SOUTH COAST HOMEOWNERS ASSOCIATION

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IN THIS ISSUE

SOUTH COAST HOA 20TH ANNIVERSARY MEETING

In January 1989, the first South Coast HOA meeting was held after a fall 1988 mailing to area associations indicated an interest in forming such a group. Twenty years later, it is our mission to continue to provide current, relevant and useful information to help volunteer board members manage and operate their homeowner associations. While much has changed in the past 20 years, many of the same issues and concerns that existed then, exist now.

2009 Law and Legislative Update

Date – Wednesday, January 28, 2009

Time – 6:30 – Registration/Catered Hors D'oeuvres and Desserts
7:00 – Program

Place – Encina Royale Clubhouse
250 Moreton Day Lane, Goleta (Hwy 101 at North Fairview Exit)

Speakers – James Smith, Esq., Grokenberger & Smith, Attorneys at Law
David Loewenthal, Loewenthal, Hillshafer & Rosen

Come early to enjoy some extra special treats and an opportunity to network and socialize. Our attorneys will cover new state laws that are effective in 2009, significant court cases from

2008 and other legal topics of current interest. We will leave some time for our popular moderated question and answer session. These annual updates are among our most popular and well-attended programs. Mark your calendars. No cost to attend. Door Prizes!

SOUTH COAST HOA – 20 YEARS LATER

By: Michael J. Gartzke, CPA
Founding Member

In the fall of 1988, founding member Jim Smith, then of the law firm of Eckert, Smith and Tyler hosted a meeting with Ed Attlesey of State Farm Insurance, Sandra Foehl, property manager and Michael Gartzke, CPA to discuss what kind of educational services could be provided to volunteer board members in our community. A letter was sent to over 100 area associations seeking their interest in the concept. Your response was overwhelming and the first South Coast HOA meeting was held at the Goleta Library on January 26, 1989. Our first program dealt with banking and protecting association funds with the Goleta branch manager of Montecito Bank & Trust. Our second meeting, in March, dealt with the issue of water conservation as a result of a drought and the Goleta Water Board's consideration of water rationing and penalties for usage above the limit. The following year, the district imposed water rates for commercial meters (such as HOA irrigation meters) at 4 times the rate for a residential meter. South Coast HOA members attended Water Board meetings, sent letters and met with water board members about the unfairness of the new rate structure. Several months later, the rates were rolled back, retroactively, and many associations received substantial refunds as a result of your efforts. South Coast HOA was off and running!

In reviewing some of the archival material for South Coast (I have lots, unfortunately, not too well organized), there were some interesting comments. In an article which appeared in the weekly *Goleta Sun,* on February 15, 1989, I was quoted:

"We proposed a number of study areas, including changes in the law; the responsibilities of association directors; handling reserve funds and how to find good contractors". Twenty years later, these issues are still as relevant and are not going away.

"These organizations (HOAs) are fairly new animals. Many of them are less than 10 years old. So for many of them, as their projects get older are running into problems that they had not prepared for." So now, 10 year-old associations are now 30 and there are still problems that come up that associations have not prepared for. Now, more than ever!

"(we) hope to help associations avoid the need to make choices that aren't very attractive by selling the idea of making monthly assessments high enough to take care of unanticipated future needs". And 20 years later, the battle continues… Setting the appropriate monthly assessment remains a core issue for many associations. We have run numerous articles over the years on this topic.

"At this point, we do not perceive ourselves as being a political-type organization". Oops! Over the years, we have had to get involved in the political process. The Legislature considers and passes a lot of new legislation each year to regulate the operation of your association. We have met with elected representatives, most recently with Assemblyman Nava regarding earthquake insurance. Board members have had their own meetings, written letters to legislators and newspapers to publicize issues with proposed legislation. We have

worked with lobbyists on behalf of HOAs. Since 1994, we have included a copy of the *Condominium Bluebook*, an HOA law reference, as part of your subscription. Currently, a portion of your dues is remitted to the California Legislative Action Committee (CLAC), a part of the Community Association Institute (CAI), that provides legislative advocacy services on behalf of California HOAs.

In the February 1990 issue of the newsletter, attorney Jim Smith noted "*many boards will spend an inordinate amount of time on "trivial" items. Priorities need to be shifted to compliance with the CC&Rs and the Civil Code"*. The more things change……….

