



## Catalina Foothills Estates #9 Association (CAT9) Newsletter

October 2021

### Annual Meeting and Board Member Elections



If you haven't already, please remember to vote for next year's Board members. All residents were mailed this year's ballots with pre-paid self addressed envelopes earlier this month. We also included a form for residents to tell us of their interest in volunteering for the Board as positions open up or to simply volunteer to help without being an official member of the Board.

The results of the election will be discussed at the upcoming CAT9 annual meeting that will be held on November 8, 2021 at 7:00pm via Zoom. In addition to the election results discussion and the regular Board meeting agenda, we will have a guest speaker from the Southern Arizona Chapter of the International Dark-Sky Association.

**Guest Speaker—Joe Frannea**

**"Impact of Artificial Light on our Neighborhood, Plants and Wildlife."**

All residents are encouraged to attend this meeting via Zoom.

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Zoom Meeting VIDEO (click on link):

<https://us02web.zoom.us/j/3314388299?pwd=SXRMTy9HVldMNW0rRTB6QkxNY3R2QT09>

Meeting ID: 331 438 8299 Passcode: BeKind

Telephone Only: +1(669) 900 6833 (US)

Meeting ID: 331 438 8299 Passcode: 814603

## Annual Dues Increase Vote

Starting in 2022 and going forward every year thereafter, the Annual Assessment as forth in Section 7.b.3 will be \$300. The dues increase proposal passed with 84 votes Yes-Approve, 33 No-Disapprove, and 13 owners who did not submit votes. Thanks to all owners who participated in voting.

The annual assessment dues increase was necessary to collect reserves for long-term road paving and to provide operational funds for compliance and Board related functions.

Invoices for the new \$300 annual assessment will be mailed no later than February 1, with payment due by March 1 to avoid a late fee. Later in 2022, our outside counsel will prepare a CCR amendment revising the amount of \$100 to \$300 in the CCRs to read: "The maximum Annual Assessment for each fiscal year of the Association shall be \$300. The maximum Annual Assessment may be increased only with the approval of a Majority of Owners of Lots."

## 2022 Annual Budget

Even with the increase in annual dues, the 2022 budget process remains the same as in prior years. A draft budget with some ideas about the use of the additional reserves was included in the proposal and presentation.

As in past years, the Board will develop the final budget for 2022 in December and January. Unfortunately, a few owners spread information about outsourcing Board Functions that does not accurately reflect the Board's intentions for the increase. The Board was able to clarify its intentions at the October 2021 information session.



## Neighbors Sharing With Neighbors

Gary Delmonaco recently raised the height of his courtyard wall facing Skyline Drive for sound reduction purposes. Gary was very satisfied with the work of his contractor, Rafael Parades, and wanted to share his contractor's name with the neighborhood in case other homeowners are in need of this type of brick work. You can contact Rafael at 520-971-7055 if you are interested.

As a reminder, per our CCRs, all "improvements" require Board approval. "Improvement" is defined as "any building, fence, wall or other structure, any roof,

trim and walls of any building, any sewage system septic tank, leeching field, swimming pool, road, driveway, parking area, and any trees, plants, shrubs, grass or other landscaping."

Gary was proactive in seeking approval and the Board appreciated his cooperation.



## Catalina Foothills Church Signage Application Update



The Catalina Foothills Church filed a variance application (P21VA00010) in June requesting Pima County Board of Adjustment (BOA) approval for three large, illuminated, commercial-style signs at the corner of Orange Grove and Skyline.

**INITIAL RESPONSE:** In response, the CAT9 neighborhood immediately unified to quickly submit a record-breaking number of written protests to the variance application. Thanks to over 100+ written protests, the BOA granted multiple continuances to encourage the church to consider neighborhood input into the variance request, design, and construction. The next BOA meeting on the application is November 1, at 1 pm.

Main issues voiced by neighbors and concerned parties relate to the size, lighting, and location of the proposed signs. Other concerns include a lack of compliance with the Dark Sky shut off times and lack of harmony with the scenic corridor environment. There are continuing safety concerns about the impact of directing more traffic onto Miraval and Camino La Zorrela.

**CURRENT NEGOTIATIONS:** Even though the Church has not submitted a revised variance application, the Sign Variance Working Group has been working on a compromise with Church and County Staff that will be acceptable to them, and tolerable for our neighborhood. The possible recommendation by County Staff could include the following:

1. Monument style signs on Orange Grove and Skyline will be illuminated until 10 PM. This is one hour earlier than the 11 PM curfew required by the Outdoor Lighting Code.

