



## BPHOA News- Supplement

There is important information BPHOA Homeowners should know about which was not known at the time of publishing our August 2009 newsletter. The following items are important to all homeowners, for the results of the legal matters could financially impact all of us. It should be noted that neither of the legal suits were filed by the 2009 Board, and are in defense of the HOA. The additional news items are to bring you up to date.

### ~~~~~ LEGAL NEWS ~~~~~

#### **William A. Apodaca vs. BPHOA (Defendant)**

**Case No: 56-2009-00354345-CL-MC-SIM**

**Complaint Filed: 7/29/2009**

On July 29, 2009, the Bridle Path HOA was served with a lawsuit filed against it in regards to the procedures and handling of the upcoming recall election. The complaint seeks declaratory relief and injunctive relief. In this action, Mr. Apodaca is seeking a declaration from the court as to the number of votes necessary for a successful recall election. The injunctive relief seeks to prohibit the Association from following its understanding of the bylaws and governing documents as to election procedures, quorum requirements, the number of votes necessary to recall the Board of Directors, and publication of these requirements. The lawsuit also seeks to stay the recall.

Plaintiff requested an emergency hearing from the court on August 3, 2009. The day prior to the court hearing, plaintiff's attorney, Cynthia Pandolfi, notified Stephen M. Levine, BPHOA Attorney, that the hearing and the complaint were not requesting a restraining order on the recall itself but rather Mr. Apodaca wanted to restrain the members of the HOA board from speaking about the recall requirements.

The judge assigned to the case is Judge Barbara Lane. The judge stated that the cost of this lawsuit would be astronomical and will cost all of the homeowners of BPHOA a lot of money. The judge stated that there appears to be some contradictions in the Association's by-laws as to the requirements for a recall to be successful in that there are references to different percentages in the by-laws and CC&Rs.

The Judge denied plaintiff's request to issue a temporary restraining order on the current members of the board from discussing with the homeowners the recall proceedings and the number of votes needed to proceed with the recall. The judge denied that request stating that speech is part of the political process and that the law greatly discourages prior restraint on free speech as guaranteed by the First Amendment of the Constitution.

In order to resolve this matter and save the parties significant monies and fees, Judge Lane gave Mr. Apodaca the opportunity to have an expedited trial in September or October. However, the judge informed Mr. Apodaca that if he has an expedited trial, it would only be on his declaratory relief claim and that he would not be entitled to his attorney's fees, paid by the Association, should he prevail at trial. Mr. Apodaca declined the Judge's offer and this case will proceed in the court system and we should obtain a trial date for late summer 2010 or early Fall 2010.

**Mr. William Apodaca is represented by Cynthia M. Pandolfi of the Law Office of Cynthia M. Pandolfi**

**BPHOA is represented by Dan Shapiro and Stephen Levine of Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP**

#### **ABM Property Management, Inc. (Alba Monroy) v. BPHOA (Defendant)**

**Case No: 56-2009-00353964-CU-DF-SIM**

**Complaint Filed: 7/23/2009**

ABM has filed a complaint for damages for libel per se. No papers have been served. The Board is prepared to respond.

**ABM is represented by Steven H. Haney of Haney, Buchanan & Patterson, LLP**

**BPHOA is represented by Steve Garber of Steven M. Garber & Associates, APC**

**BPHOA (Plaintiff) vs. Dennis & Linda Foran; Randy & Margaret Miller****Case No: 56-2008-00331166-CU-OR-SIM****Complaint Filed: 11/7/2008 Mediation: 7/1/2009 Trial Date: January 2010**

There is a drainage pipe located across three (3) properties owned by the Foran's, Miller's, and BPHOA. The 2007 – 2008 estimated cost for the repair of the drainage pipe was \$44,000. Beginning of 2008, a settlement was almost reached, but one of the parties would not accept the settlement offer. Then, BPHOA stated the position of splitting the cost of the drain in thirds (1/3) by recommendation of BPHOA Attorney. There was no agreement. A following offer of BPHOA paying ½ of the cost of the Drainpipe repair with the other parties splitting the remaining portion was made. Again, no agreement was reached.

