



July 2009

# SURFSIDE III NEWSLETTER

Daniel Kessner - Editor



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## FROM THE BOARD OF DIRECTORS

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### LATE FEES

The article at the end of this newsletter from our attorneys reports that no more than 15% of the total units can be 30 days or more past due on the payment of condominium dues. This could result in delays and other obstructions to sales transactions on units. In addition, past due levels affect our ability to borrow, which is needed to accelerate our renovations. Finally, the adverse cash flow puts pressure on us to increase the dues. Thus the load of those not paying is transferred to those that are. In order to mitigate these conditions, the late fees, as previously announced, were increased to 10% of the assessments for payments not received by the 15th of the month effective on January 1<sup>st</sup> of this year. That is currently \$60.00! So please mail your dues assessments, which are due on the 1<sup>st</sup>, in time so that they reach us by the 15th of the month.

### DRAIN LINES

Please be advised that if the plumbing work (supply and drain lines) has been completed in your unit, the following will apply:

If a plumber needs to be called to your unit to clear a clog in the drain line, and the clog can be directly linked to your unit, the service call will be charged to your account, as well as any damage that may result in units associated with that clog. PLEASE BE VERY CAREFUL ABOUT WHAT ITEMS YOU PUT DOWN YOUR DRAIN LINES. PLEASE try to keep as much hair, food particles, sanitary items, etc., as possible from being deposited down the drain lines.

### CHANGES TO RULES & REGULATIONS

All items distributed by the Board for a 30-day comment period with the May 2009 Newsletter have been adopted by the Board effective June 13th. The updated rules have been posted to our website, <http://www.surfsideiii.com>. Please go to the information page and then governing documents. You will see the entry: Surfside III Rules & Regulations. For reference to the updates only, please see the May 2009 Newsletter.

### CLUBHOUSE POOL HOURS

Beginning Friday, June 19<sup>th</sup> the Clubhouse hours will be 6:00am-11:00pm, Monday thru Sunday. We will have an on-site attendant during the evening hours for everyone's convenience.

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## FROM THE ON-SITE OFFICE

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### YARD SALE

Surfside III will be having a "Yard Sale" in the Clubhouse Parking lot. Here is an opportunity to either sell or donate some things that

you've had around for some time. If you wish to make a donation, bring your things to the Clubhouse Office the week of July 13th, between 9 am and 5 pm. The proceeds from donated items will be used for the Clubhouse.

**Date of Event: Saturday, July 18th**

**Time: 9:00 am - 2:00 pm**

We need volunteers to help Katie Greenstreet. Please contact the On-Site Office if you wish to help. Each homeowner is responsible for setting up in the parking lot area in front of the Clubhouse by 8:30 am; and, please bring your own table.

If you have any questions, please contact the on-site office at (805) 488-8484.

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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)

At a well-attended meeting, we went over the crime report with Sr. Officer Burns. With the exception of a stolen laptop from a guest in the clubhouse, most of the activity involved "loud party calls." Unit owners will be receiving letters from our Association in accordance with the Rules and Regulations. Next, the 9 and 10 year-olds in the complex talked to Sr. Officer Burns regarding conflicts with adult residents while playing in the common area. Both he and the Watch Committee members reassured the children that so long as the playing is not destructive, or violating Association rules, there should be no problem. Certainly, we should all treat one another with respect, regardless of age.

The cameras are being installed now, and a pool attendant is being hired. Pool rules will be enforced.

Because of the holiday, the next meeting will be Thursday, July 9, 7 pm at the clubhouse.

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The **Rules & Regulations/By-Laws/CC&Rs Committee** needs volunteers to continue doing their important work. Please contact Ira Green at [Ira.Green@SurfsideIII.com](mailto:Ira.Green@SurfsideIII.com) if you are interested in participating.

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## PROPOSED CHANGES TO THE RULES AND REGULATIONS

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The following two proposed changes are open for discussion for 30 days. Please send Ira Green your comments at [Ira.Green@SurfsideIII.com](mailto:Ira.Green@SurfsideIII.com). He will be assembling all the input for the committee responsible for these changes and the Board for Rules & Regulations modifications.

