

RESIDENTIAL OVERCROWDING WORKSHOP

OUTLINE

Negative Impacts of Overcrowding
Codes and Regulations
Potential Remedies
Proactive Homeowner Associations

NEGATIVE IMPACTS OF OVERCROWDING

Possible Conditions Associated with Overcrowding

- Excessive street parking
- Garages converted to dwelling space
- Garages utilized solely for storage
- Burden on available guest parking
- Greater use and deterioration of common area facilities
- In those instances where there are shared utilities or other services (e.g., cable), additional costs for Association members
- Increased ancillary charges (e.g., maintenance, staff, legal expenses for addressing problems)
- Insufficient floor area in sleeping rooms for number of occupants
- Insufficient sanitation facilities for number of occupants
- Excessive number of beds, other furnishings, may obstruct access to emergency egress; excessive occupant load for the available means of egress (poses a life safety hazard to occupants and emergency personnel in event of a fire)

“Broken Windows” Theory as Applied to a Common Interest Development

The primary concerns associated with overcrowding in a unit are those related to life safety issues, such as obstruction of emergency egress. However, other more generic property-maintenance conditions may be implicated as well; these are not necessarily related to an overcrowded unit per se, but rather to tenant-occupied units whose owners do not adequately screen potential tenants and do not implement proactive property management practices to ensure continued compliance with the HOA's restrictions and rules or with the City's codes. Some of these conditions include improperly parked vehicles, accumulations of junk, trash and debris, deteriorated or dilapidated materials on exterior portions of the unit, and others.

The broken windows theory argues that if a window in a building is broken and is left unrepaired, it is a sign that nobody cares; soon all of the other windows will be broken, then more serious crimes will occur. The argument continues that by cracking down on seemingly minor violations such as aggressive panhandling, unleashed dogs, loud parties, and public drinking, law enforcement could prevent an increase in more serious crime. Many law enforcement agencies implemented the broken windows theory in their policing strategy.

The link between small offenses and subsequent major crimes has been called into question in recent years. However, HOAs might consider applying the concept of the broken windows theory in addressing the negative impact on “quality of life” issues that may be associated with tenant-occupied or overcrowded units.

For example, the use of garages for storage or business activities may result in a reduction of available parking elsewhere, to the frustration of residents. (This may not necessarily be limited to tenant-occupied units.) Recreational facilities may be utilized by nonresident owners and their tenants, resulting in overburdened facilities, to the detriment of all residents. By swiftly and consistently enforcing its restrictions and/or rules regulating parking, garage use, and nonresident owner use of recreational facilities, in these examples, an HOA may reduce the negative impact on these “quality of life” issues for all association residents.

CODES AND REGULATIONS

As addressed in greater detail below, regulations in the Davis-Stirling Common Interest Development Act (Cal. Civ. Code §§1350-1378) provide Homeowners' Associations with tools for restricting harmful uses and enforcing such restrictions.

When the City's Code Enforcement division conducts an investigation, its zoning regulations, building, housing and technical codes, and business licensing provisions provide possible bases for enforcement action.

Various of these codes are discussed below in "Potential Remedies" and "Proactive Homeowner Associations."

Excerpts from the Act, as well as pertinent provisions of the City's codes are included in the handout package. (A full copy of the Davis-Stirling Common Interest Development Act is included as well.)

POTENTIAL REMEDIES

In general, courts will uphold disciplinary decisions of HOA concerning violations of the association's restrictions or rules and regulations as long as they are consistent with the governing documents, represent a good faith effort to further the purposes of the common interest development, provide appropriate due process to the members, are not arbitrary, and do not go against public policy.

Note: The governing documents must contain provisions authorizing these disciplinary measures in order to utilize them. Notice and hearing requirements must be satisfied as well.

1. Monetary Penalties

- HOA may impose fines for as a disciplinary measure for failure to comply with governing documents as well as for violations of the association's rules of operation (adopted by the board pursuant to authority provided in governing documents).
 - An HOA may not place a lien and foreclose on a member's separate interest to enforce these fines (unless they relate to late payments of assessments). (Civ. §1367.1(e).)

Given this prohibition, recovery of these fines and penalties may be challenging. An HOA may be compelled to resort to filing a small claims case to seek recovery.

- Charges imposed to reimburse the HOA for costs incurred repair to common areas and facilities for which the member or the member's guests or tenants were responsible may become a lien against the member's separate interest and foreclosure may occur. (Civ. §1367.1(d).)

2. Suspension of Rights and Privileges

- HOA may suspend the right to use common area recreational facilities.
- HOA may suspend the owner's rights as a member of the HOA, specifically the right to vote on matters presented to the HOA, and the right to serve on the board of directors and/or committees.
- HOA may not suspend an owner's right of access to or use of his individually-owned separate interest. (Civ. §1361.5)

PROACTIVE HOMEOWNERS' ASSOCIATIONS

What Can a Homeowners' Association Do to Address the Negative Impacts Associated with Overcrowding in Units?

1. Enforce restrictions currently in governing documents and/or amend to add new use restrictions related to these negative impacts.
 - Covenants and restrictions in the declaration “shall be enforceable equitable servitudes, unless unreasonable...” (Civ. Code §1354)
 - Courts have held that such recorded covenants and restrictions are “presumed to be reasonable and will be enforced uniformly against all residents of the common interest development *unless* the restriction, is arbitrary, imposes burdens on the use of lands it affects that substantially outweigh the restriction’s benefits to the development’s residents, or violates a fundamental public policy.” (*Nahrstedt v. Lakeside Village Condominium Assn.* (1994) 8 Cal.4th 361, 386)
 - HOAs are “empowered to enforce any use restrictions ... and to enact new rules governing the use and occupancy of property within the project. ... The power to regulate pertains to a wide spectrum of activities, such as the volume of playing music, hours of social gatherings, use of patio furniture, and rental of units.” (*Id.* at 373-374)

2. Enforce current or adopt new operating and/or house rules, promulgated pursuant to authority provided in governing documents, regulating use of common areas and recreational facilities.
 - Courts have held that “rules made pursuant to recorded use restrictions are evaluated for their reasonableness in light of the interests of the residents as a whole, rather than the individual interests of a particular homeowner.” (*Ibid.*)

HOA may impose fines for violation of either restrictions or rules, provided such authority is set forth in the governing documents (as discussed in “Potential Remedies,” above).