On November 7, 2008 lawsuit was filed by 2008 BPHOA Board seeking court determination as to the allocation for each party of how much each party is to pay for repair of drainage pipe. Foran filed a cross complaint against BPHOA, and Miller on December 23, 2008, stating that the pipe was illegally constructed. Foran requested that the entire pipe (Flood Control device) be removed and claims that all repairs are the entire responsibility of BPHOA.

Miller filed a cross complaint against BPHOA and Mr. Foran on January 21, 2009, stating that the drainage pipe was illegally constructed and requested that the entire device be removed, and claims that all repair to the drain is BPHOA's responsibility. The Miller position is now to have the drain pipe repaired. The "prevailing party" in the case is entitled to recover their attorneys' fees.

The current Board made a claim to insurance to cover costs associated with defense of cross complaints.

We are in process of settlement discussions with all parties.

**Dennis Foran is representing himself****Randy & Margaret Miller are represented by Richard T. Ferko of the Law offices of Richard T. Ferko****BPHOA is represented by Joseph Strohman, Jr. of Ferguson, Case, Orr, Patterson, LLP***~~~~~ Additional Information about License Agreements ~~~~~*

In addition to the legal matters already mentioned, the current Board is pursuing various license agreements signed by prior boards.

**Mr. Steve Garber of Steven M. Garber & Associates, A P.C.** has been handling the BPHOA correspondence between the parties involved.

**1990 July 30 BPHOA and Albert V. La Monte & Helen G. La Monte, Jr.****(92-226533) recorded 1992 December 14****Signed by Robert D. Eccles, BPHOA President & M. Lee Kennedy, BPHOA Secretary**

document reads ...

"The license granted herein allows Licenses to use, share and enjoy all of Bridle Paths and other equestrian facilities, if any, owned or controlled by the Licensor (BPHOA), both on and off of its property including all benefits and burdens inuring to all other BPHOA Homeowners relating solely to the maintenance and upkeep, including liability insurance, of the bridle paths and common equestrian facilities.

Each Licensee (lot owner) shall be assessed a monthly fee equal to one-half (1/2) of the then current regular assessment on each member of the BPHOA.

The license granted herein is appurtenant and intended to apply to all present and future lot owners of the Benefited Property zoned or otherwise utilized now or in the future for horsekeeping, up to a total of

**TWENTY (20)** such lots as may be designated by the licensees from time to time."

**1993 August 12 La Monte Trust; Dennis J. & Linda D. Swirles, William L. Morris, Jr.,  
Louis J. & Cynthia M. Pandolfi**

**Signed on January 21, 1999 by Dennis J. & Linda D. Swirles, W. L. Morris, Jr (Trustee)  
Louis J. & Cynthia M. Pandolfi**

document reads ...

"... hereby designates Lot 56 and 57 of Tract No. 3045-1 in Simi Valley, California and Lot No. 111 of Tract no. 3045-2 in Simi Valley, California as three (3) of the lots having the right to use the license described in the certain License Agreement recorded on December 14, 1992 as Instrument No. 92-226533 ("License") and the undersigned, upon their acquisition of such lots hereby assume the obligations of said license."

