



## *what aren't they telling us and why?*

### **What did the KPOA lawyer really say?**



In the president's message of the November 2009 issue of the Kala Pointer, she wrote: "the (KPOA) lawyer states that our committees were in compliance with our CC&Rs. All committees concerned with tree requests

are quite cognizant of and are very careful in following the rules...". However, the Tree Committee is continuing to enforce its imagined authority to control the trimming of trees on member's lots while KPOA is illegally blocking member access to written legal advice on the subject members have paid to obtain.

**This alleged lawyer's statement of committee compliance directly conflicts with an earlier statement by the KPOA lawyer** which states: "Other than the power given to the ACC under the Master declaration Article IV Section 9 to order the pruning of vegetation that interferes with view, I do not believe that the Governing Documents have any provision restricting member's ability to trim trees."

**KPNV contributors and interested members have made several denied requests to the Association,** to the General Manager and the Administrative Assistant, for a copy of the lawyer's written correspondence: a "record of the association" because of the apparent conflict with the lawyer's earlier statement. These requests have been denied on the basis that the Association does not have to disclose communications with legal counsel outside of actual litigation, despite what the law actually says:

**Chapter 64.38.045 Financial and other records — Property of association — Copies — Examination — Annual financial statement — Accounts.**

*(2) All records of the association, including the names and addresses of owners and other occupants of the lots, shall be available for*

*Continued on next page*

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### Editorial Staff:

Jay Burcham:  
JayShirl@aol.com  
Don & So Sae Meister  
dm34ss@earthlink.net  
Camille Wood:  
camilleinpt@yahoo.com

Articles without a byline are presented by the editorial staff.

*Continued from front page*

*examination by all owners, holders of mortgages on the lots, and their respective authorized agents on reasonable advance notice during normal working hours at the offices of the association or its managing agent. The association may impose and collect a reasonable charge for copies and any reasonable costs incurred by the association in providing access to records.*

The only exception to member unlimited access to all records is addressed in Washington State law, RCW 64.38.035; Association meetings-Notice-Board of Directors states in part the following:

*“...the board of directors may convene in closed executive session to consider personnel matters; consult with legal counsel or consider communications with legal counsel; and discuss likely or pending litigation, matters involving possible violations of the governing documents of the association, and matters involving the possible liability of an owner to the association.”*

**The restrictions under which records may be kept secret from members by KPOA are very clear and limited under the law. None of the enabling circumstances apply in this case.**

**There is no known record of any board vote for or notice of a closed executive session** to discuss the subject lawyer’s statement apparently addressing the boundaries of KPOA authority. The statement was brought up during an open regular meeting of the board. Why then the secrecy concerning the content of the statement? What is it the board doesn’t want the members to know? How is it that the board believes that they can

violate state law by withholding association records from members?

**The conflict between the two statements of the KPOA lawyer needs to be resolved openly for all members, not cloaked in unnecessary secrecy.** We are supposed to be entitled to open governance for most matters which the Association has dealings. It is often legitimate to discuss personnel and actual litigation matters in closed session. But is it legitimate to keep from the members attorney statements that deal with member rights and the restriction of Association authority? Why is the Association hiding information and blocking member visibility of a legal opinion which apparently was never thought to be a necessary subject of a closed session of the board? This same illegal record withholding and abuse of board executive secrecy powers has resulted in successful litigation against the association in the recent past.

**We appeal to the board to be open in its governance and to follow the law regarding records disclosures.**

Illegal, abusive secrecy can only foment suspicion and aggravate an already divided community with respect to equal and appropriate

treatment of all the members of the community by the association as evidenced by the actions of the board and its committees.

“Other than the power given to the ACC under the Master declaration Article IV Section 9 to order the pruning of vegetation that interferes with view, I do not believe that the Governing Documents have any provision restricting member’s ability to trim trees.”

## from michelle at evergreen fitness center

### **Commandment #4:**

**Thou shall not over consume caffeine; limiting my intake and the time of day it is consumed.**

#### **Caffeine: How much is too much?**

If you rely on caffeine to wake you up and keep you going, you aren't alone. Caffeine stimulates the central nervous system, alleviating fatigue and increasing wakefulness.

