



DISCOVERY BAY
Property Owners Association

Connection

Discovery Bay Property Owners' Association, Inc.
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November 2004

Board of Directors

<u>President</u>	<i>Bob Lyman</i>
<u>Vice-President</u>	<i>Paul Amthauer</i>
<u>Secretary/Treasurer</u>	<i>Chris Provencher</i>
<u>Membership Director</u>	<i>Bill Honeycutt</i>
<u>Director at Large</u>	<i>Rich Kier</i>
<u>Real Estate Liaison</u>	<i>Susan Marie Denkhaus</i>
<u>Contract Secretary</u>	<i>Vicki Laganowsky</i>
<u>CC&R Compliance Inspector</u>	<i>Dale Welin</i>

Design & Environmental Review Committee (D.E.R.C)

<u>Chairman</u>	<i>John Ross</i>
<u>Member</u>	<i>Ward Messersmith</i>
<u>Member</u>	<i>Marston Myers</i>
<u>Member</u>	<i>Sandee Visintin</i>
<u>Member</u>	<i>Vincent Vargas</i>

Highlight

Our web site is up and running. Check it out!
www.discoverybay-ca.com

Attention

You now can find a CC&R Violation Complaint Form online.
http://www.discoverybay-ca.com/dbpoa_complaint.htm

Other Local Web Sites

Town of Discovery Bay
<http://www.townofdiscoverybay.org>

Discovery Bay Chamber of Commerce
<http://www.discovery-bay-chamber.com/>

California Delta Chambers & Visitors Bureau
<http://www.californiadelta.org/>

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Board Election Results

The vote is in and we want to welcome our newest members Paul Amthauer, Bill Honeycutt, and Chris Provencher. We would also like to thank all of you who took the time to cast a vote.

Home Pride Appreciation Award September's Recipient

The proud winner of the DBPOA Home Pride Award for September is Jacqueline Carabello, 5544 Marlin Court.



Jacqueline Carabello moved from Pleasanton to Discovery Bay 2 years ago after retiring from teaching in the Pleasanton School System. Jackie has custody of grandson, Matt, who is also responsible for the outstanding landscape maintenance at 5544 Marlin Court. Major changes took place about 20 months ago after a repair to a water line break. Jackie and Matt work together as a team to maintain their front yard. Matt's passion is bass fishing and he entered into his first official tournament in September. Congratulations to grandmother Jackie and grandson Matt for winning the Discovery Bay Property Owners' Association HOME PRIDE AWARD for September. The Association and your neighbors appreciate your hard work and dedication.

Home Pride Appreciation Award October's Recipient

The Proud winners of the DPOA Home Pride Award for October are Lin and Bill Lenson.



They live at 5410 Beaver Lane and have been in their newly built house for 16 months. They moved to Discovery Bay from Pleasanton, where they had lived for 30 years. Bill continues working in the Commercial Insurance business following their move to the water and golf course. Lin works from their home as a bookkeeper.

Part of their family lives in Discovery Bay West, and they enjoy two grandchildren. They also have one in Phoenix. Bill and Lin designed their front yard after the lawn was put in. They planted the many plants and shrubs and maintain them. Both enjoy the water sports and golf, Lin is in the 18-hole Ladies Golf Club and Bill participates with the seniors at Discovery Bay Country Club. Congratulations to the Lensons for their efforts at 5410 Beaver Lane. The Association appreciates your care and thanks you.

CALENDAR OF EVENTS

DBPOA MEETINGS

Regular Board meetings are held the second Tuesday of each month. (Except November's Meeting which will be on the first Tuesday of the month.)

Place: Delta Community Presbyterian Church
Located: 1900 Willow Lake Road in Discovery Bay
TIME: 7:00 P.M.

DERC MEETINGS

Meetings are held the 2nd and 4th Mondays of each month

Place: Delta Community Presbyterian Church
Located: 1900 Willow Lake Road in Discovery Bay
TIME: 8:00 P.M.