- a. The overall sign size now conforms to the sign code standards.
  - b. The colors and design of these signs have been modified with more muted colors and a wider base.
2. The Orange Grove sign will be 8 feet tall and located ~20 feet from the pavement edge in the county ROW (Right of Way). The sign height was 10 feet in the original application.
  - a. Note – because the ROW on Orange Grove is ~60 ft. wide, a sign on the property line would have to be much taller in order to be seen at 60 feet from the road. In addition, many trees in the ROW would have to be trimmed/cut.
3. The Skyline sign will be 7 feet tall and located on CFC property approximately half way between Camino Miraval and the Orange Grove/Skyline intersection. The sign height was 10 feet in the original application.
  - a. Note – even though the original application showed the sign near the Skyline/Orange Grove intersection, it was CFC's intent to have the Skyline sign very close to Camino Miraval, which is NOT acceptable. A sign next to Camino Miraval would effectively label the CAT8 neighborhood as "Catalina Foothills Church." We are glad to have had the plan move this further west.
4. The wall sign on the NW side of the church will be 37.5 square feet.
  - a. The letter height will be 19 inches with a width of 24 feet. The original design had 27 in. high letters and a width of 35 feet mounted on a raceway with an overall area of 114 ft<sup>2</sup>.
  - b. The illumination will be turned off by 9 PM. The original design was for an 11 PM curfew.
  - c. The color temperature will be 3000 K. The original design was for a color temperature of 4400 K.
  - d. The maximum luminous intensity will be 100 nits (or the minimum necessary to be readable at night). The original design had no maximum lumen output.

## Continued—Catalina Foothills Church Signage Application

We encourage owners to continue vocalizing support for enforcement of the Dark Sky 9 PM shutoff, reductions in the color temperature of the monument signs to 3000 K, and the brightness to 100 nits as specified in the Dark Sky incentive of the sign code.

The link to the Pima County Board of Adjustment site for the Nov 1 meeting is:

[https://webcms.pima.gov/UserFiles/Servers/Server\\_6/File/Government/Development%20Services/Land%20Planning%20and%20Regulation/Boards,%20Commission%20&%20Committees%20Tab/BOA/2021/Agenda%20D1%2011-01-21%20Covid.pdf](https://webcms.pima.gov/UserFiles/Servers/Server_6/File/Government/Development%20Services/Land%20Planning%20and%20Regulation/Boards,%20Commission%20&%20Committees%20Tab/BOA/2021/Agenda%20D1%2011-01-21%20Covid.pdf)

**NEXT STEPS:** The next hearing for this application is on **NOVEMBER 1, 2021** at 1:00 pm via teleconference. All CAT9 neighbors are encouraged to attend. If you wish to address the Board or Committee members with concerns, send an email right away to [DSDPlanning@pima.gov](mailto:DSDPlanning@pima.gov) with your name and reference to the church sign variance application. If you would like to be added to the mailing list to receive about this church sign protest, please send your contact info to [ChurchSignProtest@gmail.com](mailto:ChurchSignProtest@gmail.com).

Sign Variance Working Group Leads  
CAT9 - Fred Fiastro, Larry Ivy, Sherri Durand  
CAT8 - Bill Read  
Catalina Pueblo – Frank Bangs

- Please attend the November 1 BOA meeting at 1 pm.
- Contact the BOA to register your appearance in the church sign variance matter at [DSDPlanning@pima.gov](mailto:DSDPlanning@pima.gov).
- To participate , please **call (520) 222-1111** shortly before the scheduled meeting time.
- Once prompted, enter the **participation code 1802425**.
- Remember to mute your phone and please listen to the instructions of the Chairperson.

## Road Safety Tip

Please remember to face traffic while walking on our roads. If traffic approaches you from behind while you are walking, you have only your ears to rely on to know it is coming. If it is coming from in front of you, you have both your eyes and your ears to help you know to move off to the side.





## New Trash Service Provider

The Board has contracted with Hughes Sanitation Services to provide service to our neighborhood beginning October 1, 2021. Service days are Tuesdays and Fridays for a cost of \$23 per month (\$69 per quarter). We are pleased to find a reliable provider that uses smaller trucks to help preserve good road conditions in our neighborhood.

