

The Rudgear Estates  
Homeowners Association  
Pool Committee  
Report



October 2007

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## INTRODUCTION

The Rudgear Estates Homeowners Association Board authorized the implementation of the Pool Committee at the June 2007 Board meeting, due to various complaints and concerns. The committee was charged with gathering information, analyzing the information and making recommendations to the board regarding:

Pool membership

Rudgear Estates Swim Team Operations

Rudgear Estates Homeowners Association legal liabilities as it relates to pool operations.

The Pool Committee formed with the following members: Shari Santos (President), Roger Smith (Secretary), Jill Garland (member), Georgina Lang (member), and RoseAnn Krupa (member). Joe Tringe was our liaison with the board. The Committee has a wide spectrum of experience with being homeowners, pool users, and being active with REHOA related issues. We felt that we could do a good job of representing the 429 RE Homeowners.

When we first met to organize, we discussed the importance of this undertaking. There was a broad array of issues that needed to be reviewed that had a great impact on all RE Homeowners. The major concern seemed to be the pool liability. We began our task of collecting and analyzing information related to our pool. We reviewed existing documents concerning pool operations, pool memberships, and associated Board actions. We added to this data by surveying various HOAs, Swim Clubs, and public pools within our general area. Much of this data can be found in the Findings Section of this report.

Through the RE Newsletter the homeowners were informed of our existence and our charter. We established a meeting at the pool on Aug. 23 and invited interested homeowners to share their issues and concerns with us. We had about 30 people attend the meeting. A summary of their input can be found in Appendix B of this report.

As we began to analyze the data, we began to develop our recommendations. The pool liability was the over-arching issue of all the issues and concerns. The issue of the pool liability insurance came up in 2003. In that year Walnut Creek paid a \$28 Million settlement as a result of a lawsuit involving

an accident at the Heather Farms Pool. The Board reviewed the liability insurance and decided to increase the coverage from \$1 Million to \$11 Million. This amount may still not be sufficient to cover a large lawsuit resulting from an accident at the pool. If, in fact, the REHOA was sued for an amount which exceeded their insured amount, an assessment of all homeowners might be required.

The Board suggested that Homeowners may want to increase their individual liability through their own Insurance Company. Most homeowners that we talked to were not in favor of this suggestion.

At this point we felt that we needed to take action on three main issues:

1. Obtain a Risk Assessment of the pool liability by an independent company. This was suggested at the Aug. 23 meeting. The committee realized that Risk Assessment may be difficult to implement, so we decided to drop this issue for now and concentrate on the remaining issues.

2. As we continued to gather information regarding pool liability insurance, we found that Swim Team and Outside Pool Memberships were such a liability issue that many, if not most, Insurance Companies were no longer issuing liability coverage if HOAs had Swim Teams and or Outside Pool Memberships. We felt that it was prudent to attempt to reduce the liability risk facing our homeowners. We felt that the large number of Swim team members, Swim Team coaches and administrators, Swim Team families, and the opposing Swim Team with their coaches and families was a burden on our pool, our parking lots and our side street parking. We felt that the sheer number of people participating in the several swim meets presented a great liability risk. Also we felt the use of alcohol in the pool area was very dangerous and should be discontinued immediately.

3. We felt that the pool operation was out of control, due to excessive outside pool memberships, splash fees and lack of pool rule enforcement by the Pool Manager and the Swim Team Organization. The pool is beginning to look like a public pool and needs to be returned to a quite private pool for RE Homeowners.

As we reviewed the Pool operation we found that the Board has allotted 100 Pool Memberships to families outside of REHA at a fee of \$350 per family per year. These families have the full rights to our pool without the

responsibility or liability that our homeowners have. There appears to be no local residency requirement, since we have families with pool memberships living in Pittsburg, Orinda, Alamo, and Danville.