Several times over the years, we conducted detailed surveys on association issues. I was truly amazed as to the high levels of responses we received on the surveys which required a good deal of time to complete. Some of the questions were repeated and the results were always the same. No change over time. We've done some full day training seminars to help volunteer board members become better educated about their rights and responsibilities. In addition to the Bluebooks, we have sent numerous publications to you such as Department of Real Estate Publications and books dealing with common questions about HOA operations and management.

In addition to our local professionals, numerous speakers from Northern and Southern California have traveled to the South Coast to share information on a wide variety of legal, operational and management subjects of current interest to board members. The efforts of the South Coast HOA volunteers are known throughout California. With our website (www.southcoasthoa.org), we get an occasional out-of-state inquiry. We even had a member in Guam for a short time.

We have developed good relations with California HOA educational organizations such as ECHO (Executive Council of Homeowners) and CAI and receive permission to run articles which have appeared in their magazines and journals. Some of our articles have run in their publications as well. This reciprocal arrangement has been most beneficial to South Coast members. Information about these organizations appear at the end of each newsletter and links to their websites are on our site.

The basic concept of South Coast HOA remains the same as it did 20 years ago – to provide educational opportunities for volunteer board members that could not be found anywhere else in our community. For professional members, the ability to consolidate information in one place (our newsletter and now our website) allows information to be more easily distributed to HOA volunteers. We have seven years' newsletters on our site that can be searched, downloaded or printed.

Seventeen associations joined South Coast HOA in 1990. (1989 was a free year) Of those 17, 15 of them are still members. Now, nearly 150 associations are members. Nearly, all are in Santa Barbara County. In addition, we have over 40 professional members.

The founders are all 20 years older and still active with HOAs in our respective vocations. It does not appear that the need for board member education is going away soon. What will the next 20 years bring? On a personal note, I hope an active retirement! Thanks to all for your continued support.

HOA FINANCIAL DATA ANALYSIS
THREE-YEAR COMPARISON – 2004-2007

By: Michael J. Gartzke, CPA

In September 2005, my sons and I created a financial database of information contained in historical financial statements reviewed by me from 2004 and fiscal 2004-05. Over the past three years, I have updated the information contained in the database each time a financial statement was reviewed. During this period, I have analyzed this information and reported upon it in past issues of the South Coast HOA newsletter with the objective of helping us to better understand the dynamics of association finances. The initial database started with 51 associations. Fourteen associations have been added in the last three years and two have been removed so now there are 63 associations in the database; 95% of which are in South Santa Barbara County (Goleta – Carpinteria).

For purposes of the 3-year comparison, only the associations in the database at the beginning are included in the analysis. Thus, the two that have changed CPAs have also been excluded leaving 49 area associations totaling 3,940 dwelling units are included in the analysis. The associations range in size from 8 units to 360 units and include condominiums and planned developments. 2007 and fiscal 2008 data is used since calendar year 2008 data is not yet available for this analysis.

For purposes of comparing changes to the Consumer Price Index (CPI), I chose the Los Angeles-Riverside-Orange County – All items comparing June 2004 with June 2007 (the mid-points in the 3-year periods under analysis). During this 3-year period, the CPI increased **12.26%** or just under 4% per year compounded.

Median Total Monthly Assessment - $285 (2004)
$350 (2007)
$ 65 Increase
25.6% Increase

Three associations saw their total assessment **decrease** during the three year period. But in each case, the association's CC&Rs were amended to transfer the costs of insuring the members' homes from the Association to the owner. One association kept their assessment the same. The remaining 45:

$ 1 - $ 25 increase – 6
$25 - $ 50 increase – 9
$51 - $100 increase – 20
Over $100 increase - 10

(FYI: The most recent data from more recent association financial reviews indicates the Median Total Monthly Assessment is $377/month)

Median Monthly Operating Assessment - $215 (2004)
$272 (2007)
$ 57 Increase
26.5% Increase

Five associations saw their operating assessments decrease. The three noted in the total monthly assessment section previously plus two additional ones. The other two had overall assessment increases, more to reserves and less to operating. Of the remaining 44 associations, their operating assessments per unit changed as follows:

$ 1 - $ 25 increase – 12
$25 - $ 50 increase – 9
$51 - $100 increase – 16
Over $100 increase - 7

