



June 2012

SURFSIDE III e-NEWSLETTER

Daniel Kessner – Editor



FROM THE BOARD OF DIRECTORS

J Street Drain Information

At the March 27th Ventura County Supervisors meeting, the Final Environmental Impact Report on the J Street Canal Project was approved. This means the J Street canal, which runs along the southeastern border of the Surfside III property, will be widened and deepened over the next two years.

Recently the VCPWD has requested that the association appoint a contact person and provide owner addresses.

At the open Board meeting on April 14th, this was discussed and Mike Madrigal was appointed as the Board's contact; Skip Perry and Bob Banfill were appointed to assist him.

NOTE: This is NOT a committee to negotiate as is rumored. They are not negotiating or making any agreements. All the proceedings from April 14th through June 2nd will be presented and discussed at the open Board meeting on that date. All input from the VCWPD will be reviewed and discussed.

Decisions about the J Street canal will only be made in open meetings. Due to recent changes in laws governing open meetings, the Board cannot even discuss issues between meetings.

Escrow Disclosure Of Any Unauthorized Alteration Of The Common Area

Changes to your unit that bypassed the architectural review can lead to problems later on. For example, if you have installed a wood floor on a second or third floor condo unit without soundproofing, this will create a nuisance for your neighbor below in violation of the CC&Rs. Selling your unit before the HOA finds out about this condition does not relieve you of the responsibility to correct it. Although, it would have been prudent for the prospective buyer to ask the HOA for an inspection, lack of this inspection does not relieve the new owner of the responsibility to deal with the situation. While the HOA will hold the new owner responsible, the new owner will then go back to their agent and the seller.

Besides soundproofing, there have been a number of discoveries such as illegal walls, damaged patios and improperly installed plumbing and electrical. To protect the prospective buyer we are putting a form into all escrows advising them of this potential liability.

Please Don't Pick the Flowers

On several occasions in the past few weeks we have found piles of 6 or 12 or more flower heads and the unopened pods of the purple agapanthus (peter pans). In addition we have witnessed a pre-teen youth holding single flowers matching the day lilies and snapdragons that are in the flower beds locally.

As a reminder, the flowers in the common areas are for everyone's pleasure and are NOT for personal picking or usage or as a toy. In children older than kindergarten age this is vandalism. If it occurs and we can identify the parent, there will be fines issued.

FROM THE ON-SITE OFFICE

BBQ/Smoking on Patio/Balcony

With the weather getting warmer, more residents are spending time on their patios/balconies. As a reminder, no open-flame barbeques/smokers are allowed. Furthermore, smoking on patios and balconies is prohibited and will be addressed by the HOA if a complaint is filed with the on-site office. One complaint will be filed as a warning. The on-site office will immediately contact the resident advising them not to do so. If a second complaint occurs, it will result in a \$50 fine for each violation. Note: courts have held that associations can pass rules against smoking on balconies because they have good reason to regulate smoking — it is a health hazard, a fire risk, and a nuisance. Restricting smoking is NOT a violation of a person's civil or constitutional rights.

And finally, tiki-torches are forbidden on townhome patios and condo patios and balconies. Not only are they a fire risk and sometimes a nuisance to others, but they can cause structural damage to the stucco and railings on the condos.

Surfside III Termite Inspections

As part of our renewal agreement with our Termite Treatment Company, beginning Monday, June 4th, there will be a termite inspection and treatment conducted at Surfside III (see schedule below). It will include all condo units, townhomes, attics, exterior area inspections and the Clubhouse. The termite company will review the previously inspected areas, treat those areas reported, and determine if there are any additional findings which will be treated as well. They will also inspect and treat any units which had no previously reported findings.

As preparation, we are giving you advance notice of the schedule. The inspection will not require any action by the homeowner/tenant. If a homeowner or tenant needs to reschedule, they can contact ABF directly at 800-834-4224 and they will reschedule for you. If you have any specific questions, feel free to contact them at the same number.

The termite company will be on site at 8 am each day to conduct an **exterior** inspection and treatment. Their work **inside** will be Monday thru Wednesday, 9 am – 5 pm.