What Kinds of Restrictions and/or Rules Can HOA Utilize?

There are various types of restrictions and/or rules that can be adopted to assist the HOA in reducing the negative impacts of overcrowding. (The handout package contains some sample language of restrictions designed to address some of these issues.)

1. Occupancy Restrictions.

- Occupancy restriction may be based on density with respect to the number of occupants per floor area.
 - Uniform Housing Code §503.2 requires that rooms used by two occupant for sleeping purposes must have a minimum of 70 square feet. An additional 50 square feet is required for each additional occupant.
- Occupancy restriction may not be based on a definition of “family” limited only to persons related by blood, marriage, or legal adoption, or to a group of unrelated persons not to exceed a certain number.

2. Limit Permissible Use to Single Family Residential Only.

- Limiting use to single family residential purposes only is a standard restriction. As with occupancy restrictions, however, the restriction’s definition of what constitutes a “family” must comply with state and federal law. To avoid running afoul of state and federal anti-discrimination laws, a definition of “family” should include reference to unrelated individuals living in a family equivalent environment, as a relatively permanent, bona fide housekeeping unit.

3. Lease Restrictions.

- a. Provide that owner may only rent to a single family ("family" definition must comport with state and federal law), and is prohibited from renting single rooms within a unit.

An owner of a four-bedroom condominium resided in one of the bedrooms; he "also rented rooms to six persons as various times, for periods of between two months and two years. ... Each renter had the exclusive use of a bedroom and bathroom, and the nonexclusive use of the living room and kitchen." One renter was the owner's cousin; the others were unrelated. (*Colony Hill v. Ghamaty* (2006) 143 Cal. App.4th 1156, 1160-1161; see handout)

The association's CC&Rs limited the use of property to single family residential use only, prohibited its use for any commercial purpose, and prohibited owners from leasing their unit for transient or hotel purposes.

A court held that an injunction requiring that the owner could "enter into only one lease of his property at a time" was a practical means to "preclude the serial renting of rooms, which, when considered on a larger scale, could destroy the single-family character" of the condominium project. (*Id.* at 255) The court also found that by renting single rooms, the owner was conducting prohibited commercial activity.

- b. Require specific lease provisions. These could include:

- o Minimum lease duration
- o Provision requiring tenants to comply with rules and regulations

An HOA amended its CC&Rs to require that leases be in writing and state that the tenant is bound by the provisions of the CC&Rs. The court found this amendment to be reasonable in light of the HOA's explanation that in many situations, tenants were "in violation of the governing documents and notice to the Owner regarding the tenant's violations have gone unheeded. The Owners Association sought written leases to ensure that provisions of the CC&Rs are contained in the lease, as lessees would not otherwise be

bound to follow them.” (*Fourth La Costa Condominium Assn. v. Seith* (2008) 159 Cal. App.4th 563, 582; see handout.)

- Provision requiring tenants to use, occupy or maintain the property in compliance with the San Juan Capistrano Municipal Code
 - Provision that any breach of the governing documents or rules constitutes a breach of the lease
- c. Prohibit owner-lessors from using recreational facilities, if tenants are using them.

An owner leased his unit; the lease agreement included a provision that he and the tenant shared the premises as cotenants, though he did not reside at the property. Both the tenant and the owner used the recreational facilities at the project. (*Liebler v. Point Loma Tennis Club* (1996) 40 Cal. App.4th 1600; see handout)

An HOA rule prohibited nonresident owners from using the recreational facilities, and required they assign the use of the facilities to their tenants. The owner argued that, based on the terms of his lease, he was a resident.

The court, in evaluating the rule for reasonableness in light of the interests of the residents as a whole, rather than the individual interests of a particular homeowner, found this rule to be reasonable. The court found that “there are valid reasons by members of a tennis-oriented residential condominium might choose to restrict access to their private tennis courts, since maintaining a low density ensures the courts will be available to residents, families and guests.” (*Id.* at 1612.)

The court further found that the owner himself had benefited from the prohibition, “since he is presumably thereby able to negotiate from his tenants a higher rent than he otherwise would have been able to obtain for the premises.” (*Id.* at 1612.)

- d. Require Owner to provide HOA with a copy of the lease agreement.
- e. Require Owner to provide HOA with a list of all tenants and their vehicles.

f. Impose increased assessments on leased units?

- There is no California case law that addresses this issue. Civ. §1366.1 prohibits an association from imposing an assessment or fee that exceeds the amount necessary to defray the costs for which it is levied. Theoretically, if an HOA could make specific findings demonstrating an increased cost of common area maintenance that is attributable to tenant occupancy, such an assessment could be deemed reasonable.

g. Limit the burden on common areas and recreational facilities to that which would have been imposed by the unit owner?

- As with the imposition of increased assessments, there is no California case law that discusses this, and enforcement could be problematic. However, arguably this might be considered reasonable if the additional burden caused by multiple tenants could be quantified and verified.

4. Eviction of Tenant(s) for Breach of Governing Documents.

- In a recent California court case, a proposed amendment to an HOA's governing documents that granted the association the right to evict a tenant for breach of the CC&Rs and to impose attorney fees and court costs on the owner was deemed reasonable by the court. (*Mission Shores Assn v. Pheil* (2008) 166 Cal.App.4th 789; see handout)
 - The HOA argued that, since associations have been analogized to landlords for purposes of determining tort liability, they should "equally benefit from any rights attributed to the landlord." The court agreed. (*Id.* at 796.)
 - The court further agreed with the HOA's assertion that any tenant should be bound by the CC&Rs to the same extent that the homeowner is bound, and that "in the event the homeowner fails or refuses to take effective measures to assure his or her tenant is complying with the CC&Rs, the Association needs some means to assure compliance." (*Id.* at 796-797.)

