

Dear Buckhorn Ranch Owners,

An HOA Board of Directors (Board) Meeting was conducted on April 25 as part of our routine quarterly practice. During the meeting, there were many questions, including many off agenda items regarding policies, processes and decisions. After reflecting on the items, and given the number of new owners at BRA, we as a board felt it was important to provide clarity on these topics to confirm and supplement what was answered during the meeting, and to provide this to all members for full transparency. Buckhorn is made up of several distinct groups; from full time residents, second home owners, investors, airpark lot owners, and airstrip users. The HOA and its Board are committed to representing the interests of all these groups.

As there is a lot of detail behind many of these topics, which is included in the body of this communication, we will start with an executive summary to address the highlights of the questions/answers:

- How are Construction Deposits Managed? Construction deposits are collected by Toad, a receipt is provided to the owner and the money is held in a separate account solely for the purpose of these deposits. The purpose of the deposit is to ensure compliance with the approved plans, construction rules and regulations, and the Design Review Guidelines. Deposits are not commingled with other HOA accounts.
- Why is there a Road Assessment and Road Fees? The HOA is building a \$1,000,000 reserve to target paving all roads in BRA for 2022/23. In order to keep the project at this level, it is critical to do our best to maintain the integrity of the current “chip and seal”. The operating budget of \$28,000 for this is not sufficient to address the wear and tear for construction traffic associated with new construction and like many other HOAs, we have instituted a Road Fee on new projects.
- How is the Design Review Committee (DRC) Structured? As new construction grows, the Board and DRC have refined the process of submittal and review of plans for construction. As such, we now have the DRC process led by an independent manager/consultant and an architect who review all plans before submitted to the DRC for approval. Exceptions or variances are noted to the DRC and submitted to the Board for approval when needed.
- What was the process for the latest Design Review Guidelines (DRG) Revisions? The DRG was last revised in 2018. The proposed changes to the DRG were posted for review and comment and then approved by the Board per procedural guidelines. The Board will be amending the DRG soon to address process and procedure to continue a more streamlined process for owners and the DRC.
- Are Hanger Homes allowed? Hanger homes have never been allowed under any DRG, and have not been approved by the DRC in the few cases of request. The 2018 DRG have made this point more explicit but in fact it is not a change of policy.
- Can the HOA Governing Documents be improved? When the developer’s lender foreclosed on the developer’s 90 plus lots and the HOA Board was in a position to enact changes, all governing documents of the HOA were revised and brought into compliance with current Colorado law. This included member votes where required and member review where required. The Board is always open to opinions as to where documents can be improved provided such revisions are approved by the Board or membership and comply with law.

- Does the Board have any Conflict of Interest? The question was asked if any Board member has an interest in any company doing road work now or future. The answer is NO, and each member has no conflict with any contractor engaged on behalf of the HOA. Each Board member signs an annual COI statement. Please be advised that no member of the Board has a financial interest in any of the businesses with which the HOA engages.
- General questions have been raised about the Crested Butte Airpark (AirPark): Crested Butte AirPark, LLC is a Colorado limited liability company with its sole member being the HOA. It currently owns the runway. The LLC is managed by a Board, which is responsible for the day to day operations of the AirPark, including enforcement of its rules and regulations with respect to runway use. Owners of runway lots have automatic membership in the AirPark. Other owners in Buckhorn Ranch can become members provided they pay the required fee, with was established by the LLC manager.

### **1. How are construction deposits managed?**

The DRC acting through Toad Property Management notifies the Owner in writing of the DRC's Final Plan Review. The Owner will receive a letter from the Toad Property Management either approving or denying the plans. Approval of any project is contingent upon the payment of the respective Performance Deposit and all DRG requirements have been met. At this point the key parties get together and sign off on the project. Documents and plans are filed at Toad and project owner receives their copies.

- Toad receives the Performance Deposit check and deposits in the "Construction Account" at Bank of the West.
- A copy of the check is made and returned as part of the acceptance letter to the owner.
- Upon timely completion of the project and final inspection by the DRC representative the owner receives a completion letter and a check of the returned Performance Deposit, provided the owner has built according to the approved plans and has not been subject to any fines.
- Performance deposits are in a separate account clearly visible on the balance sheet. This is transparent and clear.

**Note: The owner and their contractors have certain obligations with regard to the overall management of the job site and timely completion of the project. Owners out of compliance with the rules and regulations and the DRG could be subjected to fines or fees that would be deducted from the Performance Deposit.**

Please be sure to review the Design Review Guidelines (DRG) on Toad's website or follow this link. <https://toadpropertymanagement.com/wp-content/uploads/2018/08/BRA-DRG-Amended-July-2018-1.pdf>

### **2. Why are Road Fees assessed on new construction projects and the Road Assessment to All Owners?**

The developer did the bare minimum to surface the roads as required by the County. It has always been accepted that the roads in BRA were temporary and in fact, have already outlived both useful life and

gone beyond expectation. Recognizing that construction will continue, and that the cost to install new roads is significant, the Board is executing on a plan to raise \$1,000,000 over the course of 4 years through a combination of assessment and dues increase which impacts all owners.