Please make certain that the on-site office has a working key for your townhome/condo unit. If not, please contact the on-site office in advance. **It is critical that each unit is inspected.**

For the third floor homeowners, you may hear noises coming from the attic areas during the inspection period. As pointed out above, inspections will be conducted in the attics as well.

This notice will serve as your advance notice. **Please post it where it can be seen as your reminder. You will not receive an advance call.**

If you have any questions, please don't hesitate to contact the Surfside III on-site office at [805-488-8484](tel:805-488-8484).

Schedule:

Monday, June 4	Building 1: 502 – 576 Ebbtide Circle Building 2: 602 – 664 Sunfish Way (even numbers)
Tuesday, June 5	Building 3: 601 – 665 Sunfish Way (odd numbers) Building 4: 651 – 717 Reef Circle
Wednesday, June 6	Building 5: 725 – 789 Reef Circle Building 6: 802 – 866 Bluewater Way
Monday, June 25	Building 7: 902 – 960 Lighthouse Way Building 8: 635 – 699 Bluewater Way
Tuesday, June 26	Townhome 10: 754 – 766 Sea Wind Way

Townhome 11: 768 – 786 Sea Wind Way
Townhome 12: 665 – 689 Lighthouse Way
Townhome 13: 607 – 633 Lighthouse Way

Wednesday, June 27

Townhome 14: 791 – 799 Sea Wind Way
Townhome 15: 986 – 994 Lighthouse Way
Townhome 16: 972 – 984 Lighthouse Way
Townhome 17: 962 – 970 Lighthouse Way

Aside from the regular inspections, however, if you suspect that there may be termites in your townhome or condo unit anytime throughout the year, please feel free to contact either the on-site office at [805-488-8484](tel:805-488-8484) or contact ABF directly at [800-834-4224](tel:800-834-4224).

COMMITTEE BRIEFS

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

Please contact the chair to volunteer.

Neighborhood Watch Committee: Val Lameka; 805-986-2855; v.lameka@yahoo.com

It generally was a good month for Surfside III, and our watchers are committed to keeping it that way as we go into the summer months. If police response was a little slow at times, it is because Sr. Officer Bates and Chief Sheehan (plus our other good policemen and detectives) have been extremely busy solving crimes and making arrests. The weekend of April 14 had two convenience stores and Taco Bell robbed one after the other. The perpetrators were caught and arrested. Multiple arrests were made for the robbery of Santa Barbara Bank and Trust on Channel Islands toward the end of the month. There were a couple of robberies on Sunfish that we are still awaiting details about. Apparently the folks robbed let the robber sleep on their sofa, and he repaid this kindness by removing some of their possessions when he left! Delores Dyer, our police volunteer, went over the calls and reports for our complex.

The June Neighborhood Watch meeting will be on Thursday, June 7, at 7 pm in the Clubhouse.

Questions and reports to Val Lameka

FROM THE EDITOR

Please send all newsletter submissions to me at dkessner@csun.edu. Please avoid any special formatting and use Arial 10-point font if you have it. The deadline is the 20th of each month for the following month's issue. Owners and renters should be aware that the Newsletter is always available on the website: <http://www.surfsideiii.com>. This includes back issues.

The **Owners' Corner** is a forum for all of you to voice your opinions on anything that might be of interest to everyone else. Please feel free to take advantage of this.

Newsflash: The City of Port Hueneme has just discontinued its e-newsletter in favor of a new website with many additional features. Among them is the option to sign up for either e-mail or cell phone notifications of many city events, including meetings, construction updates, and public events. Please check out the newly-launched site: <http://www.cityofporthueneme.org>.

OWNERS' CORNER

The Owners' Corner is a place in the newsletter for owners to voice their observations and suggestions about the association operations or make announcements about any Surfside III social event or activity. While the newsletter Editor and the Board do review these submissions, the opinions and content only represent the author and not the association. We will refuse and return to the author for re-writing any material that is not factual or is in bad taste or denigrates any individual. We are not perfect and apologize in advance if you find the content of anything in this section offensive.