- Finally, the court agreed that “the enforcement remedies apply to any and all tenants in breach of the CC&Rs, and providing the Association with the right to enforce any breach ... does not violate public policy.” (*Id.* at 797.)
- Care should be given before adopting such a restriction. The court noted that “an association may be liable for wrongful eviction given the fact that the association does not have possession of the property, and thus, is not the rightful party to bring the action.” (*Ibid.*)

5. Limiting Use for Commercial Activity.

- Can restrict home business operation in a unit; can require HOA approval of a proposed “home business” use of unit.

An HOA’s rules and regulations established limitations on home businesses. These included requirements that pedestrian and vehicular traffic would be limited to that normally associated with residential districts and that the home owner obtained prior approval of the HOA as well as the city. (*Nelson v. Avondale HOA* (2009) __Cal.Rptr.3d __, 2009 WL 498929; see handout)

A “religious and medical counselor” who became disabled began operating his business from his home. He would see up to eight patients a day, five days a week. He had not obtained permission from the HOA or the city to conduct his business from his home. The court found that his activities were in violation of the HOA’s rules and regulations.

- In a California case from 1970, a court found that any business operation might constitute a violation of a restriction limiting the use of property solely for single family residential purposes.

A homeowner who provided limited beautician services in her residence violated this restriction, even though she “did not advertise in any way, no external evidence of her activities could be seen, and no inconvenience to the neighbors was caused.” (*Biagini v. Hyde* (1970) 3 Cal.App.3d 877, 879)

Despite this lack of direct negative impact, the court found that the evidence that her business involved “as many as six visits per day and produced annual revenue of about \$5,000 ... reasonably supported an inference that the use complained of was detrimental ... in detracting from the residential character of the neighborhood.” (*Id.* at 881)

- Can limit permissible commercial activity to only leasing the entire unit for single-family residential use. (See discussion of single room rental above in “Lease Restrictions.”)

6. Adopting Parking Restrictions and/or Operating Rules

- Require that garage must remain available for parking the number of vehicles it was designed to accommodate.
- Prohibit owners from converting their garage to living space, a work shop or a storage room, or from otherwise using the garage in a way that precludes its use for vehicle parking.
- Provide that guest parking spaces in the common area are for guest use only, and prohibit owners or tenants from utilizing these spaces.
- Require that inoperative vehicles be stored in the garage or removed from premises.
- Provide authority to enforce parking restrictions by disciplining or fining vehicle owners and/or by towing vehicles parked in violation of the restrictions.

These materials are provided for general informational purposes only. The statements herein do not constitute legal advice. Persons having an interest in the subject matter of these materials should consult with their attorney.

RESIDENTIAL OVERCROWDING WORKSHOP

CODE PROVISIONS CONCERNING OVERCROWDING IN DWELLING UNITS

**Davis-Stirling Common Interest Development Act
San Juan Capistrano Municipal Code
Uniform Housing Code
State Housing Law
California Building Code**

Sample Language of Pertinent Restrictions

DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT
(Cal. Civ. Code §1350 et seq.)

Covenants and Restrictions in Declarations

§1354

(a) The covenants and restrictions in the declaration shall be enforceable equitable servitudes, unless unreasonable, and shall inure to the benefit of and bind all owners of separate interests in the development. Unless the declaration states otherwise, these servitudes may be enforced by any owner of a separate interest or by the association, or by both.

(b) A governing document other than the declaration may be enforced by the association against an owner of a separate interest or by an owner of a separate interest against the association.

(c) In an action to enforce the governing documents, the prevailing party shall be awarded reasonable attorney's fees and costs.

Limits on Certain Restrictions in Declarations

§1352.5.

(a) No declaration or other governing document shall include a restrictive covenant in violation of Section 12955 of the Government Code.

(b) Notwithstanding any other provision of law or provision of the governing documents, the board of directors of an association, without approval of the owners, shall amend any declaration or other governing document that includes a restrictive covenant prohibited by this section to delete the restrictive covenant, and shall restate the declaration or other governing document without the restrictive covenant but with no other change to the declaration or governing document.

(c) If after providing written notice to an association requesting that the association delete a restrictive covenant that violates subdivision (a), and the association fails to delete the restrictive covenant within 30 days of receiving the notice, the Department of Fair Employment and Housing, a city or county in which a common interest development is located, or any person may bring an action against the association for injunctive relief to enforce subdivision

(d). The court may award attorney's fees to the prevailing party.

§1353.5.

(a) Except as required for the protection of the public health or safety, no declaration or other governing document shall limit or prohibit, or be construed to limit or prohibit, the display of the flag of the United States by an owner on or in the owner's separate interest or within the owner's exclusive use common area, as defined in Section 1351.

(b) For purposes of this section, "display of the flag of the United States" means a flag of the United States made of fabric, cloth, or paper displayed from a staff or pole or in a window, and does not mean a depiction or emblem of the flag of the United States made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.

(c) In any action to enforce this section, the prevailing party shall be awarded reasonable attorneys' fees and costs.

§1353.6.

(a) The governing documents, including the operating rules, may not prohibit posting or displaying of noncommercial signs, posters, flags, or banners on or in an owner's separate interest, except as required for the protection of public health or safety or if the posting or display would violate a local, state, or federal law.

(b) For purposes of this section, a noncommercial sign, poster, flag, or banner may be made of paper, cardboard, cloth, plastic, or fabric, and may be posted or displayed from the yard, window, door, balcony, or outside wall of the separate interest, but may not be made of lights, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component, or include the painting of architectural surfaces.

(c) An association may prohibit noncommercial signs and posters that are more than 9 square feet in size and noncommercial flags or banners that are more than 15 square feet in size.

§1353.7.