The roads in Buckhorn are over 12 years old and in varying condition. Chip and seal tends to push out or alligator due to vehicles turning over time. Heavier trucks (garbage, delivery, construction, etc) have a greater impact. The Board met with a number of professional organizations to understand what the best path forward should be based on our continuing home buildout over the next X# of years and the budget. The Board has had numerous internal discussions and our findings are:

- Our roads are beyond their end of life.
- Annual maintenance needs to increase in an effort to stabilize until funding can be raised to install a more stable road surface (1" Asphalt overlay on straight sections with 2" on curves and intersections)
- The accelerated building of new homes: Construction material deliveries, concrete mixers for foundation pours, excavation equipment and dump trucks removing or adding dirt / soil, etc. are turning our roads to dust. If we allow this to continue at its current pace without increased maintenance our \$1M dollar restoration project could double to \$2M due to the need to rebuild intersections and replace existing base material.
- Historically, the 145 owners (excluding the developer because the developer did not pay dues for over four years) have been paying in to maintain the roads even though for much of this time there has been no development. Assessing road repair to performance deposits for damage done on site has been a difficult process to implement. The damage done from construction is clear and as such the decision was made to assess this fee to new construction forward.
- The DRG stipulates that the owner is responsible for restoration, patching of the road in front of their house as part of the construction but that does nothing to address the damage done to all the access roads their (contractors, contractor equipment) use to get from the entrance at Brush Creek Road to the job site.
- Improved roads will increase property values across Buckhorn Ranch.

The Board decided to develop a solution to address the overall road utilization to help address this accelerated erosion of the roads. After discussion with other HOAs on how they handled such situations, the Board decided to add a non-refundable road access fee deposit for all new construction.

### **3. Nonrefundable Road Fee**

Based on the above and thoughtful analysis, the Board decision was to require, in addition to the Performance Deposit, an Owner to tender a nonrefundable Road Fee to the Association for the impact to the roads by construction vehicles.

- For single family residential projects of 3000 square feet or less, the amount of the Road Fee shall be \$2000.00.
- For single family residential projects greater than 3000 square feet, the amount of the Road Fee shall be \$3000.00.

- The amount of the Road Fee for smaller projects shall be within the discretion of the DRC and the Board of Directors. The above formula for the Road Fee shall apply to multifamily projects on a per unit basis.
- This road fee will be used to augment the repair and maintenance of the Chip and Seal in place to improve the maintenance of the roads in advance of the paving

#### **4. How is the DRC Structured for making decisions?**

Given the complexity and intensity of the Design Review process, the HOA has decided to implement a professional level of management to the process on top of the volunteers on the DRC. To this effect we have now a manager of the process and a professional architect, who based on the DRG review of all projects, communicate their findings with the owner before any final plans are provided to the DRC. Based on this professional evaluation, the experts on the DRC then review the submission to render an opinion back to the owner. The purpose of the review is to ensure that the plans comport with the DRG.

The Design Review Committee is appointed by the HOA Board of Directors with a minimum of 3 members but no more than 7, and at least one of whom sits on the Board of Directors. All members of the DRC are owners in Buckhorn Ranch and in good standing with the HOA. There's a tremendous amount of work that goes into the DRC and it requires a big commitment for our volunteer owners. These roles are very difficult to fill and the HOA appreciates their hard work.

A majority of DRC members is necessary to establish quorum and a majority vote of those present in person or by telephone to take action on a project. A member of the DRC can resign at any time, with written notice to the Board of Directors. Additionally, the Board of Directors may remove a member of the DRC by majority vote at any time. The DRC elects its officers on the DRC.

#### **5. Do any of the Board members have any conflicts of interest with HOA contractors today or future?**

No. Every Board member is required to read, understand and comply with our Conflicts of Interest and Legal Duties Policy. The legal duties policy consists of 4 statements:

- Duty of Care
- Duty of Loyalty
- Limited Duty of Confidentiality
- Enforcement

The legal duties policy is not a required Responsible Governance Policy under law. Rather, it is an internal Board policy that the Board requires each of its members to sign and abide by. Please review the Rules for Conflict of Interest on the Toad Property site: <https://toadpropertymanagement.com/wp-content/uploads/2018/08/BRA-Amended-Conflict-of-Interest-Policy-June-2018-1-1.pdf>

#### **6. How were the current Design Review Guidelines approved?**

The Board of Directors adopted the amended DRG by consent minutes. All directors approved the amended DRG. The Board of Directors is charged with ensuring compliance with the DRG. The DRC in conjunction with the Board of Directors has the authority to repeal, alter, revise, change, or amend these DRG at any time, as needed in the DRC's and the Board's sole discretion. Written notice of any

change is provided to all Owners following adoption by posting the amended DRG on the Association website, hosted by Toad Property Management. The Board of Directors is charged with imposing fines on any Owner who violates the DRG, the Declaration, and/or the Construction Rules and Regulations pursuant to an adopted Fine Schedule.