For most people, moderate doses of caffeine — 200 to 300 milligrams (mg) or about two to four cups of brewed coffee a day— aren't harmful. But some circumstances may warrant limiting or even ending your caffeine routine. Read on to see if any of these apply to you.

When to consider cutting back...

#### **'Grande' is your middle name**

Though moderate caffeine intake isn't likely to cause harm, too much can noticeably affect your health. Heavy daily caffeine use — more than 500 to 600 mg a day, or about four to seven cups of coffee can cause:

- Insomnia
- Nervousness
- Restlessness
- Irritability
- Nausea or other gastrointestinal problems
- Fast or irregular heartbeat
- Muscle tremors
- Headaches
- Anxiety

#### **Even a little makes you jittery:**

Some people are more sensitive to caffeine than are others. If you're susceptible to the effects of caffeine, just small amounts — even one cup of coffee or tea — may prompt unwanted effects, such as anxiety, restlessness, irritability and sleep problems. How you react to caffeine may be determined in part by how much caffeine you're used to drinking. So, people who don't regularly consume caffeine tend to be more sensitive to its negative effects. Other factors may include body mass, age, smoking habits, drug or hormone use, stress and health conditions such as anxiety disorders. Well, that includes most of us! Sex may even play a role: Research suggests that men are more susceptible to caffeine than are women. Sorry men.

#### **You're not getting enough sleep:**

Most adults need seven to eight hours of sleep each night. But caffeine can interfere with this much-needed sleep. Chronically losing sleep — whether it's from work, travel, stress or too much caffeine — results in sleep deprivation. Sleep loss is cumulative, and even small nightly decreases can add up and disturb your daytime alertness and performance.

**If you're like most adults, caffeine is a part of your daily routine.** But do you know the caffeine content of your favorite beverages? And did you know that some sweets and even over-the-counter medications have caffeine? You may want to take a closer look at just how

*Continued from previous page*

much caffeine you get in a typical day, especially if you're bothered by headaches, restlessness or anxiety. If your caffeine habit totals more than 500 to 600 milligrams a day, you may want to consider cutting back.



On the right, I have listed the amount of caffeine, in milligrams contained in coffee & other items. The actual caffeine content of the same coffee drink can vary from day to day — even at the same coffee shop — because of factors such as roasting and grinding, as well as brewing time. The caffeine content of tea also is affected by how long it's brewed.

**If you like to talk about more information on this subject** or joining a fitness center, you can reach Michelle West at: 385-3036, evergreenfitness@qwestoffice.net, or visit the

Website at:  
[www.evergreenfitness.net](http://www.evergreenfitness.net)

Evergreen Fitness Center, "We're just around the corner!"

<b>Coffee</b>	<b>Milligrams</b>
Generic brewed, 8 oz (240 ml)	95-200
Generic brewed, decaffeinated, 8 oz (240 ml)	2-12
Generic instant, 8 oz (240 ml)	27-173
Generic instant, decaffeinated, 8 oz (240 ml)	2-12
Starbucks Espresso, 1 oz (30 ml)	58-75
Starbucks Vanilla Latte, 16 oz (480 ml)	150
 <b>Brewed tea</b>	
Black tea, 8 oz (240 ml)	40-120
Black tea, decaffeinated, 8 oz (240 ml)	2-10
Stash Premium Green, 6 oz (180 ml)	26
 <b>Iced Tea</b>	
Generic instant mix, unsweetened, 1 tsp (5 ml)	27
Lipton Brisk Lemon Iced Tea, 12 oz (355 ml)	7
Nestea Iced Tea, 12 oz (355 ml)	26
Snapple Plain Unsweetened, 16 oz (480 ml)	18
Soft drink, 12 ounces ( <b>355 milliliters</b> )	
7Up, regular or diet	0
Barq's Root Beer, regular or diet	23
Coca-Cola Classic	35
Coca-Cola Zero	35
Diet Coke and Diet Coke With Lime	47
Mountain Dew, regular or diet	54
Pepsi, regular or diet	36-38
 <b>Sports or energy drink</b>	
Monster Energy, 16 oz (480 ml)	160
 <b>Candy and gum</b>	
Foosh Energy Mints, 1 mint	100
Hershey's Milk Chocolate bar, 1.55 oz (43 g)	9
Hershey's Special Dark Chocolate bar, 1.45 oz (41g)	31
 <b>Ice cream</b>	
Ben&Jerry's Coffee Heath Bar Crunch, 8oz (208g)	84
Haagen-Dazs Coffee ice cream, 8 oz (212 g)	58
Starbucks Coffee ice cream, 8 oz (200 g)	50-60
 <b>Medication</b>	
Anacin, Maximum Strength, 2 tablets	64
Excedrin, Extra Strength, 2 tablets	130
NoDoz, Maximum Strength, 1 tablet	200

