

The Broadmoor Breeze



July 2023

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

President's Message

*Welcome to the Hotel California
Such a lovely place (such a lovely place)
You can check out any time you like
But you can never leave*

(I know -- the lyrics are deja vu all over again, but so are the lawsuits referred to below!)

The Verdicts are in, and Broadmoor's board has prevailed again in all five lawsuits filed by two of our most vocal critics (see article below for details). With this last batch of frivolousness behind us, it's time to focus on updating our CC&R's. One positive to all these court challenges is that when the re-stated CC&Rs are presented, our membership can rest assured that any "perceived ambiguities" have been addressed. We hope to have a copy for everyone to review before the end of summer.

Speaking of which, summer is finally in full swing, with residents enjoying swimming, tennis, pickleball, and general enjoyment of our restored lagoon, the walking paths and new benches. Please remember that we have an influx of younger children and grandchildren visiting for vacations during this time of year. Let's all work together to be courteous to each other as we enjoy our great community facilities. We all get to share our little slice of Shangri-La together and patience and compassion for each other ensures everyone's mutual enjoyment.

"Anchors Away" . . . or I should say "Anchor to be raised and re-positioned." To enhance the nautical theme at the main entrance, you may have noticed that the fountain at the guard shack is gone and the board is in the process of updating that area. We hope to have it completed before next month. Current plans are to move the 3,000 lb. anchor forward and hoist it more upright to better display its presence, add some lighting, and then install beautiful flowers and irrigation. **Rumor is** that the anchor came from a tall pirate ship that Captain Morgan once sailed (LOL) . . . *Ahoy mate, arrgh!*

We continue to make progress on the stand-alone garages roof replacements and the broken tile replacements throughout the community. We expect all of this to be finishing up over the next few months if not sooner. The final of the "big projects" are the streets and we are still gathering all the information to evaluate our next steps. We plan to solicit input from the community regarding the various options the board considers. Hopefully, this should be the last large infrastructure project for the next decade. Stay tuned and we hope everyone enjoys our wonderful paradise we call Broadmoor Huntington Harbour.

Ben Goldberg

Board's Maintenance Decisions

In a condominium association, the authority to determine when and to what extent common area maintenance actions are taken lies with the board of directors. Not all maintenance efforts made by the board please every homeowner; and a few have recently objected to board's decisions to change the building paint colors, remove the window boxes, rebuild the lagoon bridges, and repaint but not replace blemished entryway deck boards.

In the landmark case *Lamden v. La Jolla Shores* (1999) 21 Cal.4th 249, the California Supreme Court ruled that California trial courts must defer to an association board's decisions regarding maintenance of the common area. In *Lamden*, a homeowner challenged the board's decision to treat termite infestation locally (secondary treatment) instead of fumigating the entire building. The Court ruled in favor of the association's board, stating:

"[W]e adopt today for California courts a rule of judicial deference to community association board decision making . . . when owners in common interest developments seek to litigate ordinary maintenance decisions entrusted to the discretion of their associations' boards of directors."

The impact of the *Lamden* case means homeowners cannot challenge the board's maintenance decisions, even if they disagree with the approach taken by the elected board. As noted below, in the recent lawsuits against Broadmoor, the judge followed the Supreme Court's edict that the trial court cannot override the board's decisions regarding the fulfillment of its maintenance responsibilities.

Litigation Update

On March 15, 2023, two homeowners, Tony Sellas and Marie Teach, filed five lawsuits against the association in Orange County Superior Court. Since four cases involved duplicate claims and issues, the judge consolidated all five cases for trial on June 1, 2023. Board directors Ronald Lee, Benjamin Goldberg and Annette Merriam appeared on behalf of Broadmoor. Director Lee prepared and submitted legal briefs in all five cases. Ron and Ben defended the cases before the judge.

Anthony Sellas v. Broadmoor

Two new lawsuits filed by Tony Sellas in 2023 come on the heels of three additional suits filed by him last year. The court ruled in Broadmoor's favor in all three prior cases.

