



JULY / AUGUST 2014

CAN'T PLEASE THEM ALL

**Curt Beyer, Montage at Mission Hills HOA
President and newsletter editor**

There are changes necessary to make things better in various aspects of our HOA governing documents. It takes time to not only assemble/prepare and then to work to verify not only accuracy but also the compliance and viability in application or use or the restated documents. It would be great if some of these things only took a month or two but at times we are speaking of years. Laws change, city codes change, needs change as a community and a city and a state keeps progressing. What served in the past may not address current trends and needs as populations and property use evolves. We all look at the 'what ifs' and 'wouldn't it be great ifs' but then when we look at how to make these imagined good steps work, we discover that they may be impractical in application, follow through or may have unintended consequences.

None of us like to be inconvenienced, none of us like to be limited, none of us like to really be told what we can and can't do. However, as a community we have agreed to live by certain rules when we bought into the HOA. The initial set of CC&Rs served the developer (who is long gone in our development). The state has adopted new numbering of relevant codes and so references to the various laws need to be changed. Then too, there are changes in city codes and in how property is used.

As times have changed, so have the habits of many and a seeming apathy has become quite common. With that seeming apathy the number of residents actually getting involved or even just voting on proposed activities has diminished. What used to be a reasonable quorum has become more of a wish than a reality when major changes are to be considered. Even changing the makeup of a quorum can't be adjusted without the approval noted in the older guidelines or by going to court to have more reasonable guidelines imposed.

Passions can run high as different residents/owners have particular changes they would like included or deleted from our governing documents. Votes against quickly eliminate any chance of change. Added to this are the legal costs as compliance with existing laws and etc. needs to be given accurate attention. So, in the final analysis . . . we have to look to the greatest good and effectiveness as we venture into changes.

A big consideration is how these rules (existing and proposed) are to be enforced and by whom. No one wants to be the 'enforcer.'

The following article relates to recent situations in the Montage . . .

Short Term Rental Restrictions – Tips on Gathering the Evidence

By Margaret "Gen" Wangler, Esq. CCAL
(from [Quorum: Coachella Valley Community Associations
Institute Magazine](#), June 2014 Issue)

Many associations have restrictions on short term leasing in order to avoid the noise, traffic and party atmosphere that typically comes with vacationers visiting our valley for a week or weekend. But it is a struggle to enforce them, especially in April, when the Coachella and Stagecoach festivals take place. Ideally, governing

documents that restrict short term leasing will include or authorize rules that assist in enforcement. Many associations require all leases to be in writing, require owners to provide copies of those leases to the association, and require owners to provide identifying information about their tenants.

A fine schedule with fines high enough to discourage owners from merely treating fines as a “cost of doing business” can be an effective tool. Of course, courts require that fines be “reasonable,” but a fine that is related to the rental amount that an owner can command would probably be viewed favorably. When considering appropriate penalties, consider that the City of Indian Wells recently imposed a moratorium on short term rentals and imposed fines of \$2,000.00, \$3,000.00 and \$5,000.00 for first, second, and third violations of that moratorium, respectively.

But before you can impose discipline, you need to have evidence of the violation. If you suspect an owner is renting to short term tenants, try to find out as much as you can about the rental activity before notifying the owner of your suspicions. Once an owner knows he is being watched, he may hide his activity much more carefully by instructing tenants to pretend they are his friends or family, by changing the language of online ads, or even by falsifying lease agreements.

Start your investigation by looking for online ads with Google searches of the association’s name, the owner’s name, the address of the property, the owner’s email address, and the owner’s phone number. Search Facebook and Twitter for all identifying information about the owner. If the owner has a unique username for his email address, search that same username on social media. Allow your search results to prompt additional searches for online ads.

Search vacation rental websites like vrbo.com, homeaway.com, airbnb.com, craigslist.org, and flipkey.com. Many of these websites have a map that allows you to zoom in to your community, but they do not include properties with addresses that are not listed in the ad. Pictures of a swimming pool or other outdoor structure can help identify the property. Once you find one ad, search for more by quoting the exact language of the description of the advertised property. The owner probably repeated the same description on multiple websites.

