



Peacock Gap Homeowners Association

April 2009

To: Peacock Gap Homeowner Neighbors

The purpose of writing to you is to address questions about the Peacock Gap Homeowners Association dues, charges and assessments. This letter and the attached Board Resolution explain how the Association's Articles of Incorporation, Bylaws and the various Declarations of Covenants, Conditions and Restrictions (CC&Rs) when taken together provide the authority for the assessments and charges.

For the reasons stated here and by the enclosed Resolution, it is the position of the Board of Directors and our legal counsel that the increases in charges and assessments imposed back in 2007 and for the 2008-2009 budget are in accordance with the authority under the documents governing our Association.

Your all volunteer Board gets involved with a variety of neighborhood situations, many of which stay "below the radar", and not all of which, frankly, are resolved to everyone's satisfaction. However, the problem with the deteriorated state of the landscaping in our medians on Riviera Drive and Peacock Drive has been apparent for many years and has been a topic of considerable complaint and neighborhood concern. For more than two years meetings have been held with the City of San Rafael Public Works Department in an attempt to craft a long-term "public-private" partnership solution to address the condition of our medians. True, a handful of owners have said they don't care about the medians, but many more have responded positively over the years and are anxious to get the project going.

The visual blight of our medians detracts from the quality and character of our highly desirable Peacock Gap neighborhood. Yet, some owners, perhaps improperly influenced by rumor or misinformation, claim they don't need to pay costs associated with this community improvement and enhancement project or with rising Association operating costs. Some owners even distributed flyers in 2008 encouraging other owners not to pay the assessments and charges, and claiming there is no authority for the increased charges.

In 2007, early in the project's development, there was a \$200 landscape surcharge per property to enable a strong show of good faith to the City and to help cover initial costs of design development and to determine whether there

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was interest in a long term maintenance agreement with the City. This was the first phase of what would likely evolve into a multi-phased project. If opposition to such a project had been wide-spread at the outset, it would have been stopped. However, there was strong interest in the neighborhood community for the PGHA to proceed.

Some owners claimed that our Association's attorney said that certain charges are "voluntary", a conclusion based on misinterpreting the Board's attempts to slow down or halt repetitive re-invoicing by its former administrative property manager, RealManage. The Board's decision to stop re-invoicing does not mean that a charge is "voluntary".

Following a May 2008 majority approval through a Board initiated ballot process, the Board adopted increased assessments and charges. Since some owners challenge the Board's authority to levy such charges on behalf of the neighborhood, a detailed Resolution was drafted and adopted by the Board of Directors with the guidance of and in consultation with our attorney. A copy is enclosed of the Resolution outlining the Board's authority and the provisions of our corporate documents authorizing increased assessments.

Invoices will be sent by new administrative property manager Eugene Burger Management Corporation ("EBMC") to bring all accounts up to date. Collection policies and procedures will be adopted and published.

It is most surprising and unfortunate, and even discouraging, that a project with such wide neighborhood support has generated such divisiveness. We hope that once the results of the first phase of the partnership with the City of San Rafael are evident that we can celebrate as a neighborhood community the extensive work and commitment the effort represents. Let us hope that the medians project is not now de-railed by City budget issues.

There will be an owners' meeting this Spring.

Sincerely,

Your Board