One of the arguments from the Board for having outside memberships, as well as splash fees, is to pay for our pool maintenance, lifeguards, etc. The income is somewhere in the order of \$30,000 to \$40,000. According to the Board, if we discontinue the use of pool memberships the homeowners annual fees would have to be increased. Although the revenue looks good, there must be some costs and expenses on the other side of the equation. With 100 families, (say two adults & two kids), who have outside pool memberships and about 80 swimmers with Splash Fees, that is almost 500 extra people using the pool, not counting friends and guests that they bring. There must be some costs and expenses that come along with them. For example wear & tear must be considerable. There is the inconvenience when the pool, or lap lanes are not available. How about the cost of liability insurance that the homeowners must pay? How about the cost of electricity when the swim team practices or has a swim meet and the homeowners are not allowed to use the pool? However, we will attempt to balance these issues.

The REST (Rudgear Estates Swim Team) Organization is a big user of our pool. Over the past few years, the ST membership has steadily increased. The Board has attempted to set a cap on the number of swim team members, but they are not enforced. This year's swim team is in the order of 200 members. Of that number, only 42 are from the REHOA, the other 166 is from families living outside the RE area, as far away as Pittsburg. These outside families have the option of paying for a pool membership or paying an individual Splash fee for each Swim Team member of their family. This Splash Fee cost on the order of \$100 per swim team member and allows for pool access for only swim practice or swim meets. However, there is no effective way to determine if they swim at other times.

The Swim Team Organization uses the pool 5 hour per day for practice, 5 hours for each of the 7 Swim meets per season and have about 7 swim team parties. Much of this time is closed to homeowners. They serve alcohol during some of their parties, and ignore many of our pool rules, such as, maximum of 35 people at a party, loud PA system, and use of glass containers on pool deck. In addition, the Swim Team does not seem to be well supervised during practice. For example, some swim team youths were

seen running across the pool while the tarp was in place. This is a very dangerous practice.

At the end of our analysis we put together our recommendations. Our intent was to begin reducing the liability risk by reducing the number of Swim Team members and the number of Outside Pool Memberships. With this process underway, the committee would also recommend that the question of whether the Swim Team and Outside Pool Memberships should be discontinued due the excessive liability risk should be put to a vote by the RE homeowners.

With the issuance of this report to the Board at their October 2007 meeting, this committee has fulfilled its commitment.

## FINDINGS

1. The Swim Team Organization has 208 Members. The board has in the past capped the team at 150 members. And many feel that 150 members are too much.
2. The Swim Team Organization has 42 Swimmers of 25 households from Rudgear Estates.
3. The Swim Team Organization has 166 Swimmers from outside Rudgear Estates.
4. The Swim Team Organization has 86 Swimmers with Pool Membership.
5. The Swim Team Organization has 80 Swimmers with Splash Fee access.
6. There are 98 families outside Rudgear Estates with pool memberships at a cost of \$350 per year. (Alamo=13, Danville=1, Pittsburg=1, Orinda=1, Joaquin Ranch = 8, WC=74).
7. There are 429 Homeowners in Rudgear Estates.
8. Current Homeowner fees are \$435 for a total of \$186,615.
9. Non-RE pool membership fees for swim team families are \$350. (47 X \$350 = \$16,450).
10. Non-RE pool membership fees for non swim team family are \$350. (51 X \$350 = \$17,850).
11. Non-RE Swim Team Organization Splash fees vary depending on number of swimmers per family; \$125 for 1, \$225 for 2. Yearly fees are about \$4,925.
12. The Swim Team Organization has about 7 meets at the RE pool generally from 8am to 1pm. These meets are well attended with 300 or more in the pool area. The pool is closed to homeowners. That is 35 hours per season. The parking lot is filled and 100 or more cars park on adjacent streets.
13. The Swim Team Organization has about 7 parties. Each party is generally attended by 100 or more people. Alcohol is consumed at some of these parties. Glass containers are used in the vicinity of the pool. Loud PA and/or Music is used. Some parties last beyond

10pm. Most of these are violations of pool rules. At two of these parties the pool is closed to the homeowners.

14. The REHOA has an insurance coverage of \$11 Million for pool and other liabilities. The Swim Team Organization has a \$2M pool liability insurance coverage.