# Kala Point News & View Survey

## BMAC BLUFF COMMITTEE

Due to the many concerns from homeowners regarding their inability to maintain their views as afforded by the CC&Rs we have decided to do a survey to determine the concerns and feelings of the community regarding this issue.

**INSTRUCTIONS: Complete the enclosed postcard & mail to: KIN, P.O. Box 816, Port Hadlock, WA 98339 by Dec 31st - 28 cent postage required!**

FOLLOWING IS AN EXAMPLE OF THE SURVEY FOUND ON THE ENCLOSED POSTCARD.

**Keep this page for your records for future reference to compare the results with other Kala Point Homeowners:**

1. Do you have a marine view controlled by the BMAC committee?

YES\_\_\_ NO\_\_\_

2. Do you think 3 years between opportunities to address a view maintenance issue is excessive given that fir trees can grow in excess of 5 ft in one year?

YES\_\_\_ NO\_\_\_

3. Do you think that one year of bureaucratic processing for a view maintenance request is excessive?

YES\_\_\_ NO\_\_\_

4. Do you think that a routine rejection rate of approximately 50% for maintenance requests is excessive?

YES \_\_\_ NO\_\_\_

5. Do you think that a home owners ability to maintain their view per the CC&Rs is critical in maintaining their property value?

YES\_\_\_ NO\_\_\_

6. When buying into Kala Point did you believe (and rely on that belief in your purchase) the CC&Rs would protect your property value by providing you the ability to maintain your view?

YES\_\_\_ NO\_\_\_

7. From your experience in Kala Point do you feel that has been true?

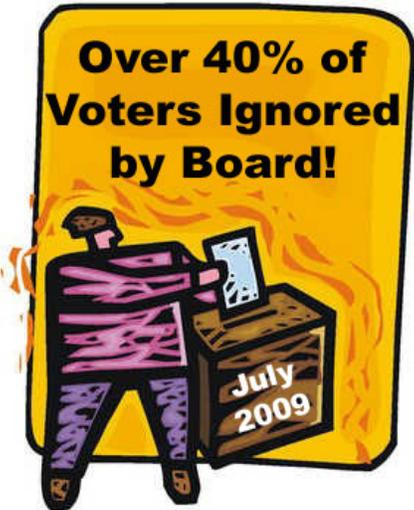
YES\_\_\_ NO\_\_\_

8. Knowing what you know now would you buy view property in Kala Point again?

YES\_\_\_ NO\_\_\_

# heard here and there:

■ The trees resolutions received approximately 40% of the votes of Kala



Pointers. The Kala Point Board members were 100% against the trees resolutions. It appears that the members on the board are not a representative cross section of Kala Point.

■ While the tree committee is doing a great job of trying to do the right thing, what is the right thing and by whose definition? The majority of the people on the Tree Committee appear to be 'tree huggers'. Is it possible the name 'Tree Committee' attracts people who are deeply committed to saving trees? What would happen to the committee if the name was changed to 'View Maintenance Committee'? It might draw people with a completely different idea of the 'right thing'.

■ The finance committee recommended upgrading security for storage lot B but to have just members who had lot B spaces pay for it. The board directly opposed this recommendation and voted for a measure which required any increase in security to storage lot B be paid for by all people in Kala Point.

The General Manager, after researching the issue, came up with the plan to install cameras at a cost of \$16,000. At the November 10<sup>th</sup> board meeting a finance

committee representative, gave a presentation complaining of the high cost of the security upgrade and the cost being born by all of Kala Point. After much discussion the board voted to stop the process of purchasing the cameras and put the project on hold.



The board will take a second look at a complicated problem

and for now has postponed the expensive security upgrade.

