



February 2010

# SURFSIDE III NEWSLETTER

Daniel Kessner - Editor



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## FROM THE BOARD OF DIRECTORS

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### Crime Free Program

We are working toward the implementation of the Crime Free Program. Several owners, along with two Board members, attended the class hosted by the City of Port Hueneme. Because of the comments received that were prompted by our publications on this subject in the newsletter, we asked our attorneys to carefully define what can be put into our Rules & Regulations to enforce this program. We have received that response and it has been forwarded to the Rules & Regulations Committee to draft the rules that are needed. These rules will then be reviewed by our attorney and then by the Board, and finally put out for a thirty day comment period before they are adopted by the Board. We expect a draft of these rules to be reviewed at the open Board meeting on February 13.

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## FROM THE ON-SITE OFFICE

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### Pets

Some homeowners have reported seeing dog feces along the grass and walkways throughout the complex. If you see someone not using the paw bags, feel free to remind them that there is a fine attached to it. Some of our tenants may not be aware of the Rules & Regulations, which state: "All pet owners are personally responsible for immediate clean-up after their pets, should they foul the grounds of the common area with feces. Likewise, a pet owner is responsible for keeping the patios or balconies free of urine and feces. Anyone violating this rule will be subject to the initial fine without the benefit of a warning for special circumstances of an initial \$100." (Rules and Regulations 2009-09-12 – Fines without Benefit of a Warning... #7)

### Dumpster Diving

A number of homeowners reported seeing dumpster diving within the complex. If you should experience seeing anyone and you CANNOT identify them, please contact the Port Hueneme Police Department at (805) 986-6530. However, if it is someone who lives here and you CAN identify them, please notify the on-site office by email or fill out a violation form located on the wall next to the office and drop it in the mailbox. There is also a violation report form on our website under governing documents. It is the last entry on the list. A fine is in order.

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## COMMITTEE BRIEFS

For more committee information visit <http://www.surfsideiii.com/docs/committee/committee.htm>

Please contact the committee chair to volunteer.

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**Neighborhood Watch Committee** – Val Lameka; 805-986-2855; [v.lameka@yahoo.com](mailto:v.lameka@yahoo.com)

December was a bad month for thefts from parked vehicles in our community. Some were from unlocked cars, but others involved broken windows. It is too bad that even leaving a power cord plugged in can spark a vandal/theft. We are working on covering more of the parking areas with cameras, and have turned over some images to the police. We were able to pinpoint the time of one of the broken-window thefts to between 8pm and 9:30pm. These thieves are bold, and we hope all residents will not hesitate to call the police if they see someone lurking, jumping the fence, or otherwise acting suspiciously.

Be aware also that the dumpster diver grabbed some old checks a resident discarded, and managed to cash them. SHRED, SHRED, SHRED.

The next Neighborhood Watch meeting will be Thursday, February 4, at 7pm in the clubhouse. All residents are welcome.

Valerie Lameka

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## FROM THE EDITOR

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Please send all newsletter submissions to me at [dkessner@csun.edu](mailto:dkessner@csun.edu). Please avoid any special formatting and use Arial 10-point font if you have it. The deadline is the 10<sup>th</sup> of each month for the following month's issue. Owners and renters should be aware that the Newsletter is always available on the website: [www.surfsideiii.com](http://www.surfsideiii.com). This includes back issues.

The City of Port Hueneme now has a free electronic newsletter with information on various city-related matters and events. To sign up to receive it, visit the city website: [www.ci.port-hueneme.ca.us](http://www.ci.port-hueneme.ca.us), then in the column at the far left, click on "Sign Up for E-News."