PROPOSAL 1 MAINTENANCE OF EXCLUSIVE-USE AREAS: [Add to Part II - General](#)

19. Warnings and subsequent fines will be issued to owners who allow private-use areas (balconies, driveways, front and back patios) to become so obviously unsightly that a complaint is lodged with the On-Site Office, Board, or management company, and inspection of the reported site by management verifies that the condition is a clear violation of reasonable standards of appearance and maintenance (including either non-compliant items, an excess of items, and/or excessive vegetation) and which therefore constitutes a threat to the property value of neighboring units and/or the complex as a whole.

An exception shall be made for units which are in the process of construction or remodeling.

PROPOSAL 2 POLICE RESPONSE: Revision Rules and Regulations paragraph in the section on FINES WITHOUT BENEFIT OF A WARNING FOR SPECIAL CIRCUMSTANCES No. 13

ADD this first sentence before the current Rule No. 13:

Any occupant's conduct that requires police to be called in response to any activity that may be considered an excessive; violent; criminal or similar unreasonable disturbance - and the complaint by either a neighbor or management is validated under the provisions of the Violations Process - will result in a \$200 fine. Any subsequent violation of the same excessive or extreme nature will be subject to board consideration of compounding fines.

#### REGARDING THE RULES & REGULATIONS

FROM THE RULES & REGULATIONS/BY-LAWS/CC&Rs COMMITTEE:

IN THE SINCERE HOPE OF FOSTERING A SENSE OF SHARED COMMUNITY and to let you know that the Board and management staff want the residents of Surfside III , owners and renters alike, to enjoy living here. . . . .

Guidelines for our Violation Enforcement Policy:

- We will always try to enforce rules and regulations when safety, damage, or liability issues are involved.
- We request that all residents, their children, and their guests respect the right of all other residents to be able to enjoy their homes without unreasonable and inconsiderate noise and activities.
- Whenever possible, neighbors should make an attempt to resolve any issues that can be handled with a note or call before lodging an official complaint.
- If it is necessary to file a complaint with management, please be aware that anonymity is assured. Identity of reporting owners will be held in strict confidence – and those who report violations will not be required to appear at board hearings.

Hearings regarding violations are also private. Complaints are discussed only in scheduled Executive Sessions – which are confidential.

- In matters regarding annoyances, disturbances, consideration and courtesy to neighbors, we will always try to balance a resident's desire to enjoy the benefits of their own unit with the requirements of living in a family complex - which mandates reasonable flexibility for neighbors, their children and guests to enjoy the benefits of life in a multi-generational community.

Where maintenance issues are concerned, only in instances of specific rule violation, an “obviously unsightly” situation, or where a clear threat to property-value is involved, will an owner be cited.

- When evaluating reported violations, the on-site Staff will use reasonable, common-sense standards to determine if action is required. Every effort will be made to resolve these matters by accommodating the desires and needs of residents to enjoy their homes and make their own areas comfortable.

*We hope everyone will cooperate in making Surfside III a beautiful, safe and happy community!*

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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.

Thanks, Dan Kessner

#### ONE PERSON'S OPINION

We are currently in the process of attempting to refinance our Surfside III unit. Even with the recent increase in money available to loan, and given our considerable equity, we have been turned down up to this point for one reason only: the various lawsuits pending against the association. Put simply, those who have filed these lawsuits are costing my family about \$1300 each month, which is the amount our monthly payments will decrease if and when the refinance succeeds.

Of course this is not the only loss. All Surfside III owners are also bearing the considerable legal fees that the lawsuits have caused. All together, it is an extremely expensive way to resolve problems. Yes, what's done is done, and all we can do now is let the lawsuits run their course. However, for any future problems that may arise, **please** try to find some other solution, and know that everybody loses when a suit is filed.