(a) No common interest development may require a homeowner to install or repair a roof in a manner that is in violation of Section 13132.7 of the Health and Safety Code.

(b) Governing documents of a common interest development located within a very high fire severity zone, as designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code or by a local agency pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, shall allow for at least one type of fire retardant roof covering material that meets the requirements of Section 13132.7 of the Health and Safety Code.

§1360.5. (a) No governing documents shall prohibit the owner of a separate interest within a common interest development from keeping at least one pet within the common interest development, subject to reasonable rules and regulations of the association. This section may not be construed to affect any other rights provided by law to an owner of

a separate interest to keep a pet within the development.

(b) For purposes of this section, "pet" means any domesticated bird, cat, dog, aquatic animal kept within an aquarium, or other animal as agreed to between the association and the homeowner.

(c) If the association implements a rule or regulation restricting the number of pets an owner may keep, the new rule or regulation shall not apply to prohibit an owner from continuing to keep any pet that the owner currently keeps in his or her separate interest if the pet otherwise conforms with the previous rules or regulations relating to pets.

(d) For the purposes of this section, "governing documents" shall include, but are not limited to, the conditions, covenants, and restrictions of the common interest development, and the bylaws, rules, and regulations of the association.

(e) This section shall become operative on January 1, 2001, and shall only apply to governing documents entered into, amended, or otherwise modified on or after that date.

Amendments to Declarations

§1355.

(a) The declaration may be amended pursuant to the governing documents or this title. Except as provided in Section 1356, an amendment is effective after (1) the approval of the percentage of owners required by the governing documents has been given, (2) that fact has been certified in a writing executed and acknowledged by the officer designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association, and (3) that writing has been recorded in each county in which a portion of the common interest development is located.

(b) Except to the extent that a declaration provides by its express terms that it is not amendable, in whole or in part, a declaration which fails to include provisions permitting its amendment at all times during its existence may be amended at any time...

§1356. (a) If in order to amend a declaration, the declaration requires owners having more than 50 percent of the votes in the association, in a single class voting structure, or owners having more than 50 percent of the votes in more than one class in a voting structure with more than one class, to vote in favor of the amendment, the association, or any owner of a separate interest, may petition the superior court of the county in which the common interest development is located for an order reducing the percentage of the affirmative votes necessary for such an amendment. The petition shall describe the effort that has been made to solicit approval of the association members in the manner provided in

the declaration, the number of affirmative and negative votes actually received, the number or percentage of affirmative votes required to effect the amendment in accordance with the existing declaration, and other matters the petitioner considers relevant to the court's determination.

...

(c) The court may, but shall not be required to, grant the petition if it finds all of the following:

(1) The petitioner has given not less than 15 days written notice of the court hearing to all members of the association, to any mortgagee of a mortgage or beneficiary of a deed of trust who is entitled to notice under the terms of the declaration, and to the city, county, or city and county in which the common interest development is located that is entitled to notice under the terms of the declaration.

(2) Balloting on the proposed amendment was conducted in accordance with all applicable provisions of the governing documents.

(3) A reasonably diligent effort was made to permit all eligible members to vote on the proposed amendment.

(4) Owners having more than 50 percent of the votes, in a single class voting structure, voted in favor of the amendment. In a voting structure with more than one class, where the declaration requires a majority of more than one class to vote in favor of the amendment, owners having more than 50 percent of the votes of each class required by the declaration to vote in favor of the amendment voted in favor of the amendment.

(5) The amendment is reasonable.

(6) Granting the petition is not improper for any reason stated in subdivision (e).

Operating Rules

§1357.110.

An operating rule is valid and enforceable only if all of the following requirements are satisfied:

(a) The rule is in writing.

(b) The rule is within the authority of the board of directors of the association conferred by law or by the declaration, articles of incorporation or association, or bylaws of the association.

(c) The rule is not inconsistent with governing law and the declaration, articles of incorporation or association, and bylaws of the association.

(d) The rule is adopted, amended, or repealed in good faith and in substantial compliance with the requirements of this article.

(e) The rule is reasonable.

Rule Change

§1357.120.

(a) Sections 1357.130 and 1357.140 only apply to an operating rule that relates to one or more of the following subjects:

- (1) Use of the common area or of an exclusive use common area.
- (2) Use of a separate interest, including any aesthetic or architectural standards that govern alteration of a separate interest.
- (3) Member discipline, including any schedule of monetary penalties for violation of the governing documents and any procedure for the imposition of penalties.
- (4) Any standards for delinquent assessment payment plans.
- (5) Any procedures adopted by the association for resolution of disputes.
- (6) Any procedures for reviewing and approving or disapproving a proposed physical change to a member's separate interest or to the common area.
- (7) Procedures for elections.

(b) Sections 1357.130 and 1357.140 do not apply to the following actions by the board of directors of an association:

- (1) A decision regarding maintenance of the common area.
- (2) A decision on a specific matter that is not intended to apply generally.
- (3) A decision setting the amount of a regular or special assessment.
- (4) A rule change that is required by law, if the board of directors has no discretion as to the substantive effect of the rule change.
- (5) Issuance of a document that merely repeats existing law or the governing documents.

§1357.130.

(a) The board of directors shall provide written notice of a proposed rule change to the members at least 30 days before making the rule change. The notice shall include the text of the proposed rule change and a description of the purpose and effect of the proposed rule change. Notice is not required under this subdivision if the board of directors determines that an immediate rule change is necessary to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the association.

(b) A decision on a proposed rule change shall be made at a meeting of the board of directors, after consideration of any comments made by association members.

(c) As soon as possible after making a rule change, but not more than 15 days after making the rule change, the board of directors shall deliver notice of the rule change to every association member. If the rule change was an emergency rule change made under subdivision (d), the notice shall include the text of the rule change, a description of the purpose and effect of the rule change, and the date that the rule change expires.