(1) Removal of A/C Unit:

Tony Sellas sues for \$500 in damages and, as he did in a similar suit last year in which he lost, demands that the association make a specific homeowner remove her air conditioner.

The court found in favor of Broadmoor, ruling that the association owed Sellas no damages and that the board had the authority to approve placement of the A/C unit in common area.

(2) Replacement of Window Boxes:

Tony Sellas seeks \$100 in damages and demands that that association replace the window boxes that were removed during the 2021-22 wood work project. The board had made the difficult but prudent decision to remove all window boxes due to the extensive and costly interior dry rot and termite damage the boxes were causing to many units and to avoid similar damage to other units in the future.

Before trial, Tony Sellas dismissed his claim against the association. The board believes the trial court, following the Lamden case, would have ruled in favor

of the association had Sellas not withdrawn his claim prior to trial.

Marie Teach v. Broadmoor

Marie Teach filed three lawsuits in coordination with those filed by Tony Sellas above:

(3) Removal of A/C Unit:

Marie Teach's first lawsuit is directed at the same homeowner's air conditioner targeted in Sellas' claim in (1) above and involves identical issues and evidence. Marie seeks \$500 in damages for "nuisance for her time, travel and frustration" and demands removal of the A/C unit.

The court found in favor of Broadmoor, ruling that the association owed Teach no damages and that the board had the authority to approve placement of the A/C unit in common area.

(4) Replacement of Window Boxes:

Marie Teach seeks \$10,000 in damages and demands that that association replace the window boxes that were removed during the 2021-22 wood work project. This lawsuit is duplicative of the lawsuit filed by Tony Sellas above.

The court found in favor of Broadmoor, ruling that the association owed Marie no damages and, following Lamden, stated: "The court cannot second guess the decisions of the board regarding the fulfillment of its duties of maintenance. With the foregoing in mind, the court cannot find wrongdoing of the board in the change [removal] ... of the Flower [Window] Boxes."

(5) Wood Entryway:

Marie Teach seeks \$2,500 in damages and demands reimbursement for fines imposed on her by the association for making unauthorized modifications to the common area entryway to her unit, and reimbursement for her costs to hire a contractor to make those modifications.

The board had made the decision to repaint the entryway deck boards which had sap, a natural product of Douglas fir. Not satisfied with the board's decision to repaint rather than replace the boards, Teach resorted to self-help and hired a contractor to replace three boards. She then sued the association for reimbursement of her expenses. At trial, the judge hinted he would likely rule on her entryway landing suit in the same manner as he would rule on her window

box claim. Marie then requested dismissal of her wood entryway suit.

The judge dismissed the case "with prejudice" for Marie's failure to prosecute her claim on the date set for trial. This means Marie cannot re-file her case.

Stand-alone Garages

The following is the **corrected** list of stand-alone garages being re-roofed:

16490 Bordeaux
16492 Bordeaux
16514 Bordeaux
16516 Bordeaux
16526 Bordeaux
16528 Bordeaux
16550 Bordeaux
16552 Bordeaux
16560 Bordeaux
16562 Bordeaux
16580 Bordeaux
16582 Bordeaux
16590 Bordeaux
16592 Bordeaux
16610 Bordeaux
16612 Bordeaux
16331 Grenoble
16335 Grenoble
16337 Grenoble
16341 Grenoble
16345 Grenoble
16349 Grenoble
16351 Grenoble
16412 Martin
16414 Martin
16430 Martin
16432 Martin
3181 Moritz
3185 Moritz
3191 Moritz
3193 Moritz
3199 Moritz
3299 Moritz

Pool Use and Courtesy

A long-time resident recently reported observations regarding the decline in adherence to the pool rules and the lack of etiquette by residents and their guests. Each week it seems more guests are using the pool facilities. Residents are reminded that the pool rules in the Community Handbook, and posted on the pool gate and

by the spa, are not for other people, they are for everyone to follow.