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## CONTACT INFORMATION

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### **MAINTENANCE/RESIDENT SUPPORT (PHONE NUMBERS AND E-MAILS BELOW):**

**Contact Lordon Management, Jennifer Critchfield; for e-mails always copy Donalea Bauer**

**Include your phone number(s) and/or e-mail for response before end of next business day. If you get her voice mail, but would like to speak with her directly, hit zero and talk to the operator.**

**If more urgent, call Donalea Bauer.**

**Surfside III On-site Property Manager's Office: 600 Sunfish Way, Port Hueneme, CA 93041**

**Phone: 805-488-8484**

**Please note that calls regarding maintenance or billing should be directed to Lordon Management.**

#### **Surfside III Direct Contact:**

Surfside III COA  
600 Sunfish Way  
Port Hueneme, CA 93041  
<http://www.surfsideiii.com>  
[manager@surfsideiii.com](mailto:manager@surfsideiii.com)  
Phone: 805-488-8484

**Scott Walker, On-site Property Manager**  
**Carol Short, Assistant On-site Property Manager**  
**Management Company:**

**Donalea Bauer, Vice President, community manager**

Email: [donaleabauer@lordonmanagement.com](mailto:donaleabauer@lordonmanagement.com)

Phone: 800-729-5673 x 3342

**Jennifer M. Critchfield, assistant community manager**

Email: [jcritchfield@lordonmanagement.com](mailto:jcritchfield@lordonmanagement.com)

Phone: 800-729-5673 x 3380

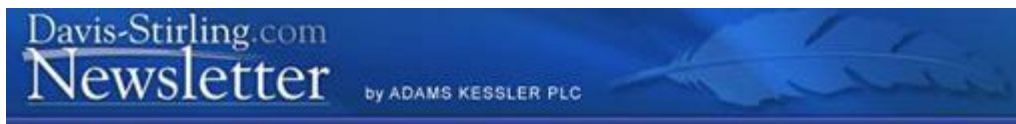
**Our Board:**

Lordon Property Management  
1275 Center Court Drive  
Covina, CA 91724  
Phone: 800-729-5673  
Fax: 626-966-3918  
For after-hours emergencies, dial 5 or  
(626)771-1075

Bill Betts - President [bill.betts@surfsideiii.com](mailto:bill.betts@surfsideiii.com)  
Ira Green - Vice-president [ira.green@surfsidediii.com](mailto:ira.green@surfsidediii.com)  
Skip Perry - Treasurer [skip.perry@surfsideiii.com](mailto:skip.perry@surfsideiii.com)  
Michael Madrigal - Secretary [michael.madrigal@surfsideiii.com](mailto:michael.madrigal@surfsideiii.com)  
Inna Fischer - Director [inna.fischer@surfsideiii.com](mailto:inna.fischer@surfsideiii.com)

### **LORDON MANAGEMENT: OTHER DEPARTMENT EXTENSIONS**

All escrow matters: Kasy Lane, ext. 3339; [klane@lordonmanagement.com](mailto:klane@lordonmanagement.com)  
All insurance and collections: Patty Bosch-Barrios, ext. 3337; [pbarrios@lordonmanagement.com](mailto:pbarrios@lordonmanagement.com)  
Your account, billing address, etc: Liz Lopez, ext. 3319; [llopez@lordonmanagement.com](mailto:llopez@lordonmanagement.com)  
Liens, legal issues: Donalea Bauer (see above)



### **WHEN ARE FEES DELINQUENT?**

**QUESTION:** If we receive association dues by mail on the 16th, which is when late fees are assessed, should we honor the date that the envelope is postmarked?

**ANSWER:** As provided for in [Civil Code 1366\(e\)](#), regular and special assessments are delinquent 15 days after they become due, unless the CC&Rs provide for a longer time period. If the envelope was postmarked on or before the 15th but arrives after the 15th, late penalties should not be levied.



**Board & Management Note:** At Surfside III we run our billing on the 19<sup>th</sup> or 20<sup>th</sup> of the month. So if your dues, postmarked by the 15<sup>th</sup> have been received by the 19<sup>th</sup> or 20<sup>th</sup> of the month, they will not be considered to be late and there will be no late fees applied. Some owners have realized this practice and have mailed their dues on the 16<sup>th</sup> or 17<sup>th</sup> and have received late fees.

### **UNSTABLE SLOPES**

**Board & Management Note:** This PUD is NOT Surfside III. This example is being reprinted to provide an example of the Business Judgment Rule. In a recent court ruling, the court found that the Surfside III Board has set an example for excellence in following this rule. The plaintiff lost on all counts.

