

At Dockside

A Monthly Publication of The Ballena Bay Townhouse Association #1

Protecting property values and the quality of life in Ballena Bay – January 2008

President's Message

By Richard Bacigalupi

I hope that everyone had a restful holiday and a safe New Year. If our recent storm is any indication of what is to come, we cannot afford to delay the association's maintenance. It appears we fared fairly well with reports of two roof leaks, a meter door damaged, a couple of large tree limbs down, a kayak float missing (and later found), and a 80 – 100 foot concrete dock section from the marina coming loose. Massingham called for emergency services to fix the roofs as well as place covers on two chimneys. Terry Klaus contacted the marina who responded in securing their runaway dock with floats to protect our docks. The contact area will be examined to determine if there was any damage. While some of the meter doors are in disrepair homeowners are asked to make sure the doors by their units are secured to prevent wind damage. Everyone's prompt calls were appreciated and we appear to have avoided any major damage.

The storm combined with the high tides was also an excellent test of the newly upgraded wave maze which performed as planned. Thanks to the Waterside Committee's persistence in getting the work completed when they did. Timing could not have been better.

At the December meeting a couple of questions were raised regarding the Annual Budget Disclosure Statements that should be addressed to avoid any confusion. One regarded the "ANNUAL MEETING BUDGET REPORT" on page 11. Please disregard this page. The report applies to the "Brittan Heights" association and was included in error. The other questioned the validity of the "Schedule of Violations & Penalties" on page 19. Our counsel researched the matter and found that the association adopted a fine schedule on January 11, 1994. A copy of the January 11, 1994 letter notifying members of the policy and the BBTA Board Policy 94-2, Adopted January 11, 1994 is attached. The inclusion of the policy was in compliance with the association's legal disclosure requirements. It should not be interpreted that the board intends to begin levying fines.

At the beginning of the December meeting Mr. Pollard gave an update on the current pre-paint repairs. At the time the work had been completed for 421 – 435 Cola Ballena and they were working on 441 – 455 Cola Ballena. The estimate for the work done was very close to the quote there was only \$2,363 in additional rot damage that also included siding at another unit.

During the meeting the board rejected an Architectural Review Request from a homeowner. While the form had been signed it did not include sufficient information (i.e. drawings) for the Architectural Committee or Board to properly review. Homeowners are reminded to be sure to include information that clearly describes the work to be done. In most cases this is the same information that the City of Alameda would require for a homeowner to obtain a permit.



As we enter the New Year the board continues to focus on addressing the association’s short and long-term maintenance of our homes and infrastructure. Working with the Reserve Study completed last year, we must now determine a long-term financing plan. This is driven to meet the demands heard from the community as well as to comply with the new legal requirements as explained in the following Legal Section. The draft of the Fund Study requested from our accountant has been received and is currently under review. This will be the basis from which we can develop a financing plan. Information will be shared as it becomes available.

Included is the agenda for the January 10 meeting. This is a new requirement as explained in the Legal Section. The closed executive session will at 7:00 PM and the general meeting starts at 7:30 PM. I look forward to seeing you.

Treasurer Message

By Gary Flanigan

BBTA Treasurer’s Report

November 30, 2007

The financial summary in the Dockside has been a very high-level analysis focusing on the significant variances from the budget. This has been in part in consideration of membership interest and to keep expenses down. For the benefit of those members who desire more detail financial information the BBTA Balance Sheet and Income Statements will shortly be available on the Massingham Website. This will allow those with sufficient interest to examine the financial state of the association in greater detail. Until that information is online, and for the benefit of those who are satisfied with a brief analysis:

Balance Sheet (Setting aside the interfund transfers)

Current Assets		Current Liabilities	
Cash	\$ 84K	Prepaid Assessments	\$ 10K
Dues Receivable	12K	Accounts Payable	<u>6K</u>
Misc Prepaids	10K		
Misc Receivable	<u>1K</u>		
Total	\$ 107K	Total	\$ 16K



Income/Expense Statement

The revenue was over budget YTD by \$4,000 consisting almost all of late fees. Total expenses were over budget YTD by \$19,200. The expense items that were significantly over budget consisted of:

Legal - Consultations	\$ 16,000
Reserve Study	\$ 4,400
Landscaping	\$ 20,800
Roof Repairs	\$ 1,500
Wave Maze Maintenance	\$ 2,700
Utilities	\$ 4,000

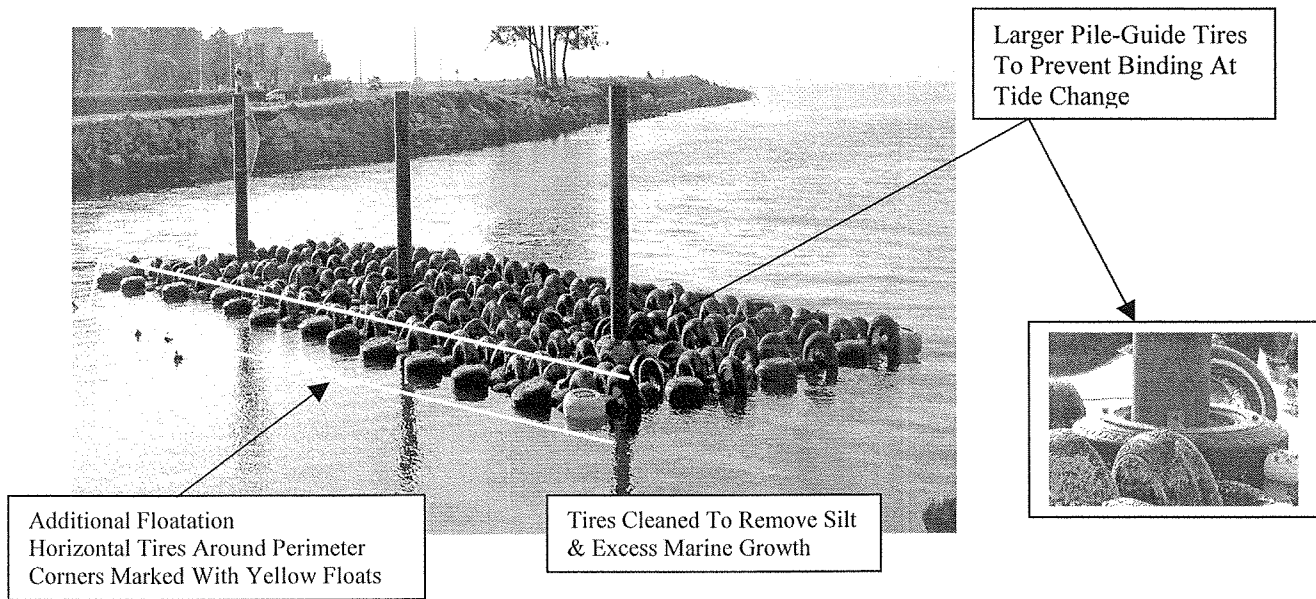
There are a number of expense items under budget, primarily due to timing issues-e.g. insurance premiums not yet due. This also includes seasonal expenses when such repairs are typically done in the drier months. There is also an expense category of "Legal Projects" which is \$3,600 under budget for the year.

Waterside Message

By Terry Klaus

At the time of this article the second in a series of three storms has just passed. The high winds tore at least one long concrete dock section from the neighboring marina and made its way up against one of our Cola Ballena dock clusters. No immediate damage is visible, but a full inspection will follow. The concrete section has been secured and the marina harbormaster has been contacted to remove it from our area. Now is a good time to check your dock lines for damage and put extra ones on as necessary.

In the last issue I reported that Topper Industries was on site doing the work on the wave maze upgrades. These are now complete and the results are illustrated below.



Previously we had also identified an issue on one dock cluster at 300–306 Tideway where the ramp wheels have worn through the decking surface. This is one of five dock clusters of the first-generation replacement docks known as the BROCK system which are decked with a white vinyl product. We have obtained quotes to fabricate stainless steel wheel tracks to repair this cluster and retrofit to other docks of the same type. The quotes will be presented to the Board at the upcoming meeting to consider for approval. We do not anticipate this issue with the newer Timber-Tek surfaced docks.

We have also recently received a recent inquiry from one homeowner on Cola Ballena expressing concern for a questionable piling. This will be reviewed and any recommendations will be presented to the Board.