(d) If the board of directors determines that an immediate rule change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the association, it may make an emergency rule change; and no notice is required, as specified in subdivision (a). An emergency rule change is effective for 120 days, unless the rule change provides for a shorter effective period. A rule change made under this subdivision may not be readopted under this subdivision.

(e) A notice required by this section is subject to Section 1350.7.

Alterations, Modifications, Improvements to Separate Interest

§1360.

(a) Subject to the provisions of the governing documents and other applicable provisions of law, if the boundaries of the separate interest are contained within a building, the owner of the separate interest may do the following:

1) Make any improvements or alterations within the boundaries of his or her separate interest that do not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.

(2) Modify a unit in a condominium project, at the owner's expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of the unit for the purposes of this paragraph if the unit is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

(A) The modifications shall be consistent with applicable building code requirements.

(B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.

(C) Modifications external to the dwelling shall not prevent reasonable passage by other residents, and shall be removed by the owner when the unit is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf, or physically disabled.

(D) Any owner who intends to modify a unit pursuant to this paragraph shall submit his or her plans and specifications to the association of the condominium project for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.

(b) Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law.

Assessments and Fees

§1366.1

An association shall not impose or collect an assessment or fee that exceeds the amount necessary to defray the costs for which it is levied.

Discipline and Enforcement

§1361.5.

Except as otherwise provided in law, an order of the court, or an order pursuant to a final and binding arbitration decision, an association may not deny an owner or occupant physical access to his or her separate interest, either by restricting access through the common areas to the owner's separate interest, or by restricting access solely to the owner's separate interest.

§1367.1

...
(d) ... A monetary charge imposed by the association as a means of reimbursing the association for costs incurred by the association in the repair of damage to common areas and facilities for which the member or the member's guests or tenants were responsible may become a lien against the member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c, provided the authority to impose a lien is set forth in the governing documents...

...
e) Except as indicated in subdivision (d), a monetary penalty imposed by the association as a disciplinary measure for failure of a member to comply with the governing instruments, except for the late payments, may not be characterized nor treated in the governing instruments as an assessment that may become a lien against the member's subdivision separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c.

§1368.3.

An association established to manage a common interest development has standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the individual owners of the common interest development, in matters pertaining to the following:

- (a) Enforcement of the governing documents.
- (b) Damage to the common area.
- (c) Damage to a separate interest that the association is obligated to maintain or repair.
- (d) Damage to a separate interest that arises out of, or is integrally related to, damage to the common area or a separate interest that the association is obligated to maintain or repair.

SAN JUAN CAPISTRANO MUNICIPAL CODE

Title 9 Land Use

Boarding or rooming house: A residential building, other than a rest home, containing a single dwelling unit and not more than five (5) guest rooms or suites of rooms where lodging is provided with or without meals, for compensation.

Family: One or more persons related by blood, marriage, or legal adoption, or a group of persons including unrelated individuals, living together as a relatively permanent, bona fide housekeeping unit.

Home business: A business conducted with a home business permit as a secondary use incidental to and entirely within a residential dwelling in a residential district and Agribusiness District, by the occupant of the dwelling in connection with which there is no display, no stock in trade or commodity sold on the premises; and which is conducted in such a manner that the outward appearance of the premises gives no indication of other than residential use, and which is not detrimental to the residential character of the neighborhood by virtue of traffic flow, noise, odor or other adverse characteristics, subject to the provisions of Section 9-3.523 of the Land Use Code.

Permissible use in the Multiple-Family (RM) and Affordable Family/Senior Housing (AF/SH) districts: Boarding or rooming house (Section 9-3.301)

Boarding or rooming house must comply with off-street parking requirements:

Sec. 9-3.535. Parking.

... (g) ... Boarding and lodging houses, student housing, dormitories, and fraternity and sorority housing: 1.0 off-street parking spaces per guest rooms and 1.0 per each dwelling unit.

Sec. 9-3.523. Home business.

... (e) Home business uses in private communities. A home business permit shall not be granted to any person living in any community administered by a homeowner association and legally constituted CC&R, enforced by an elected board of directors, unless the said board of directors has taken formal action on the application. Any such applicant shall disclose on his application form whether said action has been obtained from the board of directors. Written proof of said action shall be submitted with the application.

Title 3 Finance, Chapter 1 Business License

Sec. 3-1.101. Licenses: Required.

No person shall engage in, carry on, or conduct in the City any business, trade, calling, profession, exhibition, or vocation set forth in Article 2 of this chapter without procuring a license therefor issued pursuant to the provisions of this chapter, and no person shall engage in, carry on, or conduct such business at a time other than as authorized in such license. No personal or written demand or notice from the City to persons required to be licensed pursuant to the provisions of this chapter shall be necessary to incur the penalties provided for in this chapter.

Sec. 3-1.202. Business and professions.

Every person who engages in business, whether or not at a fixed place of business within the City, shall pay a license tax based upon an annual fee or the average number of employees for the preceding calendar year, from January 1st through December 31st, at the following rates and in the following classifications:

- (a) ... (63) Rooming houses

Title 8 Building Regulations Chapter 12. Property Maintenance

Sec. 8-12.05. Prohibited activities.

(a) Rubbish and vegetation. It shall be unlawful for any landowner or person leasing, occupying, or having charge or possession of any property in the City to keep, maintain, or deposit on such property any of the following:

- (1) Rubbish or junk, including, but not limited to, refuse, garbage, scrap metal or lumber, concrete, asphalt, tin cans, tires, and piles of earth;
- (2) Abandoned, discarded, or unused furniture, stoves, sinks, toilets, cabinets, or other fixtures or equipment which are not stored within an entirely enclosed space so as to be screened from public view;
- (3) Combustible material likely to become easily ignited or debris resulting from any fire and which constitutes a fire hazard, as defined in the Uniform Fire Code;
- (4) Inoperative, abandoned, or dismantled motor vehicles, trailers, campers, and boats which are not stored within an entirely enclosed space so as to be screened from public view;
- (5) Trash, garbage, or refuse cans, bins, boxes or other such containers stored in front or side yards visible from public streets;
- (6) The following weeds:
 - (i) Weeds which bear seeds of a downy or wingy nature,

- (ii) Weeds which are otherwise noxious or dangerous,
- (iii) Puncture vines and tumble weed,
- (iv) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health;

(7) Dead, decayed, or hazardous trees or other vegetation; residue from a fire or demolition such as concrete or brick foundations and flat work other than concrete flat work at grade level not creating a safety hazard; and, overgrown vegetation which is unsightly and likely to harbor rats, or vermin, or which constitutes an unsightly appearance, a fire hazard, or is dangerous to public health and welfare.