Please review the construction rules and regulations on the website and be aware it may be amended from time to time. <https://toadpropertymanagement.com/wp-content/uploads/2018/10/BRA-Fine-Schedule-April-2018.pdf>

## **7. Hangar Houses**

To date, hangar homes have never been approved or allowed and do not meet the DRG. The DRG refer to hangars as a separate structure. The 2018 DRG made express that hangar homes are not permitted, whereas, previously, it was more implicit. Under the previous DRG, the DRC was empowered to deny requests for hangar homes based on the fact that a hangar home design is excessively dissimilar to any other homes in the area.

DRG Page 16, line letter J. Airplane Hangars

- Hangars are permitted only on lots adjoining the runway. Hangar height and structure shall be governed by the Federal Aviation Administration regulations for private runways, and shall be subject to DRC approval.
- Hangars shall be constructed with materials compatible with the primary structure on the subject lot. Steel hangars, or hangars having an industrial appearance are not permitted.
- Hangar location on the lot shall have the least visual impact as possible to surrounding properties. Location of hangars on runway lots shall be 'staggered' to neighboring hangars in order to avoid an industrial row-like appearance. Hangars shall be separate from the primary residence.

## **8. Crested Butte Airpark (AirPark)**

The Airpark is located in Buckhorn Ranch but is not part of the Buckhorn Ranch plat and subdivision. The developer owned the runway for years. As a result of the developer's Chapter 7 bankruptcy action, the bankruptcy trustee conveyed the runway to the HOA as permitted and contemplated under the 2001 Declaration. The HOA conveyed the runway to the Crested Butte AirPark, LLC, as permitted under the current Declaration. The sole member of that LLC is the HOA, acting through its Board. The AirPark is comprised of the runway and the attendant memberships therein. Owners of runway lots are automatic members. Other owners in Buckhorn Ranch can purchase a membership for a fee established by the LLC Board. Last, 15 memberships for Gunnison County residents are available for purchase. Runway lots are part of Buckhorn Ranch, not the AirPark. The HOA and AirPark Board are committed to representing the interests of owners and users of the AirPark, and retaining it as a viable amenity to those who are members of the AirPark. The AirPark is for private use only, and is not permitted for commercial use pursuant to the 1995 Restrictive Covenant executed by the developer. The

runway is available for emergency rescue and medical services. It has its own insurance particular to aviation and the runway use. In addition:

- The HOA has no intention of shutting down the runway.
- The Board is not interested in micromanaging the AirPark Board, and only gets involved as the situation might dictate. All day to day and normal course of business operating responsibilities are delegated to the CBAP Board. The HOA Board expects the AirPark Board to professionally manage the operations of the runway and memberships and report to the Buckhorn Board when requested.
- There has been criticism of the high fees set for non-runway frontage lot owners to use the runway. The \$30K fee was set by the AirPark Board and can be amended by the AirPark Board.

## **9. Buckhorn Ranch Documents**

Buckhorn Ranch is comprised of three filings: Filing 1, Filing 2A and Filing 2B. Filing 1 was platted in 1994 and is comprised of 12 lots with three being commercial lots. Filing 2A was platted in 2001 with 14 lots. Last, Filing 2B was platted in 2004 with the remainder of lots (over 200). Filing 2B includes the multi-family lots, where Stallion Park is located. At the time of the developer's bankruptcy action (2014) and subsequent bank foreclosure on its over 90 lots, the 2001 Declaration was in force.

In 2015, the Board commenced and approved an amendment of the Bylaws, and adopting of the required Responsible Governance Policies pursuant to law. The current Bylaws were a rewrite of the previous bylaws, and the Responsible Governance Policies were new to the Association. These documents brought the Association current with law, both under the Colorado Revised Nonprofit Corporation Act and Colorado Common Interest Ownership Act. Both these documents are subject to Board approval. The current Declaration is amended and restated from the 2001 Declaration of Protective Covenants, which needed an update to comply with law, to remove provisions that added confusion or no longer applied and to add language to the benefit of the subdivision. The 2001 Declaration favored the developer. With the developer no longer in control as that term is defined by law, the current Declaration was approved by 67% of the owners.