The Surfside III Condominium Association ("association") is not responsible for the content and accuracy of any information provided by owners or third parties. The association and its Board of Directors will not accept any liability for any direct, indirect, incidental, special or consequential damages that result from or are related to material submitted by the owners or other third parties. By submitting any material for publication in this newsletter, all individuals agree to indemnify, defend and hold the association, its officers, directors, members, representatives, managers and agents harmless to the fullest extent permitted by California Law, from any and all claims, actions, and/or lawsuits, arising out of or related in any way to their material published in this newsletter.

Funny there should be a mention of our continuing problem with dumpster divers in our last newsletter and pointing out the State law that "prohibits retrieving recyclables from our dumpsters" and listing the Port Hueneme Police Department number one can call to report intruders. A few days after reading the newsletter, I had a very unpleasant experience with a chronic dumpster diver and a tenant. As my husband and I returned from grocery shopping, I saw this intruder on a bicycle about to enter our dumpster. I informed him, as I have many times in the past, that he was trespassing and dumpster diving is not allowed. As usual, he became very angry and defiant and continued right on. As my husband and I were unloading groceries at our elevator, a woman came out of the blue and began screaming across the parking lot. I didn't realize she was screaming at me until I stopped to hear what the commotion was all about. The angry woman was screaming over and over that I was an evil lady, I needed to get a life and that this is "public property" and she gave this outsider permission to go through our dumpsters. Basically, this person was giving some stranger permission to come in and break the law. I yelled back that this is private property and this is not allowed. She just kept on a rampage calling me evil and saying I needed to get a life. First of all I do have a life and it has been at Surfside III for nearly twelve years. I pay a premium to live here and "I" have a vested interest in seeing that this remains a safe and secure place in which to live. The intruder in question has been doing this for years, he smiles and appears friendly at the outset, but becomes angry when you try to chase him out. It's not only a security issue, besides being against the law, we open ourselves up to fraud when intruders get a hold of our personal information, which has happened in the past. I suggest the Board put signs up on the dumpsters pointing out that dumpster diving is not allowed. Owners need to make their tenants aware that we have rules to live by here and inform them that no one has the authority to let anyone come in here to do anything that our HOA rules do not allow and certainly not anything that is against the law.

Pat Dileski

CONTACT INFORMATION

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

OFFICE OPEN:

Mondays & Fridays – 8 am-12 noon

Wednesdays – 1-5 pm

THERE WILL BE NO ON-SITE TELEPHONE SERVICE WHEN THE OFFICE IS CLOSED.

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
Phone: 805-488-8484

Carol Short, On-site Property Manager

Management Company:

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

Donalea Bauer, Vice President, community manager

Email: donaleabauer@lordonmanagement.com
Phone: 800-729-5673 x 3342

Jennifer M. Critchfield, assistant community manager

Email: jcritchfield@lordonmanagement.com
Phone: 800-729-5673 x 3380

Our Board:

Bill Betts - President bill.betts@surfsideiii.com
Ira Green - Vice-president ira.green@surfsidediii.com
Skip Perry - Treasurer skip.perry@surfsideiii.com
Michael Madrigal - Secretary michael.madrigal@surfsideiii.com
Bob Banfill - Director bob.banfill@surfsideiii.com

LORDON MANAGEMENT: OTHER DEPARTMENT EXTENSIONS

All escrow matters: Nicole Castillo, ext. 3339; nicole@lordonmanagement.com
All insurance and collections: Mia Preciado, ext. 3337; mpreciado@lordonmanagement.com
Your account, billing address, etc: Liz Lopez, ext. 3319; llopez@lordonmanagement.com
Liens, legal issues: Donalea Bauer (see above)



Serving California's Community Associations

May 13, 2012

**ATTORNEY FEE
AWARD**

Last year I reported on [Salehi v. Surfside III](#) where an owner-attorney sued her association and lost. The court awarded \$250,000 in legal fees to the association. In a separate case, the same owner-attorney represented another member against the association and lost. When the court entered judgment against the owner, he immediately declared bankruptcy.

Once the bankruptcy proceedings were dismissed, the association filed a motion for attorneys' fees and the court awarded \$292,205 to the association. The owner appealed claiming the motion was untimely. The court of appeals affirmed the award, finding that for good cause (such as bankruptcy), the trial court had the power to extend the time for filing a motion for fees. [Lewow v. Surfside III](#).