### Basic Trash Service Guidelines:

- Trash, yard waste, and recycle material needs to be at the curb by 7 am.
- Recycle material is collected on Fridays only and may be bagged or loose in a separate recycling container.
- Yard waste can be put in trash containers and branches are to be no more than 4 feet long.
- Reasonable amount of construction debris, carpet, mirrors, and furniture can be collected for an additional fee if you call ahead to allow drivers to accommodate the extra space required.

- If a holiday falls on or before a trash day during the week, it will be picked up the day after the regularly scheduled pick-up day.
- Holidays are New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

If you have any questions about their services, you can contact their office at 520-883-5868 or via email at [hugessanitationservices@hotmail.com](mailto:hugessanitationservices@hotmail.com).



## Road Maintenance Volunteers

Thanks again to all the volunteers who have been trimming the trees and brush along our neighborhood's roads. This effort will continue through at least this calendar year.

Our volunteers will save the CAT9 Association over \$4,000 this year, which can be used for other association needs.



## Welcome to the Neighborhood

**Please welcome six families who have moved into our neighborhood since our February 2021 newsletter**

Kenneth Scott Findlay & Winnie Pui Wah Ling  
6820 N. Solaz Primero

Dan & Rayna Carrier  
6561 N. Avenida de Posada

Claude & Elizabeth Caroli  
2301 E. Calle Los Altos

Yousef M Odeh & Alexandra J McGlamery  
6601 N. Altos Segundo

Oleg and Tatyana Cohen  
6761 N. Placita Manzanita

Cole & Carolyn Murphy  
6828 N. Solaz Cuarto

## Compliance Corner

### ***What happens if I don't pay my annual assessment?***

Owners face serious consequences by not paying the annual assessment. Annual assessments are billed in February and due by March 1<sup>st</sup>. Per Section 7(g) of our CCRs, annual assessments not paid by March 1 will incur a late fee. If the annual assessment continues to go unpaid, the Association has an automatic lien on any lot for all unpaid amounts, including any charges assessed against the lot, any fines, attorney fees and court costs. The Association may record a notice of lien after giving the owner ten (10) days' notice. The Association can then bring legal action against the lot owner for the delinquent payments, including possible foreclosure.

### ***I am redoing my driveway. Does this need Board approval?***

Yes, driveway repairs and improvements require Board approval. Driveways and parking areas are included in the definition of "Improvement" per CCR, Section 1.s. In addition, per Section 4.a (2) of the CCRs, "No excavation or grading work shall be performed on any Lot without prior written approval of the Board. No Improvement shall be constructed or installed on any Lot without the prior written approval of the Board. No addition, alteration, repair, change or other work which in any way alters the exterior appearance, including (without limitation) the exterior color scheme of any Lot or the Improvements located thereon from their appearance on the date of this Declaration shall be made or done without prior written approval of the Board."

## **Compliance Corner**

***Why do we need a budget line item for legal fees?  
Can we save money and just have the attorney Board  
members give legal advice to the Association?***

No, attorney Board members cannot provide legal advice to the Board or Association. A legal budget is necessary to hire outside counsel to ensure proper interpretation of governing documents and laws, answer questions about compliance, and prevent lawsuits and disputes.

Attorney Board members are great assets for the Board. They can use their experience and training to help identify legal issues and explain the implications of the advice provided by outside counsel. Attorney Board members can provide valuable input as Board members, but they have to be careful NOT to provide legal advice.

Attorney Board members who provide legal advice to the Board put themselves and the entire Association at risk. Providing legal advice to the Board raises serious conflict of interest issues, and can inadvertently result in an attorney-client relationship. Attorneys have a professional duty to exercise loyalty and independent judgement when entering into an attorney client relationship. When advice is provided regarding issues upon which the attorney Board member may also vote, that creates a potential conflict of interest because it raises questions about the independent legal judgment exercised by the attorney Board member.

Further, by providing legal advice, the attorney board member and Association are at risk for (i) denial of insurance coverage should the Association get sued, and

(ii) damages and claims that may result from the decisions made by the board based on that attorney Board members' advice.

Attorney Board members who are not experienced in community association law also run the risk of violating professional rules which require that attorneys provide legal advice within their professional or expert competence. This could jeopardize their law license and malpractice insurance. For these reasons, owners should not expect attorney Board members to provide the board or the Association legal advice. A budget for outside legal counsel is necessary because attorney Board members are NOT an acceptable substitute for independent legal advice from an outside attorney.