(b) Buildings, structures and appurtenances. It is a public nuisance and shall be unlawful for any landowner or person leasing, occupying, having charge or possession of any property in the City to own such property, or maintain, manage, or possess such property wherein any of the following conditions are found to exist upon the property:

(1) Buildings which are abandoned or partially destroyed; buildings which are partially constructed or incomplete after building permits have expired;

(2) Buildings which have deteriorated to the point that exterior building coverings allow sun or water penetration so as to permit decay, dry rot, warping, or cracking;

(3) Commercial or directional signs, sign boards, and supporting structures, which are dilapidated, broken, run-down, unkept, stained, dirtied, tarnished, discolored, faded in color, shabby, bedraggled, decrepit, tattered, slipshod;

(4) Broken windows, doors, attic vents, and under floor vents;

(5) Building exteriors, walls, fences, driveways, or walkways which are cracked, broken, defective, deteriorated, or in disrepair;

(6) Building exteriors, walls, fences, driveways or walkways which are defaced due to any writing, inscription, figure, scratches, or other markings commonly referred to as "graffiti";

(7) Buildings, structures, and any sign device that are found to be in violation of any provisions of the Uniform Building or Dangerous Building Codes.

Any public nuisance found to exist under this subsection shall be a violation of this Municipal Code for which the landowner shall be duly responsible notwithstanding having leased such property to a lessee.

(c) Polluted water. It shall be unlawful for any landowner or person leasing, occupying, or having charge or possession of any property in the City to maintain on such property, a swimming pool, pond or other body of water which is abandoned, unattended, unfiltered, or not otherwise maintained, resulting in the water becoming polluted. For the purpose of this subsection, "polluted water" means water contained in a swimming pool, pond, or other body of water, which includes but is not limited to bacterial growth, including algae, remains of insects, remains of

deceased animals, reptiles, rubbish, refuse, debris, papers, and any other foreign matter or material which because of its nature or location constitutes an unhealthy, unsafe, or unsightly condition.

(d) Drainage systems. It shall be unlawful for any landowner or person leasing, occupying, or having charge or possession of any property in the City to maintain on such property, any terrace drains, down drains, interceptor drains, v-ditches, and subsurface drainage devices that become clogged or obstructed with deleterious materials that would impede water flow and interfere with the proper function and operation of the drainage device.

Sec. 8-12.06. Public nuisances.

It is hereby declared a public nuisance for any landowner or person leasing, occupying, directly controlling, or having possession of any property in this City to maintain any condition described in Section 8-12.05 of this Code or to maintain any attractive nuisance.

UNIFORM HOUSING CODE (1997 EDITION)

(Adopted by San Juan Capistrano pursuant to Section 8-7.01 of the
San Juan Capistrano Municipal Code)

Space and Occupancy Standards:

§503.2 Floor Area.

Dwelling units and congregate residences shall have at least one room that shall have not less than 120 square feet ... of floor area. **Other habitable rooms, except kitchens, shall have an area of not less than 70 square feet ... Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet ... for each occupant in excess of two.**

2007 CALIFORNIA BUILDING CODE

(Adopted by San Juan Capistrano pursuant to Section 8-2.01 of the
San Juan Capistrano Municipal Code)

Chapter 10 Means of Egress

Administration

§1001.2 Minimum Requirements.

It shall be unlawful to alter a building or structure in a manner that will reduce the number of exits or the capacity of the means of egress to less than required by this code.

Emergency Escape and Rescue

§1026.4 Operational Constraints.

Emergency escape and rescue openings and any exit doors shall be maintained free of any obstructions other than those allowed by this section and shall be operational from the inside of the room ...

STATE HOUSING LAW
(Cal. Health and Safety Code §17910 et seq.)

Substandard Conditions:

§17920.3. Any building or portion thereof including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

(a) Inadequate sanitation shall include, but not be limited to, the following:

(1) Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit.

(2) Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.

(3) Lack of, or improper kitchen sink.

(4) Lack of hot and cold running water to plumbing fixtures in a hotel.

(5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.

(6) Lack of adequate heating.

(7) Lack of, or improper operation of required ventilating equipment.

(8) Lack of minimum amounts of natural light and ventilation required by this code.

(9) Room and space dimensions less than required by this code.

(10) Lack of required electrical lighting.

(11) Dampness of habitable rooms.

(12) Infestation of insects, vermin, or rodents as determined by the health officer.

(13) General dilapidation or improper maintenance.

(14) Lack of connection to required sewage disposal system.

(15) Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.

(b) Structural hazards shall include, but not be limited to, the following:

(1) Deteriorated or inadequate foundations.

(2) Defective or deteriorated flooring or floor supports.

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety.

(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceilings and roof supports, or other

horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceiling, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(c) Any nuisance.

(d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.

(e) All plumbing, except plumbing that conformed with all applicable laws in effect at the time of installation and has been maintained in good condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and that is free of cross connections and siphonage between fixtures.

(f) All mechanical equipment, including vents, except equipment that conformed with all applicable laws in effect at the time of installation and that has been maintained in good and safe condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.

(g) Faulty weather protection, which shall include, but not be limited to, the following:

(1) Deteriorated, crumbling, or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) All materials of construction, except those which are specifically allowed or approved by this code, and which have been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant

water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) Any building or portion thereof that is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

(l) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and that have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.