15. At the September RE Board meeting Karen Smith, the REHOA Insurance Agent, indicated that State Farm is no longer issuing Liability Insurance coverage for Swim Teams as part of an HOA policy. She said that we are grandfathered, so we are covered for now. However, if we have a pool liability claim, our insurance may be cancelled.

16. In a survey of several insurance agents, brokers, & underwriters in the Walnut Creek area, it was determined that Insurance Companies were not writing liability coverage for HOAs, if they had Swim Teams or Outside Pool Memberships.

17. Greenbrook Subdivision in Danville got rid of their Swim Team due to insurance liability. They also do not sell outside pool memberships for the same reasons.

18. The city of Walnut Creek, within the last 5 years, paid \$28 Million in a lawsuit judgment for a pool accident at Heather Farms.

19. If our REHOA has a lawsuit with a judgment greater the \$11 Million, individual homeowners may be assessed additional money to pay for the judgment.

20. Individual insurance may be available from various insurance companies to protect homeowners from such assessments.

21. Our present Pool Manager is not a RE homeowner & is active with the Swim Team Organization.

22. Swim team coaches are giving swim lessons during homeowner swim time. This is a private business and it encroaches on homeowner rights.

23. The Pool Manager gives these swim team coach/instructors the right to use the lap lanes for lessons, which is normally a pool rule violation.

24. The swim team holds practice during the week from 8am to 1pm. They also have various swim meets & evening practice sessions.

25. Comparison of Swim Teams.

| <u>Pool</u>                          | <u>Yearly Fee?</u>  | <u>Swim Team Fees</u>                                     | <u>Splash Fee?</u> | <u>Notes</u>   |
|--------------------------------------|---|---|--------------------|--|
| Danville Station HOA                 | Homeowner pool<br>\$650.00 for outside membership   |   |                    | Max outside membership 25<br>Swim team uses SRVHS pool<br>Pool parties HO only<br>Sign in upon entry. Alcohol allowed in park area NOT pool area. Lifeguards are qualified HOs |
| Dewing Park<br>933-5776              | \$500.00 plus refundable \$75 yearly volunteer fee<br><u>PLUS</u><br>\$475 one-time buy-in fee  | \$225 for 1<br>\$340 for 2<br>\$550 for 3                 | N/A                | Alcohol allowed<br><br>\$25 rental fee for barbeque, plus \$3 for each non-member attending; for over 25, must pay for extra lifeguard   |
| Heather Farms                        | Public Pool   |   |                    | No alcohol allowed. Lifeguards, entry fee for access   |
| Indian Valley                        | Number disconnected, can't find contact; believe it is homeowner pool   | \$195 for 1<br>\$365 2<br>\$485 for 3                     | \$125 each swimmer |  |
| Larkey Private Swim Club<br>932-9657 | \$475 per year Dues<br>\$90 per year mtce assessment<br>\$150 buy-out of gate keeping duties<br>\$150 buy-out of maintenance duties<br>\$100 fine for no-show maintenance shift | \$210 for 1<br>\$375 for 2<br>\$510 for 3<br>\$595 for 4+ | N/A                | Has mandatory sign-in<br>Larkey Swim Club is a private pool. No alcohol allowed.<br>Lifeguards, entry fee for access.  |
| Rancho Colorados,                    | \$1500 with \$800/yr. fee; increasing to \$1200/yr to   | \$900/yr  | N/A                | Two lifeguards on duty, 3 for holidays & special events. Gate security is sign in, more security   |

