



# Kala Point News & Views

March 2011

*Serving our Community with Information*

## hoa or homeowner association:

### What is an HOA?

**An HOA or Homeowner Association is a legal entity created to manage and maintain the common areas of a community;** and often to restrict use of individual common and private properties. Typically “common areas” consist of Association assets such as pools, clubhouses, landscaping, open areas, streets and roads.



HOAs can consist of single family homes, condominiums or both and are typically setup with a set of rules called “Declaration of Covenants, Conditions, and Restrictions” otherwise known as “CC&Rs”.

**One of the primary functions of the HOA is enforce and ensure that these “CC&Rs” are adhered to.** HOAs are normally non-profit corporations with a set of bylaws and the authority to enforce those bylaws, as well as duly adopted and noticed rules and regulations.

HOA Membership is normally mandatory for all property owners who are required to sign a contract, the Membership Agreement, as a condition of property ownership. This contract is the agreement that the homeowner will follow the rules of the CC&Rs and that the HOA will enforce and follow the CC&Rs as well.

**The final remedy for either the homeowner or the HOA if the CC&Rs are not followed** is to take either administrative or (in the case of an individual owner) actual legal action via Superior Courts, which is described as the remedy in the CC&Rs as an owner’s path of appeal from an HOA board decision.

If an HOA does not follow the CC&Rs, it can affect property values and open itself up to legal action.

We the members of the Association signed a contract and agreed to the rules in the CC&Rs. **Every homeowner relies on them being followed**, whether that means our amenities are maintained, views are maintained, common assets are maintained or common services are provided such as snow being removed from our roads, etc.

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### Managing Editors:

Jay Burcham  
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*Contributing writers include other named and unnamed individuals, all owners within the community, expressing their own viewpoints in this forum. Articles without a byline are presented by the editorial staff.*

*Please feel free to participate in any way, from submitting articles and/or opinions to volunteering in some capacity. Thanks and we look forward to your input. Email us at: [contact@ttnewsletter.com](mailto:contact@ttnewsletter.com).*

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We are not a city, nor a democracy. **What we as members have is a business relationship with a legal entity.** The relationship is the agreement that the HOA & the homeowners **will both follow the contract** that was signed- the rules as set forth in the CC&Rs, and other legitimate governing documents. Elected leadership can not unilaterally redefine the terms & conditions of a contract, just like your bank can not unilaterally redefine a mortgage contract.

How does the Kala Point Owners Association and its Members stack up with respect to CC&Rs contract compliance?

## *the sea glass odyssey*

### **A Journey into Sea Glass (Part III)**

#### **Where Do I Find Beach Glass?**

**Garbage dumps.** Yes, old dump sites are hidden treasure sources. The likelihood of finding some kind of a dump site is quite high, especially in areas that have been populated for many generations. Of course, when it comes to sea or beach glass, these would be garbage dumps on or near a beach.

On beaches where there were dumps, there's quite a variety of types of glass. This is an important factor to a collector. Why?

Because included in the stuff dumped out are not only a large variety of bottles, but also other items such as colorful dinnerware, glass lamps, chandeliers, et cetera, that were broken and discarded in the local dump.

Finding a dump site would be your best bet when beginning your search to find sea glass and identify your own seaglass beach.

A good idea is to go to a local historical museum or library to see what you can turn up. Ask old timers or at the nearest town offices.

Naturally, the best dump site would be a whole town site that had been or still is located next to a beach over a period of many decades or centuries.



Sea Glass "catch" found at North Beach in Port Townsend Feb 2010

Think about the area. Try to narrow your initial searches to finding a beach of this type.

#### **Where In The World Can I Find It?**

Go to [www.odysseyseaglass.com/where-to-find-sea-glass.html](http://www.odysseyseaglass.com/where-to-find-sea-glass.html) then click on the area in the world you would like to find sea glass on the right hand column. Here you can find sea glass all over the world, where people like you have reported finding it! Next we will talk about sea glass art.



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# *association's bluff management responsibility*

## **It should be a limited role!**

The Board is responsible for managing the bluff common area. The bluff is a challenging common area because it comprises steep slopes and geologic characteristics which combine to make it vulnerable to instability, especially from hydraulic effects. It is suggested that the Board's management of the bluff common area, with respect to bluff stability, should be limited to prohibiting any human actions or activities which can reasonably be construed as compromising its stability. The Board should base its bluff stability decisions on best science and rely on the site specific conclusions of professional

“Costs associated with obtaining site specific expert opinions should be borne by the individuals proposing the actions.”

geo-tech and arboreal professionals. Costs associated with obtaining site specific expert opinions should be borne by the individuals proposing the actions.