DISCOVERY BAY PARADE OF LIGHTS AND HOLIDAY FAIR December 4-5

Sponsored by the Discovery Bay Chamber of Commerce, Last year's event drew more than 3,000 attendees to the streets of Discovery Bay (DB). A lighted street parade starts at 6 pm at the DB Marina. Tree Lighting at 8 pm at the DB Shopping Center. Holiday Fair under 5,000 sq. ft. tent, plus games and bounce houses for kids outside (weather permitting) Saturday, Dec 4, from 10 am - 9 pm, and Sunday, Dec. 5, from 10 am - 4 pm. Contact 925-513-8226 for more info.

DISCOVERY BAY LIGHTED BOAT CHRISTMAS PARADE

December 11

Staged by the Discovery Bay Yacht Club, boats wind through alternate bays, especially colorful with many homes decorated, and ending at the clubhouse next to the yacht harbor. It begins at 5:30 pm in Lighthouse Bay. Advanced registration is necessary, and prizes are awarded for best decorated boats. Contact Art McSherry at 925-513-3540.

2004 Preliminary Financial Summary

Beg Cash Balances 10/01/2003	\$61,138
FY 2004 Income (Cash received)	\$117,950
FY 2004 Expenses (Paid)	\$104,653
Ending Balances 09/30/2004	\$74,435

2004/2005 Budget

Income:	\$42,000
Dues	\$10,000
Fines	\$ 6,000
Judgment Collections	\$1,900
Other Fees	\$3,000
Plan Review Fees	\$26,000
Transfer Fees (Doc, Trans & Demand)	<u>\$88,900</u>
Total Income	
Expenses:	
Collection Fees	\$4,000
Contract Staff	\$35,900
Fees, Permits & Services	\$820
Insurance	\$2,515
Office Supplies	\$5,000
Postage	\$6,800
Printing & Reproduction	\$10,500
Professional Fees (Legal, Acctg. Etc.)	\$27,000
Public Relations / Comm.	\$3,000
Rent - Meetings/Storage	\$3,208
Telephone	\$1,375
Total Expense	<u>\$100,118</u>
Other Income	<u>\$630</u>
Net Income	<u>\$10,588</u>

SIDEYARD VINYL-COVERED TENTS NOT IN COMPLIANCE

Some Association members have erected fabric-covered frames in their side yards, generally for the purpose of covering boats or vehicles which are parked there. These structures commonly come as "kits", and are available at stores such as Costco or Home Depot. When installed, they project two to three feet above the fence, are highly visible from the street, and look very "tent-like". They are not appropriate for Association properties and definitely detract from the appearance of the homes in our community. They are not approved for use on Association member properties unless the frame is lowered so the vinyl is not visible from the street.

If a member wants to have a canvas cover in the side yard, it must meet the same standards as boat slip canopies - tailored-looking, tight fitting with a valance that hides the frame, straight-pitched design, and a color that compliments the colors of the house. Full details of all types of conforming side yard structures are listed in the DERC Standards which can be viewed by going to the Association web site -www.discoverybay-ca.com, or calling the DERC Secretary at 634-5598 and asking for a copy of the Construction and Usage Standards. Your cooperation in this matter will really be appreciated.

DISCOVERY BAY STREET LANDSCAPING

As many of you know, the Town of Discovery Bay Community Service District Board had a landscape architectural firm prepare a new master plan for the public street landscaping in our community. We understand the Town's Board recently engaged the landscape architect to design construction plans for their Phase I of the Master Plan, a \$250,000 to \$300,000 project, for the entrance to Discovery Bay at Hwy. 4 and Discovery Bay Blvd., which includes a fountain/waterfall element. We prefer that money be spent on fixing what we have first.

The Town has an appointed committee called M-8 which administers the street lighting, landscaping and park landscaping for Discovery Bay. Several citizens of Discovery Bay attended the August M-8 meeting to inquire about the status of the phasing and funding for the Master Plan implementation, and to find out why the existing street landscaping has deteriorated to its existing deplorable condition. They were told that M-8 was not going to repair the existing broken irrigation system because it would be replaced when the Master Plan was constructed. When asked how long it would take to complete the installation of all phases of the Master Landscape Plan, the answer was "seven years." When asked if M-8 had estimated the cost of the complete Master Plan and predicted how long it would take to complete with the anticipated income (our taxes), the response was that they had not.