Ads often include a wealth of information about an owner’s rental activity, like a calendar of available dates showing that a property is repeatedly unavailable for short periods of time. They often state that the minimum stay is less than what is permitted in the CC&Rs. They might even include evidence of the financial relationship between the owner and tenant, proving that an occupant was not just a friend who stayed for free.

Once you have established a pattern of violations, you may have enough information hold hearings to fine the owner or suspend membership privileges, or even to pursue litigation. Do not be too concerned with proving each violation beyond a shadow of a doubt. Recently an owner told a board that her guests were just friends visiting from out of town and that she did not charge them rent. One of those “friends” later posted a scathing online review of the property. That did not sound like something a friend would do. Neither did it absolutely prove the violation. But, when combined with other circumstantial evidence, it helped build a case that the owner engaged in a repeated pattern of violations.

Don’t worry if you never find the “smoking gun.” If an owner advertises his property for short term tenancies, a judge

is unlikely to believe his claims that his 30-day tenants left early after arriving on the first day of Coachella, and that the guests who arrived on the first day of Stagecoach were just the owner's friends visiting from out of town. Remember, when a judge puts on his robe and walks into a courtroom, he does not check his common sense at the door.

Margaret G. "Gen" Wangler, Esq., is a senior shareholder of Fiore Racobs & Powers, which devotes its practice to the representation of community associations. She can be reached at 760-776-6511, or at gwangler@fiorelaw.com.

(Also . . . See Article in Desert Sun: 6/14/2014, PA19 – 'Revving Up Rentals')

Security Patrol . . . Curt's Note:

At annual meetings over the past 5 years I have heard requests for enhanced security in the Montage. There have been many suggestions and a neighborhood watch was established and a welcome committee committed to letting new homeowners have a quick update on the rules and to bring attention to security efforts as mentioned in the CC&Rs as well as the rules we have had in place for years.

With the implementation of the patrol recently there have been a few complaints as some homeowners feel it will cause them great disruption. The implementation of the patrol was to increase security by limiting easy targets for car break-ins, home burglary and etc. The CC&Rs adopted many years ago set forth standards that at first sound restrictive but if examined more closely . . . Set forth guidelines that would enhance security as well as appearance for all residents in our HOA.

Exceptions can always be requested for special circumstances but without these guidelines we might not be able to maintain the appearance and related values that the Montage commands.

No one is being targeted. Yes, there were some problems that needed to be addressed for our Montage and your board took this action based on your input and requests. If you have concerns . . . Let us know.

Security Patrol Update

By Tom Tousignant

The first month of the Security Patrol Service has been completed. To date they have reported:

- 76 Vehicles parked in the street overnight
- 1 Garage door left open
- 3 Warnings of illegal parking issued
- No Tow warnings issued
- No Vehicles towed for illegal parking

The patrol service is continuing. Please pay respect to the Montage Parking Rules. If vehicles belonging to you, your employees or guests receive a Warning notice do not delay – stop parking in the street or contact Jennifer Zeivel at 760.325.9500 or a Board member and explain your situation.

Nextdoor.com

We started a social communication group on the afore mentioned web site. We have over 65 participants with whom we can have all but instant communication when on line. The Saturday 6/28 LA Times published an article about the site. It can be linked at the following:

[Nextdoor, a free social network site, links neighbor to neighbor](#)

As some residents were hesitant to get involved I would urge you to read it. Recent conversations dealt with lost pets, coyotes and etc.

Architecture and Landscape Committee

Robert Fouyer, Chair

I want to remind everyone that our street cleaning day is on Friday mornings. There are always a number of cars parked on the street on Friday mornings. If cars are parked in the street they cannot clean the gutter area. It is imperative that our shallow gutters be cleaned regularly as debris collects and the water from our sprinklers does not flow causing the water to dam up and flood into the streets. This causes our street edges to deteriorate. Your gardeners also need to be alerted to this problem and, although it is hard or impossible for them to park in your driveway, they might try to move their truck when they hear the street cleaner coming. They could move it to the other side of the street then move it back after the truck has passed.

Nothing new to report from our Committee that hasn't been covered elsewhere in this newsletter. I am still awaiting for some suggestions from homeowners on any ideas they may have for the refurbishment of our entrance fountains next year. The Gerald Ford gate fountain has a leaking problem that we need to address at the same time or sooner. Some Committee members have recommended that we remove the roebeleni palms in front of the fountains and replace with another type of low lying plants that would allow the water features to be seen better. There have also been suggestions that we replace the calcium covered facing of the walls around the fountains with another type material. Any suggestions you may have please let me know.