### **The Board is responsible for managing the bluff common area but is the Association liable for the natural stability of the bluff?**

The Association should take action to prevent situations which threaten the bluff's stability due to human actions. For instance, if improvement of a lot on the crest of the bluff creates a threat because of unmanaged storm water run-off onto

the bluff, potentially creating erosion, the Board should require a remedy such as a vegetation buffer, sump or tightlines. Erosion can not only jeopardize the safety of the responsible lot but also that of other properties. Any damage caused by an improved lot to any lot should be the responsibility of the Owner of that responsible lot and not the Association. The Association should only be responsible for any bluff instability leading to damage which is the result of improper or failed community infrastructure such as the roads drainage systems.

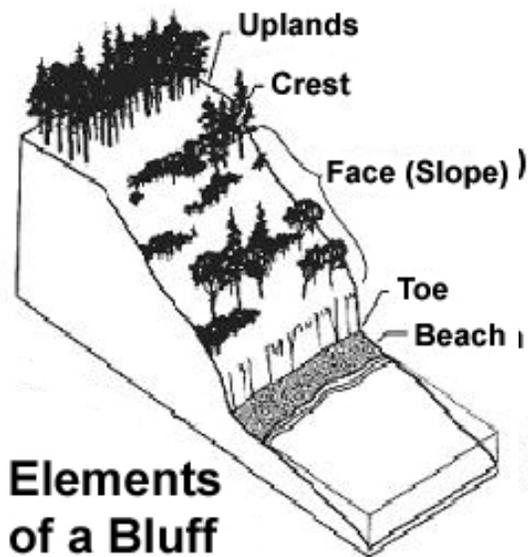
Note: Tightlines as a common practice are discouraged since it is only a matter of time before they deteriorate and are often forgotten. Tightlines permits are only granted in extreme case where no other remedy exists or that costs for alternatives are deemed excessive. This tightlines permitting protocol emphasizes the need to inspect them periodically by a responsible entity.

### **The Association should not be responsible for any bluff instability**

or the mitigation of any potential threats to stability due to the actual or anticipated forces of nature. Owners of lots on the crest of the bluff should be responsible for mitigating potential bluff instability threats and any damages to their property or safety as the result of their actions and natural conditions and circumstances. The Association and the Board should not be responsible for Mother Nature.

## ***2011 budget line item: bluff study & mitigation: why?***

The Board, acting for the Association, has the responsibility to manage the Common Areas. The bluff, comprising the marine terminus of the Kala Point Development, is a particularly challenging



Common Area to manage. The bluff is a diverse area of varying slope, geologic characteristics and vegetation. Further complicating the management of the bluff is the location of homes in close proximity to its crest and the associated safety concerns for persons and property potentially conflicting with the right of the owners of view property to maintain their views.

**The bluff is divided into three sectors for the purpose of responding to view maintenance requests;** one sector every three years. The northern sector was addressed in 2010. The 2010 denial process became very contentious when requests for the removal of bluff trees which had grown into the view paths of KPOA Members on Cedarview Drive were denied.

Those denials cited safety as a concern despite site specific geological and arborist reports to the contrary. Responsive to the weakness of the safety basis for denial, the refusal rationale shifted to the aesthetic value to the community of keeping the trees. The trees were visible above the homes on the bluff, especially if the community chose to walk along Kala Heights Drive. Otherwise, the trees were visible to very few owners other than the Cedarview owners who wanted them removed so they could fully enjoy their marine view. The situation became more contentious when many trees requested for removal or topping by the owners on the crest of the bluff were approved without the benefit of expert professional geologic and arboreal conclusions. The apparent favoritism and discrimination displayed by the Board while a valid reason for contention is not the subject of this article. Funding validity and fairness is the subject.

**Responsive to a petition by about 10% of the community to leave the management of the vegetation on the bluff to professionals,** the Board decided to fund a study of the bluff. This study, funded within the Professional Services line item of the 2011 expenses, included in the Annual Assessment, is estimated to cost \$ 15,000, about \$ 30 for each Member as part of their Annual Assessment. The validity of a price tag of only \$ 15,000 for a meaningful study is questionable. Many Members dispute why they, with homes on the forested plateau of the Kala Point Development and with no marine views, should pay for the study. If bluff stability is a valid concern, why are the owners who chose to build on the crest of a steep bluff

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not the ones who should be paying for a bluff study? After all, they are requesting and getting tree removals from the bluff approved without obtaining site specific geo-tech and arboreal inputs.