**QUESTION:** I live in a PUD with homes perched atop a steep bluff. There have been mudslides and some homes are threatened. Against the advice of the soils engineer, the board voted to follow the advice of lay persons who claim the soils engineer is lying. Many of us stressed to the board that a second opinion from another soils engineer should be obtained but the board refused. If the "remedy" recommended by the lay people doesn't hold up and damages are exacerbated, can the board be held personally liable?

**ANSWER:** Your board has its head in the sand. When it comes to geotechnical issues, they need a soils engineer to advise them not lay people.

**Business Judgment Rule.** If the unstable slope injures persons or property, your directors could face personal liability. To avoid this, directors must perform their duties:



1. In good faith,
2. In a manner which the director believes to be in the best interests of the association, and
3. With such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. [Corp. Code 7231\(c\)](#).

The Davis-Stirling Act additionally provides:

1. The act or omission was performed within the scope of the officer's or director's duties;
2. The act or omission was performed in good faith;
3. The act or omission was not willful, wanton, or [grossly negligent](#);
4. The association carries insurance as defined by [Civil Code 1365.7\(a\)](#).

**Risky Business.** I suspect a jury would find that ignoring the recommendations of a qualified soils engineer in favor of unqualified owners was imprudent and, depending on the extent of the damage and injuries, grossly negligent, thereby triggering personal liability by the directors. If the board has reason to doubt the advice of its engineer, it should get the opinion of second soils engineer. If the two engineers agree, follow their advice. If they disagree, get the opinion of a third qualified engineer to break the tie.

### **BUSINESS IN RESIDENTIAL UNIT**

**QUESTION:** Our CC&Rs state that "Each Unit shall be used solely as a private residential dwelling and for no other purpose." The board has ruled that a homeowner who provides music lessons in his unit is conducting a business in violation of the CC&Rs. The municipal code allows certain businesses to be conducted in the home. The owner claims the city ordinance supersedes the association's CC&Rs. Is he right?

**ANSWER:** No, he is not correct. It is true that homeowners are subject to city ordinances as well as the association's restrictions but ordinances do not supersede the CC&Rs unless the ordinance specifically states it. It's like growing pot--the state allows it for medicinal purposes but the federal government does not. If you're caught growing marijuana, the state will not prosecute you but the federal government will. Likewise, the city will not fine your owner for running a music business in his unit but the association can.

### **DONATING MONEY TO THE ASSOCIATION**

**QUESTION:** Is it allowable for members to donate money to the association? The donations would be earmarked to build a playground in the common area.

**ANSWER:** Yes, members can donate money to the association. They can specify that the money be used for a particular purpose and if not used for that purpose, returned to them.

### **PENALTIES FOR NON-PARTICIPATION**

**QUESTION:** Can non-participating condo owners be charged a non-participation fee? They don't come to membership meetings and won't serve on the board of directors. They don't do anything for the association except pay their dues.

**ANSWER:** You're lucky they pay their dues; many associations are struggling with high foreclosure rates. Your proposed "fee" is actually a fine. At a minimum, you will need to amend your Rules & Regulations to provide for voter non-participation penalties. I prefer incentives to fines, i.e., raffle a prize or series of prizes for those who cast ballots. You can get local businesses to donate products and services. Even though I'm opposed to penalties, they can be effective; they clearly increased voter turn out in North Korea, Cuba, and the



former Soviet Union.

### **ALTERING THE COMMON AREAS**

**COMMENT:** For an association to demand that only certain contractors be used by unit owners seems like an unfair restraint of trade providing no demonstrable benefits to the association and infringing on the unit owner's right to choice.

**RESPONSE:** I know this sounds shocking but some owners will bootleg unapproved changes when they remodel. Unauthorized alterations to plumbing and electrical systems can significantly impact the membership through floods and fire. It is not unreasonable for the association to require particular plumbers and electricians be used--vendors who already know the building's systems, who are licensed and insured, and who will not make unauthorized alterations. Owners do not have a "right" to pick their vendors when it comes to altering the association's common areas.