22 Tahlequah Lane, Port Townsend, WA 98368  
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*neighbor-to neighbor classified ads*

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*infraction?*

**Membership Agreement Discrepancies**

**Have you signed Exhibit “C” to Master Declaration of the Kala Point Owners’ Association Amended 01/18/2000?**

The top of the form states:

“IMPORTANT: THE FAILURE TO EXECUTE THIS MEMBERSHIP AGREEMENT MAY RESULT IN THE SUSPENSION OF SOME OR ALL OF YOUR RIGHTS AND PRIVILEGES AS A MEMBER OF THE KALA POINT OWNERS’ ASSOCIATION”

**We have a list provided by KPOA in 2006 where over 50 homeowner’s had not signed the document** and at least 41 of them transferred ownership AFTER 1/18/2000, when the Master Declaration was amended. Could it be that they were never provided with the form? When and how should that occur? How would a newcomer possibly know about the form?

**If you are paying your annual assessment,** can the missing form be used to revoke your right to vote and to use Kala Point amenities?

**What are your thoughts about this matter?** If you'd like your response published, please let us know.



*walking/hiking club*

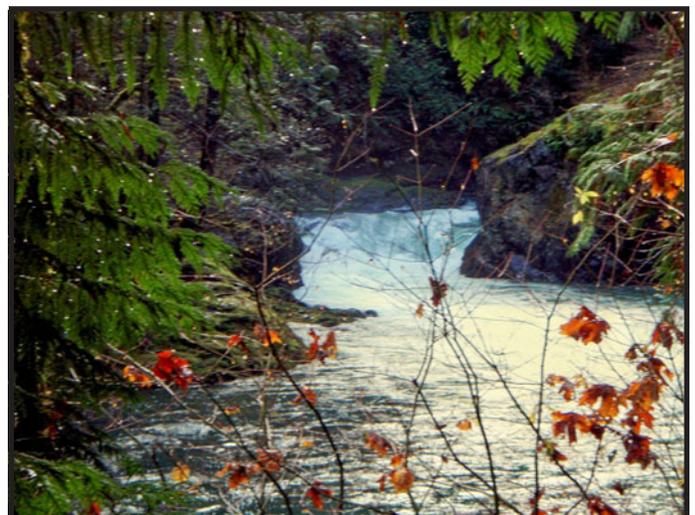
**Get Your Name On The Hiking Email List!**

**Our mild climate in the Pacific Northwest** allows

hiking as an activity that can be enjoyed all year long. This is the time of year when we enjoy the “River Hikes” where the trail follows the lowland rivers with spectacular river and waterfall views.

**If you would like to be put on the hiking email list** to receive hiking schedules and information, contact Allen Vaa at [allenvaa@hotmail.com](mailto:allenvaa@hotmail.com).

**Hikes are usually on Wednesday at 9am** but longer hikes can start at 8am so you will need to check for different start times.



Recent hike to Ranger Hole on the Duckabush River

## *the view issue revisited, again*

### **Definitions, Responsibilities, Authorities and Practices**

The Tree Committee briefs reported in the November 2009 Kala Pointer stated:

“...the Tree Committee is not empowered to do view *creation*. The Architecture Committee *establishes* the view when a lot is being developed and the Tree Committee is then responsible for *maintaining* the view.”

**This statement clearly and correctly defines the authority and responsibilities of the Architecture Committee and the Tree Committee.** Unfortunately it does not address the authority and responsibility of the Bluff Management Advisory Committee and the KPOA Board and many of the view issues involve vegetation in the bluff areas.

If the Tree Committee acknowledges its responsibility for allowing the maintenance of views, why is it so difficult in practice to receive approval to do so?

**What does “establishes” mean?**

A common, fair and logical definition of view, in the context of establishing a specific property view entitlement, is: The natural view which exists when a property is purchased and any enhancements that are achieved by overt vegeta-

tion alteration actions authorized by the Architectural Committee, usually at the time a home is sited and constructed.

**But what about the purchaser of an existing home?** Does he also purchase the view entitlement of the initial lot developer or does he purchase the view which exists at the time of his purchase? The Association is probably only obligated to maintain the view at the time of a purchase. Should the Association consider favorably requests for restoration of the view which existed at initial development? Restricting a homeowner from maintaining his view can significantly erode the value of the property if subsequent owners cannot restore initial views. This amounts to a “taking without compensation”!