**It is not understood what the purpose is for the study.** Why have a study? Does the Board expect to become expert enough from a general study to then make technically correct site specific decisions with respect to tree actions and bluff stability? What about the several general studies that have already been available to the Board. These professionally prepared general studies date from the development of the Kala Heights home sites to before 2010. In 2010 the Board was provided with site specific geo-tech and arboreal reports pertaining to the tree removals requested by the Cedarview Group. The Board chose to ignore or label as biased those reports, impugning the professional integrity of the originating individuals and their firms. How will additional general studies be used if previous studies are apparently not good enough to meet the Board's needs? Will the Board keep contracting for reports until one meets their apparent agenda to deny removing any tree visible to members of the community? Is the Board's denials, based on other than safety considerations, a tacit admission that there is no safety justification for denying the removals requested by the Cedarview Group?

The Professional Services budget expense line item also mentions mitigation. Site specific mitigation recommendations have already been provided to the Board by the Cedarview Group which are applicable to any tree actions on the bluff. Why is there a need to study this issue again unless the

intent of the Board is to involve the Association in funding bluff mitigation activities and needs to know what options are available. Should the Association pay for bluff mitigation? Why should this be an obligation of any Member whose lot is not threatened by bluff stability? Bluff mitigation could reasonably be a very expensive undertaking. If an owner chooses to build on a steep bluff shouldn't he be prepared to pay for securing that bluff if it presents a hazard due to natural factors?

**from michelle at evergreen fitness center:**

### **Are you looking for a change?**

I read a couple statements recently that I thought were pretty good. Quote number 1: "Medical studies have shown that when the people that have had heart bypass surgery are told that they must change their lifestyle or die, about 90% do not change. Typically, two years after surgery, the patient has not altered their lifestyle. It seems that most would rather die than change".

The other quote was "Life is not made by the dreams that you dream but about the choices that you make... your life today is the sum total all the choices you made up to this point".

That brings me to the questions that I want to talk about in this article; what is **'change'**? Webster's first definition of change is a verb: **'to make different in some particular'**; 'can replace with another'; 'to undergo a modification of' or 'to undergo a transformation, transition or substitution. In the fitness industry and as a certified personal trainer when one hears the word change we often think of the acronym we learned during our certification: **F.I.T.T.** It stands for **Frequency, Intensity, Type** and **Time.**

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Change is not easy to say the least and sometimes rather difficult; at Evergreen fitness center we like to say if you want to change pick just one of the F.I.T.T. variables. Start by taking the variable that can most easily fit into your lifestyle and schedule. **Frequency:** or number of times in which you repeat your activity; in our case exercise. For example if your frequency is never to exercise go out and exercise; walk one time a week. If you already exercise, walk or any activity twice a week you can increase that frequency to three and so on... **Intensity is** being the extreme degree of strength or force or energy in which you exercise. **Intensity** can go both ways; for an elite athlete it might mean take a week off for those who are not exercising or pushing themselves very hard it might mean just push on the gas a little bit. (And I'm not talking about the accelerator in your car.) **'Type'** this refers to the particular kind of exercise you are doing if you're walking try short bursts of jogging; if you are biking perhaps you could jog or fast walk... if you are off seasons for you sport, find a new in season sport. If you find yourself doing the same exercise day in and day out, try something new. Try a group fitness class or hire a personal trainer to push you a little bit or give you new exercises to do. Changes... some of us don't even like the word. And if you're like me the older we get the less we like change; we're comfortable with our patterns; even if those patterns aren't the healthiest choices for us. And know we get to the last one: **time**. Most of us have read over and over in our lives to do 20 to 30 minutes of activity three, four and even five times a day. If we are currently doing less and or much less than this can be very overwhelming to say the least. **Time** is our most precious commodity and some of us just don't seem to have any more time in our days. If you are already doing 20 or 30 minutes or more of exercise a week I would urge you to look at other 2 variables; **intensity** and **type**. The rest of you I urge to just look at your lives, your activities

during the day. What could you cut out for 10, 15 even 20 min. every morning or afternoon? Move those legs, pump those arms... Bend, stretch, reach! I must admit I'm one of those in the minority today that probably all of my life I have enjoyed exercising bending stretching reaching etc. I also know that life is busy and duties call. So I confess; this entire article has been written at my house in my living room on my stationary bike peddling and sweating away as I talk into to my phone and dictate this entire article. Yes folks, 60 minutes of cardio... **DONE!** If you currently are not exercising, try making it more of a priority in your life for a month... I don't think you'll regret it, in fact I think you'll have more energy. After all if you ruin your body where will you live? If I can be of any assistance in helping you get more information on this topic or other articles I have submitted, please give me a call at 360-385-3036, email: [evergreenfitness@qwestoffice.net](mailto:evergreenfitness@qwestoffice.net) or visit our website at [www.evergreenfitness.net](http://www.evergreenfitness.net) or stop in at Evergreen Fitness Center... we're just around the corner! Michelle West