|                    |   |   |                     |  |
|--------------------|---|---|---------------------|--|
| Swim & Tennis Club | accommodate improvements  |   |                     | planned after renovation. Guest fee is \$1/guest. Swim proficiency required. Alcohol allowed   |
| Rudgear Meadows    | Homeowner pool  | \$195 for 1<br>\$390 for 2<br>\$465 for 3     | Similar to REHOA    | NO outside pool members; when RB tried to insure outside members, told that insurance would be cancelled   |
| Scottsdale         | \$575 per year<br>\$75 if not participating in maintenance party<br>\$15 guest pass for 20 visits | \$175 per swimmer<br><br>15-18 year olds \$60 | None – private club | Gatekeeper; members must man shifts. Admission by Guest purchased card only; no cash allowed accompanied by member. Any member desiring to bring a group of more than 4 guests must apply in writing to the Board. Registration upon entry to pool area. |
| Springbrook        | \$785 per year<br><br>\$25 guest card (15 guest visits)   | \$100 for 1<br>\$175 for 2<br>\$200 for 3     | \$125               |  |
| Rudgear Rats       | \$350 for outside pool membership   | \$125 for 1<br>\$225 for 2                    |                     |  |
| Valley HOA         | No outside membership allowed   | No swim team                                  |                     | Gate Security by key. Registration upon entry. Parties allowed for homeowners. No alcohol allowed. No lifeguards.  |
|                    |   |   |                     |  |

|                         |  |   |   |  |
|-------------------------|--|---|---|--|
| Walnut Heights          | \$380 per year<br>\$420 to join  | \$195 for 1<br>\$380 for 2                              | \$90 per swimmer;<br>maximum \$225 per family | If an age group is full, child may be <u>required</u> to join swim club in order to be on team<br><br>NO alcohol at present; trying to get it approved, but to date membership has not approved<br><br>Pool manager mans gate M-F; members on weekends |
| Paddock Hills (Lavorna) | Homeowner dues = \$350. Outside pool membership = \$350 plus a one time cost = \$350 | \$ 175 for 1<br>\$ 275 for 2<br>\$ 375 for 3 per family | N/A   | Alcohol not allowed<br>Gate security is sign-in<br>Lifeguards are used   |
| Saranap HOA             | Swim Team is for homeowners only   | N/A   | N/A   | Alcohol not allowed<br>Lifeguards are on duty.   |

## RECOMMENDATIONS

1. Limit the number of non-RE Homeowner Pool Memberships to 50. Families with Pool Memberships must live within 1 mile of the RE Pool. The Pool Membership fee for non RE Homeowners shall be raised to \$650. Also each family member who uses the pool must provide a signed liability release form. All families that live beyond 1 mile of the pool shall be denied renewal. Pool membership shall be reduced to 50 families by seniority or lottery methods.
2. Determine if RE homeowners want to have outside pool memberships by allowing all homeowners to vote on this issue within the calendar year 2008.
3. Limit the total number of RE & non RE swim team members to 100. All RE applicants to the swim team, must be accepted by a reasonable cut-off date. All members of the RE swim team must have a signed liability release form. The "Splash Fee" pool access shall be discontinued. A pool membership at the new rate of \$650 is required for all who use the RE pool. Polliwogs are not allowed as part of the swim team due to liability risk.
4. Determine if RE homeowners want to have a swim team by allowing all homeowners to vote on this issue within the calendar year 2008.
5. Disallow alcohol at any time in the pool area.
6. Prohibit glass containers in the pool area.
7. Disallow private swim lessons at any time.
8. Pool Rules must be enforced. The pool manager is responsible for enforcing the rules. The Pool Manager must be a RE Homeowner and have no conflict of interest in protecting the rights of the RE Homeowner.
9. Ensure that parking lot meets emergency vehicle access requirements.
10. Sound equipment at pool events & parties should be set at a level so that it does not disturb neighborhood homes.

11. Pool parties will be terminated by 8 pm.

12. Discontinue allowing Elementary Schools to use the pool area for parties.

13. The fencing facing Rudgear Rd. in the pool area shall remain free of planting to allow for visual inspection of the pool area.

14. Maintain lifeguards on duty at the pool.

15. Replace the portable stairs provided for all to use including Seniors & the Disabled. Provide for prompt maintenance and correct procedures for removal from pool and replacement.

16. In addition to a key, establish a sign-in sheet to access pool area. This could be an honor system, manned by the Pool Manager, or manned by volunteer or selected homeowners.