(m) All buildings or portions thereof that are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof that conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.

(o) Inadequate structural resistance to horizontal forces.

"Substandard building" includes a building not in compliance with Section 13143.2. However, a condition that would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of those requirements in effect at the time of construction, alteration, or conversion.

**SAMPLE LANGUAGE
OF PERTINENT RESTRICTIONS**

Residential Overcrowding Workshop

Thursday, April 30, 2009 - 6:00 p.m.

**City Council Chambers
32400 Paseo Adelanto
San Juan Capistrano, CA**

SAMPLE LANGUAGE OF PERTINENT RESTRICTIONS¹

Owners' Nonexclusive Easements of Enjoyment.

Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Areas within the Condominium Project, including ingress and egress to and from his or her Unit, which shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

- (a) The right of the Association to assign, rent, license, lease, charge reasonable admission and other fees for, and to otherwise designate and control the use of any unassigned parking and storage spaces and to charge reasonable admission and other fees or to limit the number of guests of Members who may use any recreational Common Facilities.
- (b) The right of the Association to adopt Association Rules, as provided in Section ____, regulating the use and enjoyment of the real property and improvements comprising the Condominium Project for the benefit and well-being of the Owners in common, and in the event of the breach of such rules or any provision of any Governing Document by any Owner or tenant, to initiate disciplinary action against the violating Owner or tenant in accordance with Section ____. Such action may include the levying of fines and/or the temporary suspension of the voting rights and/or the right to use the Common Facilities.

Delegation of Use.

(a) Delegation of Use and Leasing of Residences.

Any Owner may delegate his or her rights to use and enjoy the Common Area and Common Facilities to his or her family members, tenants, or lessees who reside in the Unit, provided, however, that any rental or lease may only be to a single family for Single Family Residential Use (as defined herein²) and for a term not less than ____ days.

The restrictions on multiple family occupancy imposed by this paragraph are intended to protect, enhance, and maintain the single family residential atmosphere that exists within the Condominium Project and to avoid an overburdening of Common Areas and Common Facilities.

During any period when a Unit has been rented or leased, the Owner-lesser, his or her family, guests and invitees shall not be entitled to use

¹ *Advising California Common Interest Communities*, Appendix C (Cal CEB 2003).

² To avoid running afoul of state and federal anti-discrimination laws, a definition of "single family" should include language similar to the following: "unrelated individuals living together as a relatively permanent, bona fide housekeeping unit."

and enjoy the recreational Common Facilities, except to the extent reasonably necessary to perform the Owner's responsibilities as a lessor of the Unit, provided however, that this restriction shall not apply to any Owner-lessor who is contemporaneously residing in another Unit within the Condominium Project.

Any rental or lease of a Unit shall be subject to the provisions of the Governing Documents, all of which shall be deemed incorporated by reference in the lease or rental agreement. Each Owner-lessor shall provide any tenant or lessee with a current copy of all Governing Documents and shall be responsible for compliance by the tenant or lessee with all of the provisions of the Governing Documents during the tenant's/lessee's occupancy and use of the Unit.

(b) Requirements That Must Be Observed In All Residential Leases.

The following specific limitations shall apply to all leases or tenancies of a Unit: (1) No Unit may be leased or rented for a period of not less than 90 days; (2) the rental shall apply to not less than an entire Unit, including its appurtenant rights (except voting rights in the Association that may not be transferred to a tenant or lessee); and (3) any rental shall be evidenced by a written lease or rental agreement that shall provide that the tenancy is subject to the terms of the Governing Documents and that any failure of the tenant to comply with the terms of any governing Document relating to residential leases, property use restrictions, or the use and enjoyment of any portion of the Common Area and Common Facilities shall constitute a default under the lease or rental agreement and shall entitle the Owner to terminate the tenancy on 30 days written notice. The Owner-lessor's right to terminate lease or rental agreement on account of the tenant's violation of the Governing Documents shall in no way restrict the right of the Association, the Declarant, or any Owner to enforce the Governing Documents in accordance with Article __ when the Owner's tenant is violating the Governing Documents.

(c) Discipline of Lessees.

Subject to subparagraph (d) below, if any tenant or lessee fails to honor the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances to preserve the quiet enjoyment of other Owners and residents of the Development. Without limitation, the Association's actions in response to a tenant's violation of the Governing Documents may include the imposition of fines and penalties against the Owner-lessor of the Unit.

(d) Due Process Requirements for Disciplinary Action.

Except for circumstances in which immediate corrective action is

necessary to prevent damage or destruction to any portion of the Condominium Project or to preserve the rights of quiet enjoyment of other Owners, the Association shall have the right to initiate disciplinary action against an Owner-lessor (or the Owner's lessee or tenant) on account of the misconduct of the Owner's lessee or tenant unless and until the following conditions have been satisfied: (1) the Owner has received written notice from the Board, the Association's property manager, or an authorized committee of the Board detailing the nature of the lessee's/tenant's alleged infraction or misconduct and advising the Owner of the Owner's right to a hearing on the matter if the Owner believes that remedial or disciplinary action is unwarranted or unnecessary; (2) the Owner has been given a reasonable opportunity to take corrective action on a voluntary basis or to appear at a hearing, if one is requested by the Owner; and (3) the Owner has failed to prevent or correct the tenant's objectionable actions or misconduct. Any hearing requested under this subparagraph shall be conducted in accordance with Section ____.

Obligations of Owners.

(a) Owner's Duty to Notify Association of Tenants and Lessees.

Each Owner shall notify the secretary of the Association or the Association's property manager, if any, of the names of any tenant or lessee residing in the Owner's Unit. Each Owner, tenant or lessee shall also notify the secretary of the Association of the names of all persons to whom such Owner, tenant or lessee has delegated any rights to use and enjoy the streets and Common Area of the Development and the relationship that each such person bears to the Owner, tenant or lessee.