Yours, Dan Kessner

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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>  
[jmanager@surfsideiii.com](mailto:jmanager@surfsideiii.com)  
Phone: 805-488-8484

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

#### **Management Company:**

Lordon Property Management  
75 Center Court Drive  
Port Hueneme, CA 91724  
Phone: 800-729-5673  
For after-hours emergencies, dial 5

#### **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:**

Bill Betts - President [bill.betts@surfsideiii.com](mailto:bill.betts@surfsideiii.com)

Ira Green - Vice-president [ira.green@surfsidedeiii.com](mailto:ira.green@surfsidedeiii.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 Giler - Director [inna.giler@surfsideiii.com](mailto:inna.giler@surfsideiii.com)

All escrow issues: Chelia, ext. 3339; [crubalcava@lordonmanagement.com](mailto:crubalcava@lordonmanagement.com)  
All insurance, lien, and other legal matters: Patty, ext. 3337; [pbarrios@lordonmanagement.com](mailto:pbarrios@lordonmanagement.com)  
Your account, billing address, etc: Cara, ext. 3319; [cwoellhof@lordonmanagement.com](mailto:cwoellhof@lordonmanagement.com)



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## Newsletter

LHR Newsletter Vol. 3, No. 3

Contact us Toll-Free: 1-866-474-5529 ext. 251 ([info@lhrlaw.net](mailto:info@lhrlaw.net))

### **Announcements:**

Robert D. Hillshafer, Esq. has been selected to serve as a settlement officer to the newly established Voluntary Settlement Program of the Los Angeles Superior Court. This program implements a settlement conference resource utilizing a plaintiff attorney/defense attorney co-settlement process.

David A. Loewenthal, Esq. has been selected to serve on the California Association of Community Managers' (CACM) legal steering committee and will participate in development of legal seminar curriculum and communications.

Glenn T. Rosen, Esq. has been selected to serve as the General Counsel for the California Association of Public Insurance Adjusters (CAPIA) for 2009.

### **Understanding New Fannie Mae/Freddie Mac Lending Requirements for Condominium Projects**

**By Robert D. Hillshafer, Esq. and David A. Loewenthal, Esq.**

With varying deadlines which began 01/15/2009, new rules regarding loans for condominium purchases, transfers, etc. were implemented by Fannie Mae and Freddie Mac - Two government-sponsored enterprises (GSE's) chartered by Congress with a mission to provide liquidity and stability to the U.S. housing and mortgage markets. These new rules have far ranging implications for associations of all descriptions. This article will provide a basic outline of the new rules. A PDF link to the Fannie Mae Announcement (No. 08-34 dated 12/16/08) is provided here:

[https://www.efanniemae.com/sf/guides/ssg/annltrs/pdf/2008/0\\_834.pdf](https://www.efanniemae.com/sf/guides/ssg/annltrs/pdf/2008/0_834.pdf)

These new requirements underscore an association's responsibilities for vigilance relative to compliance and, disclosure to and regular communication with members of any changes made and actions taken by the association to adjust to or comply with the new rules.

### **General Policy Changes Regarding Project Eligibility Requirements:**

#### **New/Converted Projects**

In newly constructed/converted condominiums, the pre-sale eligibility requirement for Fannie Mae acceptance of home loans will increase from 51% to 70%, with "Bona fide contract for purchase to principal residence or second home purchasers."

While development has slowed greatly due to present economic conditions, this particular element of the new requirements may slow development and/or sales further of the "second home" market in areas throughout the region.

One interpretation of this new rule would be that 70% of a new association's units would need to be pre-sold in order for Fannie Mae to consider the larger association as compliant. Our inquiries to Fannie Mae did not get results. Moreover, it may take some time for Fannie Mae and Freddie Mac staff and management to provide clear guidance on such new rules.

### **Delinquent HOA Dues for Units in Attached Condominium Projects**

For both new and established attached condominium projects, no more than **15% of the total units** in a project can be 30 days or more past due on the payment of condominium/ association fees. Given the increases regionally in the levels of delinquency within associations; this requirement will make it even more important that associations, boards of directors and managers keep extremely close track of fee and assessment payments and move promptly to resolve delinquencies. Failure to do so could result in delays and other obstructions to sales transactions on units within the association.