LESSON: Homeowners who file meritless lawsuits expecting the association's insurance company to pay them to go away may be in for a rude awakening. Insurance companies don't always roll over and play dead. In this case the carrier spent over half a million dollars fighting two meritless cases and prevailed. Congratulations to Surfside III and their lawyer Bill Slaughter.

NUISANCE POLITICS

When you mention "prohibition of flyers door to door," do you mean homeowners cannot distribute flyers concerning

an association issue or are you referring to outsiders? We don't currently have a policy about flyers, but some of us are considering a flyer regarding an important issue. Isn't this free speech? -Karen S.

RESPONSE: Associations cannot prohibit the mailing of fliers (free speech) but they can prohibit the posting of fliers on common area walls, doors, etc. (litter). Some associations accommodate member fliers by installing a bulletin board where residents can post business cards, for-sale items, fliers, etc.

Can any member in good standing request a copy of the membership list with all pertinent information that management has such as address, phone, email? I realize they probably will want to charge for the cost of producing it. -David A.

RESPONSE: Any member, whether in good standing or not, can inspect and copy the membership list. Members do not have a right to [phone numbers](#), and their right to [email addresses](#) is uncertain. Associations can bill the requesting member for direct and actual cost of copying the membership list. [Civ. Code §1365.2\(b\)](#). Any person who misuses a membership list is liable for any damage caused by the misuse, including punitive damages for a fraudulent or malicious misuse. [Corp. Code §8338\(b\)](#).

ASSEMBLY BILL 2273

Good news! This past week, the Assembly Judiciary Committee approved [AB 2273](#) by a vote of 8 to 1. The bill now moves to the Assembly floor in the next 2-3 weeks. Skip Daum, CAI's legislative advocate for this bill, reported that more than 1,000 letters were received in support of the bill. Thank you to everyone who sent letters. Your efforts are paying off.

Purpose of Bill. The bill requires banks to record foreclosure deeds within 30 days so associations know who and where to bill for assessments. It makes banks accountable for the properties they acquire. As expected, the lending industry is strenuously lobbying against the bill.

ROGUE TREASURER

QUESTION: We have a director who is under the impression he is the only one who can sign checks because he is the treasurer. Without board approval, he has called special meetings of vendors, refused to pay vendors and has even torn up a large check in front of a vendor. He has told vendors that he will refuse to sign any more checks until they do what he wants. They now refuse to work. This is creating chaos for the association. The treasurer threatened to file a lawsuit if anyone tries to remove him from office. What can we do?

ANSWER: Your treasurer is acting outside his [scope of authority](#). Treasurers do not have unchecked power over the association's finances. They answer to the board. Treasurers do not have the right to threaten vendors and tear up checks nor do they have sole authority to [sign checks](#).

Duty to Sign Checks. If the board authorizes payment to a vendor, the treasurer has a duty to pay the vendor. He cannot withhold funds just because he disagrees with the board's decision. If cash flow is a problem, the treasurer can put a temporary hold on a check until funds become available. If the treasurer (or any other director) discovers circumstances that would cause the board to reconsider payment to a vendor, that director should bring the matter to the [attention of the board](#). Absent that, the treasurer must pay the association's bills.

Removal from Office. The treasurer holds his office at the pleasure of the board and can be [removed](#) by the board at any time with or without cause. Removing your treasurer from office is not by itself sufficient cause for him to file a lawsuit. That does not mean he won't sue. If he does, he is going to have a very difficult time explaining to a court why he should be reinstated since the appointment of officers is discretionary with the board (unless your governing documents state otherwise). If your treasurer is foolish enough to file a lawsuit, he would be open to a counterclaim for any damage he caused the association for his unauthorized actions as treasurer.

RECOMMENDATION: If the board remains silent, it could be seen as an endorsement of your treasurer's bad behavior. That could put the association at risk for litigation from vendors. You should work with your attorney to create a paper trail of written demands that your treasurer cease acting outside the scope of his authority. If he

refuses to fall into line, remove him from office. If you've already made written demands which he has ignored, immediately remove him from office.