Hot Water System

By Tom Tousignant (update of November 2011 Newsletter article)

All the homes in Montage have a hot water re-circulating system installed by the developer (see device with clock in picture below). The systems do require periodic maintenance. I have found that the most common failure is with the cartridge/impeller within the pump. That is the principal working mechanism in the pump. In early June 2014 I checked current prices for replacement parts at Ferguson Enterprises on Perez Road in Cathedral City and Hajoca Corp on Eugene Road in Palm Springs (where Montage homeowners get a discount). Several homeowners have been talked into replacement of the entire unit at a cost of up to \$900 with installation.

Parts Only

+ tax	Ferguson	Hajoca
Cartridge with impeller	\$118.24	\$95.00
Complete pump	\$230.56	NA
Complete pump w/timer	\$346.59	\$268.00



Last minute update: Mine went out last week, we had not hot water in the kitchen. It took me about ½ hour to replace the cartridge and the total cost was \$103 with tax.

Homeowner Palm Trees

By Tom Tousignant

Come on homeowners – take a look at the palm trees in your yard. The Board is getting complaints from your neighbors.

The palms flowered early this year due to the warm winter and early heat. The flowers and seeds are now blowing into your neighbor's pool and clogging their pool filters. For the sake of a peaceful neighborhood, please contract for palm tree pruning ASAP.

If you are an absentee homeowner, you need to make arrangements for the pruning of your palm trees before you leave – every year it is needed once temperatures reach 100 degrees for about 2 week each spring/summer. The specific time varies every year, but is getting earlier. The timing is critical – too early and the trees will continue to fruit, and you may need a second pruning. Too late and you will have upset neighbors. Best to request and follow recommendations from your landscape maintenance company.

CLEANING OF POOL FILTERS

All of us need to ask our pool vendors to clean the filters in the graveled areas beside our homes and not out on the street. Reason being the filter materials are often ultra fine particulate matter that washes off of the streets and into the detention basin drains. These drains let water percolate down into the soil and the ultra fine particulate fills into the pores soil in the drains preventing them from working the way they were designed to work. If these drains become 'clogged' then we have to have them purged which will cost thousands of dollars.

We have tried to get this request to all pool maintenance people but some HOA residents are telling them to continue using the streets. Please help us in this matter. It will save money for us all.

CATHEDRAL CITY COMMUNITY SERVICES CALENDAR

www.cathedralcity.gov (under Departments select the Recycling, Trash & Energy page)

To have an R&R Guide and Calendar mailed to your home please contact . . . call 760-770-0369 or email dpressgrove@cathedralcity.gov

This publication includes schedules and contact information for local services incl.:

- Bulky/Large Item Pickup Service
- Community Clean-up Program
- Multi-Family Recycling Programs
- Bottles & Cans Recycling
- Electronic & Tire Weekly Recycling
- Household Hazardous Waste Disposal Program
- Shredding Events
- WaterSmart Landscape Grant Program
- Smart Irrigation Controller
- Medication Disposal Program
- Sharps Disposal by Mail
- Refuse & Recycling Guide and 2014 Calendar
- Citrus Prevention Program
- Edison Rebates
- Recycle Used Motor Oil
- And more in both English and Spanish

NEXT BOARD MEETING

The next Board meeting will be Monday, July 7th, 2014 at 3:00 PM at the Offices of Personalized Property Management 69850 Adelina Road, Cathedral City.

Check the community message board on the wall at the DaVinci/VanGogh corner or the web site for the agenda. It will be posted at least 4 days before the meeting.

Property Manager - Jennifer Zeivel 760-325-9500; jzeivel@ppmInternet.com

A & L Committee Chair – Robert Fouyer – chateauf@aol.com

Welcome Committee – JoAnn Horwitz - JoAnnWLV@aol.com

c) 818-370-6589 h) 760-992-5199

Cathedral City Police 760-770-0300

Police Emergency Only 760-202-2411

Cathedral City Fire 760-770-8200;
Emergency 911

Newsletter Input, Comments or
Suggestions...

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