Use of Development and Restrictions

Single Family Residential Use. The use of the individual Units in the Development is hereby restricted to Single Family Residential Use. In no event shall a Unit be occupied by more individuals than permitted by applicable zoning laws, building and housing code requirements, or governmental regulations.

Business Activities. No business or commercial activities of any kind whatsoever shall be conducted in any Residence, garage, or out-building or in any portion of any Unit without the prior written approval of the Board, provided, however, the foregoing restriction shall not apply to the activities or signs of the Association in the discharge of its responsibilities under the Governing Documents. Furthermore, no restrictions contained in this section shall be construed in such a manner as to prohibit any Owner from (1) maintaining his or her personal library in his or her Unit; (2) keeping his or her personal business records or accounts therein; (3) handling his or her personal or

professional calls, correspondence or electronic communications therefrom; (4) leasing or renting his or her Unit in accordance with Section __; or (5) conduct any other activities at the Owner's Unit otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zonings or regulations without the necessary of first obtaining a special use permit or specific governmental authorization so long as any such activity does not involve exterior signage or create customer traffic within the Development. The uses described herein are expressly declared to be customarily incidental to the principal residential use and not in violation of this section.

Parking and Vehicle Restrictions

The following parking and vehicle restrictions shall apply within the Condominium Project:

(a) All driveways and [carports/garages] shall be maintained in a neat and orderly fashion, [and garage doors shall be maintained in a closed position except as necessary to permit entry and exit of vehicles or to provide ventilation when the resident is in the garage area.

(b) Carports/garages are to be used solely for the parking of standard passenger vehicles and trucks not to exceed [one-half/three-quarter] tons in gross weight [and boats or similar items for storage purposes], and shall not be converted to living quarters or work shops. In no event shall the garage area be used in a way that will preclude the parking of the Owner's or occupant's vehicles within the garage.

(c) Designated guest parking areas within the Common Areas are to remain open for use by guests only and are not to be used by Owners or other residents, either permanently or temporarily, for the parking of their passenger vehicles or the storage of boats, trailers, or similar items of personal property.

(d) The Board shall have the authority to promulgate further reasonable rules and restrictions of uniform application regarding the parking and/or operation of vehicles within the Condominium Project as may be deemed prudent and appropriate.

These materials are provided for general informational purposes only. The statements herein do not constitute legal advice. Persons having an interest in the subject matter of these materials should consult with their attorney.

PUBLIC COMMENTS

Grant Taylor

From: Dan Buckner [wdbuckner@ammcor.com]
Sent: Wednesday, April 22, 2009 4:04 PM
To: Grant Taylor
Subject: FW: City of San Juan Capistrano: Contact Us

-----Original Message-----

From: Dan Buckner [mailto:wdbuckner@ammcor.com]
Sent: Wednesday, April 22, 2009 3:49 PM
To: granttaylor@sanjuancapistrano.org
Subject: FW: City of San Juan Capistrano: Contact Us

Grant,

This is the e-mail that I sent to the council this week.

Thanks for your efforts.

Dan Buckner

-----Original Message-----

From: Dan Buckner [mailto:wdbuckner@ammcor.com]
Sent: Monday, April 20, 2009 11:19 AM
To: Laura Freese
Subject: RE: City of San Juan Capistrano: Contact Us

Dear Council Members,

In an effort to find alternatives to our parking dilemma please consider this fact: The CC&Rs of all of the Villas prohibit the garages from being used for anything other than parking of passenger vehicles. What I have observed just on my street is that many of the garages are being used to store junk or are being used for business purposes, which is also prohibited by the deed restrictions. Please consider this fact in your quest for resolution. If the city could find a way to enforce the deed restrictions we might be able to solve part of the problem.

In addition, the parking sticker policy in the Villas is too liberal and gives a resident the option to use his garage for purposes other than parking.

Sincerely,

Dan Buckner
26521 Paseo Santa Clara
San Juan Capistrano
493-7500 H
661-7767 W

-----Original Message-----

From: Laura Freese [mailto:LFreese@sanjuancapistrano.org]
Sent: Wednesday, April 08, 2009 12:50 PM
To: wdbuckner@ammcor.com
Subject: RE: City of San Juan Capistrano: Contact Us

Thank you for your input, Mr. Buckner. We are still analyzing what would be the effects of the ban. Your input is valuable. Thank you.
Laura Freese

-----Original Message-----

From: Catherine Salcedo
Sent: Thursday, April 02, 2009 11:07 AM
To: 'nielsenl@cox.net'; Laura Freese; Londres Uso; Mark Nielsen; Sam Allevato; Tom Hribar
Cc: Maria Morris
Subject: FW: City of San Juan Capistrano: Contact Us

fyi

R/Cathy

-----Original Message-----

From: Buckner [mailto:Buckner]
Sent: Thursday, April 02, 2009 11:03 AM
To: Catherine Salcedo
Subject: City of San Juan Capistrano: Contact Us

You have received this link of City of San Juan Capistrano from:
Buckner, Dan <wdbuckner@ammcor.com>

<http://sanjuancapistrano.org/index.aspx?recordid=17&page=612>

I read in the local paper comments regarding the Council's action to ban overnight parking along Alipaz and Camino Capistrano.

I live in the Villas and support wholeheartedly Council Member Freese in her position that this may be the only way left to control occupancy issues. Occupancy is and has been a major problem within the Villas as long as I have lived there. The Community Associations and the City have at various times attempted to correct the overcrowding only to be met with the threat of lawsuits.

This issue is a burden on the Community Associations in the form of additional cost for water and sewer as well as wear and tear on the Units and Common Areas.

In addition, there are many of these Units that are being used for business purposes that impact the neighborhood by using up available parking in the garages and streets.

As a member of the Neighborhood Preservation Committee I would appreciate the opportunity to discuss some potential solutions with the Council Member.

Sincerely,

W.D. Buckner
26521 Paseo Santa Clara
San Juan Capistrano
493-7500 Home
661-7767 Work
412-7500 Cell

Buckner, Dan