This license agreement has not been followed up upon by any previous Board. At this time, BPHOA Attorney, Mr. Steve Garber has sent notices to these parties demanding the fees due, as a result of this license agreement. All parties have refused to pay assessments due. At this time, a final correspondence is being sent.

~~~~~ *Bookkeeping and Management Services* ~~~~~

GM Management has completed their first month as our Management company. The following is a comparison between the previous bookkeeping service monthly fees, and GM Management July 2009 monthly fees.

|                     | <b>ABM Management</b><br>Approximate Monthly Expenses                       | <b>GM Management</b><br>Approximate Monthly Expenses        |
|---------------------|-----------------------------------------------------------------------------|-------------------------------------------------------------|
| <b>Monthly Fees</b> |                                                                             |                                                             |
| - Bookkeeping       | <b>Actual \$ 2380</b>                                                       | <b>Actual \$ 2850</b>                                       |
| - Postage           | 375                                                                         | -None                                                       |
| - Storage fees      | 80                                                                          | -None                                                       |
| - Printing          | 250                                                                         | <> \$200.00                                                 |
| - Office Supplies   | 166                                                                         | -None                                                       |
| <b>Total</b>        | <b>\$ 3251</b>                                                              | <b>\$ 3050</b>                                              |
| Hours of operation  | M – Thurs 9am – 4pm<br>12-1pm lunch Friday 9am-1pm<br>No services after hrs | M – Friday 9am – 5pm<br>emergency contact #'s for after hrs |

It is now evident, that we are saving approximately **\$200 per month**, and now have the benefit of many more services; 'Total' document management and security, longer availability hours to homeowners, entire meeting attendance, 17 years of HOA management, no postage for one page newsletters, no envelope printing charges, email access for homeowners, and many more support services. We will now realize an annual savings of about **\$ 2400.00** for the HOA.

**\*\* July and August account errors need to be reported to GM Management.** The July corrections were reported to Telesis, but several accounts were not updated by Telesis, therefore still reporting incorrect balances on August Statements. Telesis has apologized for their error and is working to correct the problem.

**Please report ALL account problems directly to GM Management (805) 526-0303 or email BPHOA@gmmanagement.com.**

**Arena Enhancements and Reconditioning**

The Dressage reconditioning and enhancement project is underway. The original estimate earlier this year would have used the entire Reserve allocation of over \$25,000 for the one project. Marcy Myers, Board Director and Arena Chairman, acquired 4 different bids, and will have accomplished the entire project for under \$12,000. The new white railing and markers are on order and will arrive soon. This will leave approximately \$13,000 left of the 2009 Reserve fund to pay for the leveling and conditioning of at least 2 more arenas. Other items already accomplished are the re-leveling and conditioning of the Rodeo arena for under \$800, replacing all obstacles and clean up of the Trail Course for under \$900. All of these projects are being paid for from the 2008 approved Reserve funding for Arenas. The arenas are now being dragged once a week as homeowners requested.

**IMPORTANT!**

**SPECIAL Meeting RECALL of Board**

August 21<sup>st</sup>

Simi Valley Town Center  
Meeting Hall

*(enter into mall by Limon, go to second story building, 2<sup>nd</sup> floor turn right out of elevator)*

No Other Business will Be Conducted

**HOMEOWNERS  
ONLY**

***You must mail or bring the ballot provided to you by  
GM.***

7:00 p.m.

**7:10 p.m. Ballot dropoff Deadline**

Nothing Accepted after this time – NO EXCEPTIONS  
Executive Sessions scheduled every Friday or Saturday  
at GM Management 6:30\*

*\*time/date subject to change – notice posted at First street  
arenas*

**September Meeting will be announced in  
September Newsletter**

**BPHOA BOARD OF DIRECTORS**

**Contact List**

|                        |                                                    |
|------------------------|----------------------------------------------------|
| <b>President</b>       | Stephanie<br>Bennett                               |
| <b>Vice President</b>  | Berna Arnold                                       |
| <b>Treasurer</b>       | Daran Paone<br>Mtn-Park Liaison<br>Landscaping     |
| <b>Secretary/Media</b> | Lee Murray<br>Website /Newsletter Event<br>Liaison |
| <b>Member-at-Large</b> | Marcy Myers<br>Arenas Chair<br>CC&R Chair          |

**BPHOA**

**Committees Chairpersons**

**Landscaping** - Daran Paone

**Architectural** - Michael Kress  
[arch@bp-hoa.org](mailto:arch@bp-hoa.org)

**Arenas** - Marcy Myers  
[arenas@bp-hoa.org](mailto:arenas@bp-hoa.org)

**Mountain Park** - Don Paone  
[mtn-park@bp-hoa.org](mailto:mtn-park@bp-hoa.org)

**Events** - Jennifer de la Tore  
[events@bp-hoa.org](mailto:events@bp-hoa.org)

**Bridle Path HOA Phone**

(805) 624-2906

**Board email:** [board@bp-hoa.org](mailto:board@bp-hoa.org)

**GM Property Management:**

805-526-0303

1736 Erringer Rd, Ste. 104,  
Simi Valley, CA 93065

[www.gmmanagement.com](http://www.gmmanagement.com)

[BPHOA@gmmanagement.com](mailto:BPHOA@gmmanagement.com) (email)

All correspondence emails to Board or Board Members  
must contain resident's full name and address or email  
will not be replied to.