Median Monthly Reserve Assessment - $ 72 (2004)
$ 81 (2007)
$ 9 Increase
12.65% Increase

While the median monthly reserve assessment only increased 12.65% (essentially in tandem with inflation), overall dollars assessed for monthly reserve contributions increased by 23%. 11 associations saw their reserve assessment decrease while 37 increased. It is a concern that nearly one fourth of the associations funded less to reserves in 2007 than in 2004. This could be indicative of the economic and peer pressure to hold the line on assessments. Of the 37 associations funding more into reserves than three years ago, their reserve assessments per unit:

$ 1 - $ 10 increase – 9
$11 - $ 20 increase – 10
$21 - $ 25 increase - 3
Over $ 25 increase - 15

Median Cash Balances per unit - $2,663 (2004)
$3,469 (2007)
$ 806 Increase

In a positive sign, total median cash per unit in each association increased by $ 806 during the three years. But this could also mean that collectively, this group of associations did not incur as many reserve expenses during the recent three-year period as they will in the next few years. 32 Associations (65%) saw their cash balances increase during the three year period while 17 showed a decline. Cash balances per unit, however, represent less than 1% of the market value of the units overall.

Median Assessments Receivable per unit - $16 (2004)
$44 (2007)
175% Increase

As a sign of the decline in the real estate market and the economy, associations overall are finding it more difficult to collect assessments. Some associations are more heavily impacted than others and the disparity between associations is huge. In 2004, the maximum owed per unit by any association was $145; in 2007, it was $402 (example – 50 unit association at $402 would have $20,100 in unpaid monthly assessments). Note that this data does not yet include the 2008 time period in which foreclosures multiplied, so these numbers are only going to go higher. That said, the 2007 data showed 18 units had a decline in assessments receivable while 31 showed an increase. Areas such as South Santa Barbara County tend to be less impacted (so far) in foreclosures than other areas of California. Entry-level associations and newly constructed associations are the most vulnerable as subprime loans and low (or no) down payment loans are more prevalent in these associations.

Of the 31 associations with more delinquent assessments than 3 years ago, the amount per unit increase from 2004 was as follows:

$1 - $ 25 increase – 20
$25 - $ 50 increase – 3
$51 - $100 increase – 1
Over $100 increase - 7

Operating Fund Balance – The operating fund balance is computed as the net operating assets (operating cash, assessments receivable, prepaid insurance and other expenses, etc.) less the operating liabilities (accounts payable, prepaid assessments, due to reserve fund, etc.) that appears on the balance sheet. Overall, total operating fund balances for all 49 associations went down by $93,000 (average $1,898 per association) or nearly 8%. When you consider that assessments receivable, a component of the fund balance, went up over $93,000, operating cash declined significantly during the 3-year period. (If all other assets and liabilities were the same, operating cash would have decreased by $186,000, or an average of $3,796 per association). 28 Association saw their operating fund balance decrease while 21 Associations showed an increase.

Reserve Fund Balance – 16 Associations had a decrease in their reserve fund balance while double that, 33, showed an increase. The median reserve fund balance per unit increased $607 from $2,519 to $3,125, an increase of 24%. In that time, construction costs (for which reserve funds are typically used) have increased significantly. The rate of inflation as applied to HOA contractor costs is different than the standard CPI. So the increase in reserve funds may have only kept up with inflation.

Interest Income – In one of the most dramatic changes from 3 years ago, associations increased their return on savings and investments. In 2004, interest rates on CDs and savings hit historical lows, less than 2%. Rates subsequently increased to as high as 5% - 5.5% and are currently around 3%. Short-term rates are lower, some longer term CD rates are around 4%. The current volatility of the financial markets suggest that rates could come back down as people flee riskier investments for those that appear safer. The following table shows the rate of returns from 2004 to 2007.

	2004	**2007**
0 – 2%	45	11
2 – 4%	3	25
4% +	1	13

Utility Costs – Utilities are a function of rates and usage. Water usage can be affected by weather. Rates for government utilities such as trash and water do not decline. Gas and electric rates are affected by market fluctuations. The median amount of utility costs increased $ 9 per month per unit, from $ 61 to $ 70 per month during the 3-year period, or 15%. 45 associations saw their utility costs increase while only 4 saw a decrease. The associations showing an increase in utility costs:

$ 0 - $ 10 increase – 26
$ 11 - $ 20 increase – 10
$ 21 - $ 25 increase – 4
Over $ 25 increase - 5

Of the 9 associations showing a utility increase of more than $20 per unit, 4 were in Carpinteria where water rates have increased dramatically in the past three years.