### **Fidelity Insurance for Units in Attached Condominium Projects\***

Fannie Mae will now require fidelity bond/fidelity insurance for new and established condo projects with more than 20 units, with no exceptions. Clearly, any sale/purchase transactions will cause the association and boards to be able to demonstrate/document such coverage. Moreover, if the board has made changes to coverages for any reason; all members should be informed and/or reminded that such changes were made via standard communications processes.

\* "Attached" is a term used frequently by Fannie Mae interchangeably with multi-unit condominium terminology in order to distinguish such units from free-standing PUD type structures.

### **Hazard Insurance for Units in Attached Condominium Projects, Including 2 – 4 Unit Projects**

The new Fannie Mae policies require that a borrower purchase a "walls-in" coverage policy (i.e.: HO-6 policy) unless the lender can document that the association's master policy provides that level of unit coverage. Also, the association's master policy must include "replacement of improvements and betterment coverage" for improvements that the borrower/homeowner may have made to the units. Plus, that coverage must be in an amount "**no less than 20 percent of the condominium unit's appraised value.**" If this type of coverage is unavailable, the association must contact the Fannie Mae Project Standards Department (202-752- 2916)\*. The standard for a 5% deductible still applies.

Lenders must review the entire condominium project insurance policy to ensure that the HOA maintains a master blanket type of insurance for the project in which the borrower's unit will be financed. Prohibited are: A blanket policy that covers unaffiliated associations or projects; self-insured associations and; group insurance of multiple associations. Additionally, the association insurance must cover 100% of the insurable replacement cost of improvements, including the individual units' in the association. Land, foundations, excavations and other elements are not ordinarily covered by insurance.

\*NOTE: In performing the research for this newsletter, we contacted Fannie Mae several times and observed that their staff is not yet fully conversant on many of these requirements.

### **Cooperative Project Commercial Space and IRS Code Section 216**

Income from commercial space (RE: The Selling Guide, Part X11, Section 501.02) was limited to 20% of its total income. The new policy eliminates that restriction but limits "non-residential use" to no more than **20 percent of the total square footage of the association.**

### **Review of the Condominium Project's Legal Documents**

Previously, lenders were required to represent and warrant that the association's legal documents comply with the prevailing law. The new policy eliminates this representation and warrant requirement altogether for condominium projects and "established and new" two-to-four unit projects.

### **New Condominium Projects (excluding two-to-four unit projects)**

The new policies make the attorney review requirement optional for all review processes. However, lenders must "represent and warrant" that the association's legal documents are in compliance with Fannie Mae's legal requirements. Given the recent history of lending activities related to all real estate, associations, boards, and managers should pay extremely close attention to keeping association legal documents current and compliant.

### **Additional Ineligible Projects**

New projects where the seller is offering loans/financing in excess of Fannie Mae's individual loan eligibility standards, including but not limited to: builder/developer contributions, sales concessions, HOA or principal and interest payment abatements or any other incentives not properly disclosed (HUD-1 Settlement Statement) are prohibited. Also prohibited are:

- Projects with more than 20% non-residential space use.

- Projects where a single entity (individual, investor group, partnership or corporation) owns more than **10% of the total units in the project.** This is meant to prevent speculators from dominating an association and/or unduly influencing price and/or manipulating value.

### **Owner-Occupancy Ratio Requirements**

Established projects consisting of attached units must have an owner- occupancy ratio of at least 51% at the time a unit is purchased or refinanced. Given current foreclosure rates, lenders may represent significant ownership within some associations. Fannie Mae's new policies address this by stating that if a unit is unrented and for sale by the lender or their agent, those units are considered to be owner-occupied for the purpose of calculating the ratio. If an association does not

meet the 51% owner-occupancy requirement; any loans will be eligible only if the lender submits the project to Fannie Mae for review and approval for waiver on a single loan basis.

### **Conclusion**

The full impact of these new lending requirements will take time to be fully understood. These changes also reinforce the need for associations, their boards and managers to be thorough and collaborative in ensuring compliance efforts. Regular review and adjustment of governing documents will be a key part of the compliance process. Ongoing regular communication of such activities and adjustments to association members remains critical.

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