With this information in hand, a group of about 25 citizens attended the Discovery Bay Board meeting on September 1 to make recommendations regarding the existing landscaping and the future installation of the Master Plan landscaping. These concerned citizens recommended that the design of Phase I of the Master Plan be postponed until the analysis of the timeline and funding of the entire Master Plan is completed. Also, they wanted the repair and restoration of the existing irrigation and landscaping to be the top priority for our streets.

The Board agreed that they would have the M-8 Committee investigate the recommendation and have them report back to the Town Board.

At the October Town Board meeting, no M-8 report was given with the exception of saying that there was an opening on the M-8 Committee.

It seems fiscally irresponsible to proceed with the construction of a portion of the landscape Master Plan without having a complete analysis of the funding and timeline for construction. The possibility of having to wait seven or more years for our dead or dying landscaping to be replaced is unacceptable. To see an example of where 90% of the ground cover has been allowed to die, check out Clipper Drive between Discovery Bay Blvd. and Newport Drive, or just look at the landscape across from Discovery Bay Elementary School on Willow Lake Road.

In discussing the above status of our street landscaping, the DBPOA Board, at its meeting on October 4th, passed the following resolution which was given to each Town of Discovery Bay board member at their October 5th meeting: "The DBPOA Board is supportive of the Town of Discovery Bay in the plan to do long term major improvement to the community street landscaped areas. However, we strongly urge that the highest priority be given to properly repairing and maintaining the current landscaping. The second priority should be to proceed with long term plan improvements once our current landscaping has been brought back to an acceptable state."

Since these meetings, the landscape contractor, who was represented at the Town of Discovery Bay meeting, has made some progress. However, common sense things such as staking up our trees and replacing the many broken tree ties, as we head into our storm season, are not being addressed. We hope the Town Board will pass a meaningful resolution directing the M-8 Committee to fix our current landscaping before spending our tax money on waterfalls and other elements of the master plan.

We are the largest property owners' association in Discovery Bay, with over 1,600 members, and we can make a difference if we individually make our feelings known to the Town's Board. We are hoping the Town Board will do more than give us lip service and take positive action on their own initiative as they indicated they would.

NOTICE

STANDARDS AND PROCEDURES UPDATE

The Design and Environmental Review Committee (DERC) is charged with the responsibility of interpreting the CC&Rs, and clarifying any uncertainty that may exist with their provisions. Over the past years, DERC has given a considerable number of these "interpretations", and they are fully documented in the DERC Construction and Usage Standards. These Standards can be viewed on the Association's web site, discoverybay-ca.com. As further changes or updates are made, from time-to-time, they will be published in this Newsletter. The following is the latest update:

SECTION IV GENERAL USAGE STANDARDS SECTION J. SIGNS

There will be no night lighting of signs, other than low voltage light for house numbers.

A property owner surname and street address sign (e.g. SMITH 1000 STARFISH PLACE) is permitted on the rear of the house, or on the side of the deck or dock, facing the water, providing it has an attractive appearance and the lettering does not exceed four (4) inches in height.

(Change is noted by underlining.)

D.E.R.C. CANDIDATES

Interested in keeping Discovery Bay an attractive and desirable place to live?

Serving on the Design and Environmental Review Committee may be just the answer. The ability to read house plans and some landscaping knowledge would be helpful, but the only requirement is being a property owner within the DBPOA's boundaries. Members are appointed by the Board of Directors for a two-year term. If you'd like to be added to our list of candidates or would like some more information about the work, please call Vicki, the Contract Secretary, at 634-5598.

