimeter of the exterior bearing wall of said Unit, and all appliances and equipment located in said Unit.

This one sentence is broad and lacks any specificity. Over the years, such a general provision without details has resulted in confusion for homeowners and the board alike, but also has led to conflicting advice from the association's various attorneys. Sitting boards have interpreted the CC&Rs differently, with maintenance responsibilities of homeowners applied inconsistently. For example, who is responsible for maintaining the storage closet on patios? What about the water softener closets on Moritz and Grenoble? Who is responsible for the porch, patio and balcony lights and electrical outlets; faucet bibs at the garage, patio and balcony; door bell button; water pressure regulator; water shut-off valve; termites in the unit; ants and other pests; rodents; dryer vent cover; windows; exterior doors; garage door; water and drain lines in townhouses; shared common drain lines in stacked units; etc.? What about undisclosed damage to a balcony structure from installation of tiling over the deck's waterproof membrane? Most of these issues are fairly clear and historically responsibility has been widely accepted between the association and homeowners. But too often the question of responsibility falls into a gray area, requiring better clarification.

*The proposed restated CC&Rs will set out separate sections delineating responsibility between the association and individual homeowners for the maintenance, repair and replacement obligation for the various systems, fixtures and elements contained within*

*each building and unit. A maintenance matrix will provide an easy-to-read reference guide for homeowners, which will avoid confusion and misinterpretation in the future.*

**C. Balcony enclosures:** The CC&Rs adopted in September 1977 make no mention regarding enclosure of balconies. However, supplementary CC&Rs filed by the developer in December 1978, of which most homeowners and the previous boards probably were unaware, prohibit the enclosure of balconies "by glass, screens or any other material." Despite that provision, over 73% of the covered balconies in the complex have been enclosed by homeowners.

*The proposed restated CC&Rs will remove that prohibition. This will eliminate any legal challenges to homeowners who have existing enclosed balconies or may desire to apply to the association to enclose their balcony in the future.*

**D. Multi-year contracts for internet, satellite, cable TV and wireless services:** All CC&Rs have a one-year limitation on contracts entered into by the association, as required by the Department of Real Estate to prevent the developer from obligating the association to long-term contracts that may favor the developer but harm the association. Once the developer has turned over control of the association to the membership, the CC&Rs may be amended to permit multi-year contracts depending on the type of vendor. The ability to enter into multi-year contracts will allow the association to secure such services at substantial discounts to individual rates and negotiate with competing vendors for services such as FIOS versus cable or for wireless internet, cable and phone services when they become available in the near future.

*The proposed restated CC&Rs and Bylaws will allow the association to enter into contracts for up to five years **only for internet, satellite, cable TV, and wireless services to residents.** All other goods and services will remain limited to one-year contracts.*

**E. Easement for travel over Grimaud Lane:** Surprisingly, it appears the developer failed to grant an easement in the original CC&Rs for condominium residents to pass through Grimaud Lane to enter the complex. The current governing documents grant such right only to R-1 residents.

*The proposed restated CC&Rs will correct that deficiency*

*and grant condominium residents the right-of-way over Grimaud Lane.*

**F. AC Condensers:** Approximately 46 condominium homeowners have installed air conditioning units with condensers located in common area. The association's attorneys confirm the association has the authority to permit such installations (similar to its authority to allow residents to place pots and plants and other decorative items in common area). Nonetheless, one current resident demands that the association require homeowners to remove their AC units. That homeowner has completed the initial legal step required prior to filing a lawsuit against the association.

*The proposed restated CC&Rs will confirm the authority of the association to permit installations of AC units in common area, thereby eliminating or reducing any legal challenge to homeowners and the association.*

**G. Future amendments to the CC&Rs:** The current CC&Rs require a 75% super-majority approval of members to amend this governing document. Such an extreme approval level makes any amendment, no matter how minor, very difficult and expensive to complete. All modern CC&Rs now require the approval of a simple majority of members to enact changes.

*The proposed restated CC&Rs will require the approval of a simple majority of members to amend the CC&Rs in the future.*

**H. Cumulative voting:** Until the late 1900s, the trend among homeowners associations was to adopt cumulative voting for the election of boards of directors. Since 2000, modern CC&Rs have gone away from cumulative voting and require a straight up or down vote -- one vote for each candidate and one vote only. This makes the voting more equal and fair for all parties and nominees.

*The proposed restated CC&Rs will eliminate cumulative voting and provide for straight vote casting – members will be able to cast one vote **each** for the four candidates they choose.*

*[Next month – What are the next steps, the process for member approval and the costs involved.]*