Maintenance Costs – Overall associations spent 17% more on day-to-day maintenance and common area expenses such as gardening and repairs not charged to the reserve fund. The median increase however, was only $5 from $91 to $ 96 per unit per month. 14 associations spent less in maintenance than 3 years ago while 35 spent more. Of those showing an increase in maintenance costs:

$ 0 - $ 10 increase – 10
$ 11 - $ 20 increase – 13
$ 21 - $ 25 increase – 4
Over $ 25 increase - 8

Insurance – It has been documented previously how insurance costs have increased in recent years. Costs had started to rise before 2004 and continued through 2007. 7 associations had lower insurance costs than in 2004. Several of these associations transferred responsibility for dwelling insurance to their members via CC&R amendment. A couple stopped their earthquake coverage. 42 associations (86%) had their median insurance costs increase $18 per unit per month from $ 44 to $ 62 (41%). For those whose premiums increased:

$ 0 - $ 10 increase – 10

$ 11 - $ 20 increase – 10
$ 21 - $ 25 increase – 6
Over $ 25 increase - 16

General and Administrative Expense – These costs include management and professional fees, office, postage and printing and income taxes. Income taxes are paid on interest income and other nonmembership income. Interest income in the total sample increased over $250,000 from 2004 – 2007. The median increase was $6 per unit per month. Only 6 associations saw a decrease in their administrative costs while 43 saw an increase. For those with an increase:

$ 0 - $ 10 increase –29
$ 11 - $ 20 increase– 9
$ 21 - $ 25 increase – 2
Over $ 25 increase - 3

Reserve Fund Expenditures – For many associations, these costs fluctuate from year-to-year. Some years, a lot of major repairs are undertaken; other years are relatively quiet. Nearly 75% of the associations, 36 of 49, spent more from reserves in 2007 than three years earlier. 13 associations had lower expenditures in 2007. In 2004, the median amount spent from reserves was $41 per member per month. In 2007, it had increased to $79, an increase of 93%. As shown in the association's reserve study, 3 associations had lower replacement costs than in 2004. In all three cases, CC&Rs were amended by the members to transfer some maintenance responsibilities from the association to the unit owners. 39 showed increased costs and 7 were still using the same reserve study results from three years ago, showing no change.

Conclusion – The results of this analysis are dramatic. Association costs do not tie directly to the CPI but must be analyzed on a line item basis. Assessments have had to be increased substantially just to keep up with increasing costs, even though in some cases, there is considerable pressure to hold the line on assessments. It is important to analyze costs as objectively as possible. Cutting costs is a laudable objective, however, in real life, it is much more difficult than it appears.

You are welcome to share this information with your Association, should you find it useful. Please note the source of the information in your disclosure – Michael J. Gartzke, CPA, South Coast HOA, January 2009. Thank you.

BOOKS FOR SALE AT SOUTH COAST HOA

We have a number of the *2009 Condominium Bluebooks* in stock – Now $18/each – a $5 savings – tax and postage included. Consider having copies for your entire board and/or your association's reference library.

In addition, we have a few copies left of the *Condo Owners Answer Book* by attorney Beth Grimm. A copy was distributed to each association and professional member in July. These are available for $18/each tax and postpaid.

TAX REPORTING AND FILING DEADLINES

The start of the new year is here and that means it's tax time again. Here is a brief summary of the tax reporting and filing requirements for your association. For further information, contact your association's CPA or accounting professional.

1099s: Associations, like all other businesses, are required to file 1099 forms by January 31 for payments made during the previous calendar year. This is true even if the association has a fiscal year end other than December 31. If you pay $600 or more during the calendar year to a "noncorporate service provider", then you are required to issue a 1099-MISC to that service provider. Common service providers to associations include attorneys, managers, accountants, contractors, gardeners, pool service, handymen, etc. Corporate service providers are exempted from receiving 1099s. How can you tell? If the business has the words "inc." or "corp." in its name, then it is a corporation. The word "co" (for company) does not specify a corporation. The 1099 form must show the service provider's name, address, and tax identification number (either social security or employer ID number) along with the amount paid during the calendar year. Copies are submitted to the service provider by January 31 and are due to the IRS by February 28 (the delay is to allow for corrections that may arise).