**If the Tree Committee acknowledges its responsibility for allowing the maintenance of views,** why is it so difficult in practice to receive approval to do so? It seems that the position of the Tree Committee, in many instances, is to find rationales for not approving view maintenance requests including community aesthetics. Isn't this response equivalent to the imposition of imminent domain which can only be imposed by governments? The Association does not have the status of a government.

**If the Architecture Committee has the authority to establish views,** why does the BMAC have the authority to disregard those established views and use subjective decisions to prevent their maintenance?

**Many questions, few answers and little inclination of the Association to provide them!**

*did you get your annual  
chimney cleaning done yet?*  
**Help Avoid A Chimney Fire**



More and more of us are relying upon wood burning systems to heat our homes as electricity and natural gas retail rates continue to rise. In a properly set-up insert or wood-burning stove it is possible to burn clean fires of almost any size to match outdoor temperatures. Fire and insurance professionals strongly recommend annual chimney inspection and cleaning (if needed).

**Limited wood burning use, rather than daily-extended operation** as the main source of heating a home, can actually increase the risk of a roaring chimney fire. Often owners don't arrange for the recommended annual inspection and cleaning because they think occasional use, or burning small fires, accumulates less creosote. Actually there are so many factors affecting the dangerous build-up that an annual inspection is the only safe and sure way to be certain, unless you

have not used the chimney and have no intention of doing so.

**Remember, a professional chimney sweep** looks after more than just soot removal. There is also a careful inspection for leaks, failing components, bad seals, and dangerous blockages (like bird, bee or raccoon nests) that can fatally block the discharge of carbon monoxide and provide added fuel for chimney fires.

**Creosote builds up on the chimney interior for many reasons.** A number of factors all contribute to "chimney health" and determine service requirements. An annual inspection, however, is a must to assure safety.

**Most homeowners insurance carriers** strongly recommend, or even require that annual inspections be conducted. Often an owner has "checked the box" on an insurance company survey indicating annual inspections are conducted, but then neglects to do them.

**Superior Chimney Sweeps owner John Voigt (360-769-2344)**, an active service provider in Kala Point, says; "Burning good hot fires with only well-seasoned dry wood is very important. Even a small fire can be burned cleanly by using good fuels and attending to the air supply to assure efficient burning. Just look at your chimney discharge and you can tell if you are burning cleanly."

**Voigt says, "I can tell right away** when I inspect the system how it's being used. Many newcomers to the northwest have never burned wood as a heating fuel and are unfamiliar with the need to start with a small very hot fire for at least half an hour to help clear contaminants on the inner surfaces, and then to add fuel and adjust air to maintain good clean combustion as the system operates."

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August 2010 photo of Street Music in PT courtesy of Doug Lee

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**To view photographs of each month** in the 2009 calendar go to [www.ttpnewsletter.com](http://www.ttpnewsletter.com) and click on the "2010 Kala Point Picture Calendar" link at the bottom of the page.

----- Order Form -----

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Number of calendars ordered: \_\_\_\_\_ X \$14 ea or 2 for \$25 = \$ \_\_\_\_\_

Number of calendars ordered: \_\_\_\_\_ X \$3 Shipping each = \$ \_\_\_\_\_

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**HAPPY HOLIDAYS!**

## Kala Point News & Views

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### *medical transportation*

Sometimes we can be faced with the necessity of having to find other means of transportation to our medical appointments.



**If you are interested in offering rides to fellow Kala Point residents for those instances when someone needs,** for instance, a ride home from surgery and public transportation is not suitable, please email [contact@ttpnewsletter.com](mailto:contact@ttpnewsletter.com) with your name, address and telephone number.

**We had some late submissions and are still collecting names.** The list will be provided to those interested and will be emailed to you.

### *more help wanted!*

Good news! A few Kala Pointers have volunteered to help with our community newsletter.

We continue the task of providing you with detailed news and a forum to express your views.

We still need more volunteers, so let us know if you're interested!



Please contact one of the editors listed on the front page or email [contact@ttpnewsletter.com](mailto:contact@ttpnewsletter.com) if you are interested.