Please advise Massingham of any waterside concerns you may have so they may be addressed as soon as possible.

Architectural and Landside

By Jay Cherrie

As you may have noticed, winter is here bringing with it a bit of precipitation. Using the usual roofing techniques, we would need to wait quite a while before re-engaging on the roof repairs. Roger Pollard explained at the last homeowner's meeting that we have an option to use a different roofing system which does not require the same number of dry days and narrow temperature range to be successful. This type of repair does cost a bit more but it may well be our best chance to carry on with the important work of roof repair over the next few months. Mr. Pollard left a sample of the material that will be available at the next meeting for inspection by anyone who is interested.

For letters to the Board or to report needed repairs, use this contact information:
Massingham & Associates Management, 2247 National Avenue Hayward, CA 94545



The holidays and wet weather are also delaying the marking of our parking spaces to clearly show they are part of BBTA, which will hopefully discourage people from assuming they are public spaces and using them accordingly. The paint and stencils are ready to go, though, as soon as the skies and schedules permit.

Our Architecture Charter and Committee are also now ready for action. We await the next request, although the same seasonal weather challenges mentioned above would no doubt affect any other construction plans. Thanks to the volunteers who offered to stand as the committee – it is much appreciated.

Happy 2008 to all...!

Legal

New Legislation For 2008

Every year California State legislators pass new bills that affect over 40,000 homeowner associations in our state. Some merely make provisions for items not addressed in our governing documents, others invoke new requirements that lawmakers feel are deficient and will benefit all associations. Our new election procedures adopted over a year ago are one recent example; this year is no exception. For 2008 there are two new requirements for common interest developments that the BBTA must comply with:

Meeting Agenda

First you may notice this issue of the Dockside contains the agenda for the upcoming monthly Board meeting. Civil Code **§1363.05** *Open Meeting Act*, was amended requiring the meeting agenda to be posted for, or mailed to the membership at least 4 days prior to the meeting. Additionally, with few exceptions, boards are not allowed to discuss or take action on any item not on that agenda.

Reserve Funding Plan

With the clear intent to steer associations into fiscal responsibility and to provide owners and prospective buyers with a clear picture of the association's ability to meet its obligations, Civil Code **§ 1365.5(e)(5)** *Financial Duties of Boards*, was amended requiring boards to adopt a reserve funding plan to meet the association's obligation for the repair and replacement of all major components. The plan must include a schedule of the date and amount of any change in regular or special assessments that would be needed to sufficiently fund the reserves. In prior years our Boards typically provided a 30-year pro-forma budget distributed with the current year's budget. This outlined a timeline to replace assets based on reserve study life expectancy and illustrated what monthly dues might be required to meet these obligations. To comply with this law a similar disclosure will likely be an essential component of the plan. No longer will associations be able to set their dues artificially low without disclosing how they intend to meet



their obligations. The Board will work closely with management and legal counsel to ensure we are in compliance.

From The Floor

During the Homeowner’s time members asked to have access to the meeting minutes and more detailed financial information. Although part of Massingham’s service includes posting the minutes are on their website, a copy of the most recent approved minutes will be distributed with the Dockside. As the meeting minutes are not approved until the following meeting, today’s Dockside has the November 8, 2007 meeting minutes. It was also decided that a copy of the most recent Income Statement and Balance Sheet for the Operating and Reserve accounts would be added to the Massingham website. Massingham will prepare instruction how to access their website for the information above as there was confusion expressed by some members.

Classifieds

Got something to sell? Advertise it here for free!
Forward your ad to dickbacigalupi@hotmail.com

Editorials & Homeowner Submissions

Do you have an article for the Dockside? We welcome your submissions. Please forward in electronic format to dickbacigalupi@hotmail.com. If you would like to receive the Dockside via email please contact Ric Perez at Massingham & Associates. ricp@massingham.com

BBTA Board & Property Management Contact Information:

Property Manager

Massingham & Associates Management (Management Company)

2247 National Avenue, Hayward, CA 94545

Ric Perez (Property Manager) (510) 780-8587, ext. 308 ricp@massingham.com
Office (510) 780-8587
FAX (510) 780-7535

Emergencies:

Business Hours 8:30 am – 5:30 pm (510) 315-7316, ext. 350
Non Business Hours (510) 780-8587



BBTA Board 2007/2008

Richard Bacigalupi	President	Communication & Legal
Jay Cherrie	1st Vice President	Architectural & Landside
Terry Klaus	2nd Vice President	Waterside
Gary Flanigan	Treasurer	
Erik Coker	Secretary	Landscape

CALENDAR

BBTA Board of Directors Meeting 7:30 PM Ballena Bay Yacht Club	Second Thursday of Each Month
Community Garage Sale	TBA
Community Social / Picnic	TBA
Annual Meeting	TBA

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BALLENA BAY TOWNHOUSE ASSOCIATION # 1

BOARD OF DIRECTORS REGULAR MEETING

JANUARY 10, 2007

Ballena Bay Yacht Club 1124 Ballena Blvd, Alameda, CA 94501

AGENDA

- | | | |
|------|-------------------------------------------------------|----------------|
| I) | ROLL CALL/INVITED GUESTS: | 7:00 PM |
| II) | HOMEOWNER'S OPEN FORUM: | 7:30 PM |
| III) | CALL TO ORDER/COMMITTEE & OFFICER REPORTS: | 7:45 PM |
| 3.1 | Architectural/Landside | |
| 3.2 | ACC | |
| 3.3 | Landscape | |
| 3.4 | Waterside | |
| 3.5 | Financial Report (December 2007) | |
| IV) | ACTION ITEMS: | 8:00 PM |
| 4.1 | Storm Damage Summary | |
| 4.2 | Wave Maze-Ramp and Dock Repairs | |
| 4.3 | Updates on Building Repairs & Roof Replacements | |
| 4.4 | Approval of Meeting Minutes | |
| 4.5 | Website Configurations | |
| 4.6 | Outstanding Architectural Request | |
| 4.7 | ACC Charter Recommendation | |
| 4.8 | Earthquake Insurance Coverage Bid | |
| 4.9 | Landscape Management/Contract | |
| 4.10 | Parking Policy Formation and Signage | |
| 4.11 | By Law Rewrite Status | |
| 4.12 | Homeowner Correspondence Requests | |
| V) | CLOSURE: | 9:00 PM |
| 5.1 | Next Meeting is scheduled for February 14, 2008 | |

BALLENA BAY TOWNHOUSE ASSOCIATION # 1
BOARD OF DIRECTORS REGULAR MEETING

Held at the Ballena Bay Yacht Club 1124 Ballena Blvd. Alameda, CA 94501

DRAFT MINUTES
NOVEMBER 8, 2007

I) ROLL CALL/CALL TO ORDER:

- 1.1 Board Members Present: Dick Bacigalupi, Gary Flanagan, Terry Klaus, Jay Cherie, and Erik Coker
- 1.2 Absent: none
- 1.3 Also Present: Ric Perez of Massingham and Associates, Richard Fong of Fong & Fong, and Roger Pollard of Pollard Unlimited
- 1.4 Various Homeowners

II) OPEN FORUM:

- 2.1 R. Fong fielded questions from the audience regarding the proposed, restated By Laws. After comments were taken it was decided that R. Fong was to incorporate comments and redraft the By Laws which were presented to the members, before an actual vote (by the general membership) is to be taken. Pollard presented contracts for painting and siding projects for Board review.
- 2.2 The meeting was called to order at 9:00 pm

III) COMMITTEE APPOINTMENTS:

- 3.1 *The motion was made and seconded to appoint the following chairs: T. Klaus-Waterside, E. Coker-Landscape, J. Cherie-ACC/Landside, D. Bacigalupi-Communications, and G. Flanagan Financial. The motion carried unanimously.*

3.2 BOARD OFFICERS:

- 3.3 *The motion was made and seconded to appoint: D. Bacigalupi-President, J. Cherie-1st Vice president, T. Klaus-2nd V. P., E. Coker-Secretary, and G. Flanagan-Treasurer. The motion carried unanimously.*

IV) ACTION ITEMS:

- 4.1 *The motion was made and seconded to pursue Earthquake coverage proposal. The motion carried unanimously.*
- 4.2 R. Pollard presented a status report for siding repairs at 41, 423, 425 Cola Ballena. It was reported that the recoating of roofs was completed at 1203, and 1223-1237 Ballena Blvd. It was also noted that due to inclement weather (too cold) the roof coating work for the year had been halted.
- 4.3 It was reported that a previously repaired (cold patch) roof at 421 Cola Ballena would be repaired permanently next week.
- 4.4 R. Pollard was asked to review Woodhorse construction work on the 400 Tideway block for warranty issues.
- 4.5 It was requested that ideas for parking (i.e. decals, etc) be investigated and provided to the Board.
- 4.6 R. Fong spoke to the assembled regarding a petition request suggesting that the election of directors was invalid because the Election Inspector was the manager (R. Perez) and that he didn't return ballots to those who requested them back (so that they could change their previously submitted votes). R. Fong noted that the protest had no legal basis. He also suggested/offered remedies. R. Fong concluded and advised the Board that the election was a valid one.
- 4.7 *The motion was made and seconded to approve a budget for 2208 (version 2.1) with an assessment level of \$ 605 per lot. The motion carried unanimously.*

V). **COMMITTEE REPORTS:**

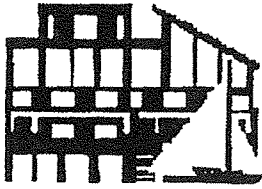
- 5.1 T. Klaus reported for the Waterside and provided an update on the Topper Industries received proposal and water maze repair efforts.
- 5.2 No other reports were issued.

VI) **CLOSURE:**

- 4.1 *The motion was made and seconded to close the meeting at 10:00 pm. The motion carried unanimously.*

Certified as approved by the Secretary _____

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Ballena Bay Townhouse Association
PO Box 1216
Alameda, CA 94501
(415) 865-3003

January 11, 1994

Dear Homeowners and Residents:

Under the CC&Rs, the Board has the right to impose fines on homeowners found to be in violation of CC&Rs, bylaws, or adopted rules. Our attorneys have notified us that the California legislature has recently enacted changes in the law pertaining to the imposition of such fines. These new requirements, which are contained in Section 1363(i) of the California Civil Code, require associations that impose or intend to impose monetary fines to adopt and distribute a schedule of such penalties that may be assessed for violations.

It is obviously difficult to prepare a schedule of fines for each and every type of rule violation. Therefore, on the advice of our attorneys, we have developed definitions for some general classes of violations and associated fines that may be imposed.

The publication of this schedule does not foreshadow any change in current enforcement policies. The publication of these schedules brings us into line with the state's requirements that we do so in the event of a future need to assess such a penalty.

In the event that a homeowner is cited for an alleged violation, he or she will be given the opportunity for a full and fair hearing before the imposition of any penalty. The fine schedule is attached.

Jeff Frankel,

President, BBTA

**Ballena Bay Townhouse association
Board Policy 94-2
Adopted January 11, 1994**

The CC&R's empower the Board of Directors of the Association to levy fines on homeowners found to be in violation of the CC&R's, bylaws, or the Association's rules. California Civil Code Section 1363 (j) requires associations to adopt and distribute a schedule of monetary penalties prior to assessment of such penalties.

In conformance to this legal requirement the Board of Directors has adopted general categories of violations and corresponding penalties.

Before any fine is levied a cited homeowner is entitled to procedural due process. The homeowner alleged to be in violation will be given notice of the violation and the proposed fine. The homeowner will then be given an opportunity to defend his or her position before the Board. No fine will be imposed until at least five days has passed after the scheduled hearing date.

Schedule of Violations & Penalties

A one-time nuisance which is not threatening to health, life, or property
For example: Leaving pet feces in the common or private areas.

Fine: \$25.00

A continuing nuisance which is not threatening to health, life, or property
For example: Unauthorized storage in the common area.

Fine: \$25.00 plus \$10.00 per day until nuisance abated.

A one-time nuisance which is threatening to health, life, or property
For example: A BBQ fire resulting in damage to a party wall or fence.

Fine: \$150.00

A recurring nuisance which is threatening to health, life, or property
For example: Discharge of petroleum or other substance into the waterways.

Fine: \$150.00 plus \$100.00 per day until nuisance abated.