Independent Contractor Reporting: Eight years ago, California law was changed to require businesses that use individual independent contractors to report *"…within 20 days of the earlier of first making payments that in the aggregate equal or exceed $600 in any year to a service-provider, or [within 20 days of] entering into a contract or contracts with a service provider providing for payments that in the aggregate equal or exceed $600 in any year"* to the California Employment Development Department. (California Unemployment Insurance Code)

This law is intended to locate "deadbeat parents" who are receiving payments other than wages to be able to garnish them quickly to meet child support obligations. You use many of your contractors on a continuous basis so January is a good time to report them to the California EDD. Reporting is done on form DE-542 (available at www.edd.ca.gov) and can be mailed or faxed to the EDD. What is troublesome about this law (yes, there are penalties for failure to file) is that reporting can be required at any time during the year, not just once a year or quarterly. For example, you hire a painter on May 15 and sign a contract for a $5,000 job. Reporting would be required by June 4, even if no payments had yet been made. The reporting deadline is 20 days after signing the contract.

Employment Tax Returns: For those associations that hire employees, Federal form 941 and California form DE-6 are due 30 days after the end of each calendar quarter. Tax payments are due semi-weekly, monthly or at the filing date, depending upon the amount owed. Annual tax reports (Federal W2, 940; California DE-7) are due January 31.

Federal Income Tax Returns: All associations, no matter how small, must file a Federal Income Tax Return 2 ½ months after the end of its fiscal year. For calendar year associations, the due date is March 15 although it can be extended for 6 months by filing an extension form. Associations may elect to file Form 1120H or the standard corporate form 1120.

California Income Tax Returns: California Form 100 is also due the same time as the Federal returns. While most associations have "tax-exempt" status with the State of California, nonmembership income such as interest is taxable. If the association has more than $100 in nonmembership income, then a return is required. Failure to file Form 100 when required can result in significant penalties and interest if tax is owed and can also result in the suspension of the corporation by the State.

California Exempt Organization Return: Form 199 is required of all tax-exempt associations that receive $25,000 or more in revenue from any source (assessments, etc.) It is due 4 ½ months after year-end but can also be extended. A $10 filing fee is required annually. Failure to file this form when required can result in an additional $55 in penalties plus interest. Corporate powers can also be suspended for failure to file this form as well.

Estimated Tax Payments: If the association pays income taxes on its nonmember income, then it may be required to pay estimated taxes quarterly to avoid an estimated tax penalty. For Federal, estimated tax payments are required if taxes are $500 or more. The state has no minimum. Federal tax deposits are made to your bank using a Federal Tax Deposit coupon or electronically through the EFPTS system (at www.eftps.gov) while state taxes are paid by check and mailed using form 100-ES. Estimated tax payments for calendar year associations are due April 15, June 15, September 15 and December 15.

Secretary of State Biennial Filings: The Nonprofit Corporation Statement of Information (SI-100) and the Statement of Common Interest Development (SI-CID) are required to be filed with the Secretary of State every two years. These are not tax forms, however, failure to file them with the Secretary of State can result in the suspension of corporate status. Filing fees are $20 for the SI-100 and $15 for the SI-CID. Since the forms are required only every two years, the due date is tied to the association's incorporation month, not its fiscal year, and since they are not tax forms, it is common for this filing to be overlooked if the association's mailing address has changed. The state does allow for interim forms updating information during the two-year period to be filed without the payment of an additional filing fee. Fill-in forms are available on line at www.ss.ca.gov

TREASURY BILL RATES

In the current financial markets, interest rates paid by banks have gone way down in recent months. Some associations will also invest in US government Treasury bills and notes. As published in the Los Angeles Times via the Associated Press, here were the yields on Treasuries as of Tuesday, December 9, 2008.

3-month – 0.01% ($10 annual interest on $100,000 invested)
6-month – 0.24% ($240)
1- year - 0.44% ($440)

2 - year - 0.84% ($840)
5 – year - 1.61% ($1,610)
30 – year – 3.07% ($3,070)

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