SOUTHWEST QUADRANT REPORT

The response to our opinion poll about allowing the Southwest Quadrant area of Discovery Bay to join our Homeowner Association was very successful. Over 20% of you responded with many written comments. The results were over 75% in favor of allowing them to join; with the predominant comment message being that reasonable CC&R enforcement for all of Discovery Bay would enhance all of our quality of life issues and probably our property values. The Board of Directors is now refining the details of what is to be expected as to the CC&Rs, and if there are other requirements that must be met in order for them to be annexed into our Association if they vote in the affirmative.

We would expect the homeowners in the Southwest Quadrant to begin working on the vote sometime this year, although it will be a big job and may take a while to be completed.

CC&Rs

The Association, through its governing documents, provides a framework for maintaining community standards which enables its members to live with mutual respect for each other and for their properties. They set guidelines that balance the rights of property ownership with the best interests of all property owners in the Association.

WATERSIDE ADDRESS SIGNS

Approved waterside address signs can be ordered from R & M Signs here in Discovery Bay. The signs have 4" black letters on a white 1/8" thick PVC backing material that has held up very well in our weather. Orders will be delivered, along with the stainless nails for attaching them.

Call Bob at 925-516-7447

SCHEDULE OF FINES & FEES

Fines for Violation of Governing Documents

The DERC is authorized to establish reasonable fines for commonly occurring violations of the Governing Documents. The following guidelines will be used for the imposition of fines in member disciplinary proceedings. However, alternative appropriate fines may be applied if the circumstances warrant a greater or lesser fine.

- (i) Fines for uncorrected violations of Declaration of Restrictions pertaining to architectural matters, property use, parking, or the maintenance of structures or landscaping (Declaration, Chapters 2 and 3) are as follows:
 - (ii) First violation: between \$50 and \$100 per month, or any portion of a month.
 - (iii) When a violation remains uncorrected for more than 30 days after the initial fine, an additional fine of up to \$100 per month may be levied. Additional increases in the fining rate (up to \$100 per month) may be made for each additional 30 days the violation remains uncorrected, up to a limiting total fine of \$300 per month.

Fee Schedule for DERC Plan Review

House and Dock (Submitted together)	\$125.00
House	\$100.00
Docks	\$50.00
Home Additions	\$50.00
Concrete Slabs and Other Concrete Work	\$10.00
Dock and/or Deck Extensions and Trellis Fence, and/or Landscaping, and/or Walkways, Sheds	\$10.00
Coverings for Berthing Areas	\$25.00
Swimming Pool	\$50.00
DERC Approval for Unapproved Construction	\$100.00
Application for Variance to CC&Rs	\$100.00
Application for Condition(s) of Use Permit	\$50.00

There will be no charge for review of plans for re-roofing and re-painting. A color sample must be submitted for all changes in color.

Fee Schedule for Annual Membership Assessment and Property Transfers

Annual Membership Assessment	\$ 25.00
Property Transfer Fee (Paid at the close of escrow)	
Documentation Fee	\$ 60.00
Demand Fee	\$100.00
Transfer Fee	\$100.00

VEHICLE PARKING

Non-compliance with the vehicle parking "rules" is far and away the greatest source of all the complaints received by the Design and Environmental Review Committee (DERC).

When the Covenants, Conditions and Restrictions (CC&Rs) were originally drafted, they were intended to limit the number of vehicles parked throughout the Association. Garages are required to hold two cars as a minimum. Driveway parking is essentially limited to cars and pickup trucks regularly used by the homeowners. The basic exception to this rule is that boats on trailers and boat trailers may be parked in the driveway if the overall height from the ground does not exceed six (6) feet to the highest part of the boat (ski towers are excluded from this measurement provided they are not canvas covered and presenting a large, unattractive appearance).

Parking that is not permitted, and is the source of most of the complaints, is: Trailers, that are not boat trailers, parked in the driveways
Vehicles "stored" (that is, very seldom used, and/or, not licensed) in the driveway
Vehicles not parked on approved concrete parking pads (that is, sitting over the landscaping or on graveled areas)
Recreational vehicles over six (6) feet high (which is almost all of them) parked anywhere on the property.
Vehicles parked in the front yard on the access drive to the side yard.