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## Kala Point News & Views

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### ***snow storm makes roads difficult to navigate***

Keith and his crew worked hard again to keep our roads safe during the last round of snow we had in February.

One Kala Point resident even got his driveway plowed so he could get out due to a family emergency.

Thanks again to Keith and crew!



*Inches of snow covered Kala Point roads*

## *letter to the editors*

### **RESPONSE TO KPOA BOARD PRESIDENT**

#### **Letter to the Editors of KPNV from the CedarView Working Group, (CWG)**

In the March issue of the Kala Pointer the KPOA Board President chose to use his privilege to address the Kala Point Community in his President's Message to attempt to vilify the CWG. He chose to do this by exposing a personnel matter which should have been addressed in private by the Personnel Committee and if addressed by the Board only in executive session.

Please note that the CWG is not the Cedar View Group, (CVG), and actions by the CWG are not sanctioned by the CVG. The common bond between the CVG and the CWG is that the CWG members were also members of the CVG, both the CVG and CWG members were wrongly denied by the Board their right to view maintenance and enjoy neighborly relations and friendships which are perhaps stronger than in some other neighborhoods in the community.

The CWG values and appreciates the role of volunteers in the operation of the Association. They have themselves served as volunteer members of standing and ad hoc committees. However, volunteers have a responsibility to the members of the community to understand the scope of their responsibilities, the extent of their authority and either discharge their duties fully or seek a change in those duties either by obtaining assistance or changing underlying causes that prevent their accomplishment.

The Board President has chosen to be selective in trying to establish a rationale for

criticizing the CWG. He has ignored that the CWG challenged the performance of the BMAC as a whole and the Board with respect to addressing view maintenance issues. The BMAC Chairman, who held that position for the three years the BMAC has been operating, should be in part responsible for the BMAC performance and he has acknowledged that responsibility. To suggest that he alone is responsible for the shortcomings of the view maintenance approval process is not the position of the CWG and such should not be inferred.

...the KPOA Board President chose to use his privilege to address the Kala Point Community in his President's Message to attempt to vilify the CWG. He chose to do this by exposing a personnel matter which should have been addressed in private by the Personnel Committee and if addressed by the Board only in executive session.

The Personnel Committee findings that the BMAC final report error was a simple misunderstanding did not address the more important issues associated with not complying with the BMP and the constraints on Board authority established by the CC&Rs contract.

Response to KPOA Board President

Continued from Insert Page 1A

The result of all the BMAC and Board actions, flawed by several errors of process and authority, did result in view denials with substantial degradation of property values and owner’s aesthetic enjoyment of their property

...the President of the Board would better serve the interests of the Association and its Members by addressing real issues rather than direct his ire at a few members of the community who had the temerity to stand up to the Board’s exceeding its authority in denying valid requests for view maintenance.

Perhaps the President forgets that he personally told the CWG that they had no role with respect to the Personnel Committee investigation and would not be welcome at the meeting. Perhaps if the CWG had participated most of the fault would have been properly directed at the BMAC and The Board. The BMAC and Board performance issues identified by the CWG have not been addressed to the knowledge of the CWG.

It remains a fact that the BMAC and the Board did not follow the

Bluff Management Plan, (BMP), which was commissioned by an earlier Board to level the playing field with respect to approving requests for view maintenance concerning trees on the bluff. The BMAC, in retrospect, was given a responsibility which resulted in demands on its members which exceeded what should be asked of any volunteer. But the BMAC neglected to evaluate and report to the Board and the KPOA Members on the effectiveness of the BMAC process as required by the BMP. An evaluation after the first year of BMAC operation could have resulted in improvements which would have made the BMAC process completely achievable. Now the Board has established a “blue ribbon” committee to evaluate the BMP.

The CWG suggests that the President of the Board would better serve the interests of the Association and its Members by addressing real issues rather than direct his ire at a few members of the community who had the temerity to stand up to the Board’s exceeding its authority in denying valid requests for view maintenance.

Respectfully submitted by the CWG

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