The pool rules include:

- No play equipment, boogie boards or water guns
- No screaming or loud noise, including music
- No Marco Polo games or the like
- No throwing objects
- No diving, running or pushing
- No glass containers
- No children in diapers (swim diapers only)
- No pets
- No one under 14 years in the hot tub at ANY time
- Keep the gate to the pool closed at all times
- No smoking or vaping in the pool area

Some reported incidents:

- a person removing a bloody bandage and leaving it on the edge of the pool rather than getting out of the water and throwing it in the trash receptacle
- a person chewing gum, then removing it and leaving it on the side of the pool
- a person eating sunflower seeds and spitting the shells on the concrete deck rather than using a plastic cup to spit the shells into
- bringing beach sand into the pool and hot tub rather than showering before entering the pool area

Remember, guests must be accompanied by a resident at all times. And before you leave the pool area, look around to see if you have left your trash, water bottle, clothes, towel, food or drink wrappers.

Roof Access Prohibited; HMAs

In the next few months, all roofs will be restored back to nearly new condition. Broken tile repairs from recent fumigation on residential units and the completion of new roofs on all stand-alone garages should be completed by the end of summer.

It is essential to protect our financial investment in the roofs, but also their structural integrity. Except in rare instances, absolutely no one is allowed access to the roofs. A homeowner that needs roof access (e.g., installation of a satellite dish antenna) is required to submit a Home Modification Application (HMA) and obtain advance approval. A roof inspection fee may be

required for association approval. Noncompliant homeowners will be fined.

The HMA form is available online at www.broadmoorhh.com or hard copies at the guard house. Board approval is required for any architectural improvements (decks, doors, roof access, air conditioners, windows, etc.) before making any such modifications. The Board has up to 30 days to review and approve or deny the application. Modifications cannot be made until the homeowner receives notification that the HMA is approved.

Landscape Update

Gardening Club:

We had such great fun cleaning up our landscape for the June social party that we've decided to start a Gardening Club for green thumb volunteers. To make it

easy to remember when we meet, we've selected the first Friday **of every month**. The activities include minor weeding, trash/dead plant removal, and general tidying-up throughout the complex. We'll provide garbage bags and Harvest will haul it away. Please bring your gloves, implements, protective eyewear, sunscreen, water and hats. Let's meet at the pool steps and go play in the dirt! There is no need to RSVP to say you want to help. Thank you in advance for volunteering!

Simply join us on any first Friday of the month:

- **Friday Aug 4th (9AM)**
- **Friday Sept 1st (9AM)**
- **Friday Oct 6th (9AM)**

For questions, please text/call Melanie at 714-746-1055.
L.C.

BOARD OF DIRECTORS 2023/2024

President: Ben Goldberg
Vice President: Suzanne Beck-Hammoud
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: Danielle Kirby
rpaulino@powerstonepm.com 949.594.1620
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 (\$59 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

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.

BROADMOOR COMMITTEES

* Chairperson
** Board Liaison

Architectural Committee (Condominiums)
Condominium Board Members

Architectural Committee (Grimaud R-1)
R-1 Board Member

Architectural Advisory Committee (Condos)
* Chris Gray
Barbara Blodgett
Carlos Bosio
Arlene Speiser

Architectural Advisory Committee (Grimaud R-1)
Michael McCoy
Peter Francis
Barbara Villa

Advisory Committee (Grimaud R-1)
Michael McCoy
Peter Francis
Michael Levitt
Paul Villa

Inspector of Election
Greg Copeland
Carl Palazzolo (alternate)

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

Parking Committee
* Jeff Pennington
Chris Gray
Bill Selfridge
Tony Sellas

Reserve Study Committee
Chris Gray
Stefan Steinberg
** Annette Merriam

Social Committee
* Julie Mann
Susan Bennett
Denise Faulkner
Arlene Ferguson
Betty Schmicker
** Suzanne Beck-Hammoud