The complete parking rules can be viewed on the Association's web site, <http://www.discoverybay-ca.com>, under the CC&R's, Article 3.12, and in DERC's Construction and Usage Standards, Section IV-H. You can certainly help the Association in its efforts to maintain an attractive community by following the parking rules.

ATTORNEY RESPONSE TO FALSE ALLEGATIONS

On October 15, 2004 the Discovery Bay Press printed a letter to the editor that they received from Gus Meyner. The letter had many errors and misrepresentations and prompted this response from the trial attorney that represented the DBPOA.

Having been provided with a copy of Gus Meyner's Letter to the Editor, I am compelled to respond as Mr. Meyner has deliberately misstated and misrepresented the outcome of a lawsuit which he and his wife filed against the Discovery Bay Property Owners' Association and individual members of that Association. The result of that lawsuit is that the Meyners lost on each and every claim they made, and were ordered to pay the Association's and individual board members' litigation costs and expenses which total more than \$3,000.

Anyone who is interested in the true facts is invited to review the Judgment and Statement of Decision which are filed in the clerk's office for the County of Contra Costa. In so doing, they will find that the true facts are these:

1. The Meyners' "have not established, at trial, any invalidity as to the recorded CC&Rs." The recorded CC&Rs to which the court is making reference are the amended CC&R's recorded in 1985.

2. Even if the Meyners "were not 'members' the CC&Rs bind the realty whether the owner is, or is not, a member." In other words, the CC&Rs govern the property whether the owner of the property is a member of the Association or not.

3. "The CC&Rs do not allow for resignation."

4. "Further, the court concludes that the CC&R provision for unpaid dues being a lien upon the real property is effective and that the Association is authorized to enforce such liens."

5. Any action to amend the CC&Rs at this point "would be invalid unless it had the approval of the majority of **all owners** at Discovery Bay as required by the recorded CC&Rs."

Mr. Meyner demonstrates a complete disregard for the accuracy of the court record in his references to "wildcard recordings and CC&R's." As the court's Statement of Decision makes clear, the only "wildcard filing," is the "purported 'amendment' to the CC&Rs," recorded by Mr. Meyner. There is absolutely no reference or suggestion that the "wildcard filing" has anything to do with the amended CC&Rs. In fact, the entire decision is to the contrary.

Finally, Mr. Meyner's concluding statement that property owners have "no financial obligation to DBPOA unless they agree to contribute," is completely contradicted by the Judgment and court's Statement of Decision, as well as the fact that Mr. Meyner has been ordered to pay the Association's court costs of more than \$3,000.

Ropers, Majeski, Kohn & Bentley

Kevin Cody

LETTER TO THE EDITOR

Why are we allowing the ugly (in my opinion) white address signs to be put up on the back of waterside homes? I believe these signs cheapen the look of our homes.

-A Concerned Homeowner

Dear Concerned Homeowner:

The decision to allow the waterside address signs was primarily done for reasons of safety. Both the Fire and Sheriff's departments find them useful. We realize that not all homeowners will think them attractive, but after careful review the decision was made for safety reasons. A modification of the sign standard was adopted in September and is reported elsewhere in the newsletter.

LET'S MOVE IN A NEW DIRECTION

The DBPOA is actively trying to reduce the cost of printing and mailing the newsletter. With current technology and use of the internet, we feel it may be useful to have members receive the newsletter electronically via e-mail, or an alternative way to read the newsletter would be to get it on-line via the web site. We would love to migrate from mailing hard copies of the newsletter out and get to a more current form of communication. Let me know what you think. Letters to the Editor from members in good standing, on subjects of interest to the members, may be submitted to this address. Letters must be signed, but names will be withheld from publication upon request. We reserve the right to not publish any letter submitted and to edit those published for brevity and content. Bill.honeycutt@hp.com

Discovery Bay Property Owners' Association, Inc
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ADDRESS CORRECTION REQUESTED