## Support for Recommendations

1. Limit the number of non-RE Homeowner Pool Memberships to 50. Families with Pool Memberships must live within 1 mile of the RE Pool. The Pool Membership fee for non RE Homeowners shall be raised to \$650. Also each family member who uses the pool must provide a signed liability release form. All families that live beyond 1 mile of the pool shall be denied renewal. Pool membership shall be reduced to 50 families by seniority or lottery methods.

The Rudgear Estates Homeowners Association Pool is a private pool for the use of Rudgear Estate residents. The committee feels the RE pool should remain a private pool for the use of RE homeowners. We feel that 50 is a more reasonable number of non-RE pool members and would reduce some of the liability risk. The committee feels that a non-RE pool membership should come at a premium. Not only is the wear & tear of the pool increased, but the value of the pool to the homeowners is reduce and the liability risk is increased.

2. Determine if RE homeowners want to have outside pool memberships by allowing all homeowners to vote on this issue within the calendar year 2008.

This issue has a big impact on the RE homeowners. It is only right that the RE homeowners have an opportunity to vote on it.

3. Limit the total number of RE and non RE swim team members to 100. All RE applicants to the swim team, must be accepted by a reasonable cut-off date. All members of the RE swim team must have a signed liability release form. The "Splash Fee" pool access shall be discontinued. A pool membership at the new rate of \$650 is required for all who use the RE pool. Polliwogs are not allowed as part of the swim team due to liability risk.

For many of the reasons of recommendation 1, above, the committee feels that the RE pool should remain a private pool for the use of its homeowners. If a swim team is desired, it should be limited. We feel that 100 total swim team members is more reasonable and would reduce some of the liability risk. With 208 members, the Swim team is very large. The board has tried in the past to limit the swim team numbers, but it appears to be a losing battle. Having at least 7 major swim meets, increases the wear & tear of the pool

with associated maintenance problems and costs. Of the 208 swim team members, 166 are non-RE families. At meets, not only do we have the 208 swimmers, but their families and the opposing swim team members and their families. This large number gathers around our pool 7 times during the summer. Anytime you have a large number of people in a small location, you have the possibility of a liability issue. The committee feels that the Splash fee is patently unfair. Each non-RE family that uses our pool should pay the pool membership fee at the \$650 amount. We feel that it is wise to have each swim team member sign a liability waiver form. Polliwogs can take advantage of swim lessons at Walnut Creek public pools.

4. Determine if RE homeowners want to have a swim team by allowing all homeowners to vote on this issue within the calendar year 2008.

This issue has a big impact on the RE homeowners. It is only right that the RE homeowners have an opportunity to vote on it.

5. Disallow alcohol at any time in the pool area.

The Committee should not have to defend this recommendation. It should be clear to all that drinking and driving is a bad idea. The Swim Team Organization has 7 or more parties at REHOA pool. Alcohol is available at these parties. Most of those in attendance live outside the RE area and need to drive to and from the pool. These parties are attended by kids and adults. All of the alcohol & driving advertisements, that you have seen, apply here.

6. Prohibit glass containers in the pool area.

This is just common sense.

7. Disallow private swim lessons at any time.

This is a prohibited business activity.

8. Pool Rules must be enforced.

Pool rules have been established for the safety of pool users and to reduce the risk of accidents. The Pool Manager must ensure that the lifeguards are familiar with the pools rules and know how to enforce the rules. The Pool Manager must be at the pool enough to ensure that pool rules are enforced.

9. Ensure that parking lot meets emergency vehicle access requirements.

We should meet all requirements to ensure that we can adequately provide for emergency vehicles access to the pool.

10. Sound equipment at pool events and parties should be set at a level so that it does not disturb neighborhood homes.

This is just being considerate of RE homeowners.

11. Pool parties will be terminated by 8 pm.

This is consistent with current pool rules.

12. Discontinue allowing Elementary Schools to use the pool area for parties.

The REHOA pool is a private pool. Schools have other public places to hold their parties (such as Heather Farms). Allowing Schools to use our pool increases our liability risk.

13. The fencing facing Rudgear Rd. in the pool area shall remain free of planting to allow for visual inspection of the pool.

This is per a WC Police recommendation. Residents and police can see and prevent problems or vandals at any hour. This was the situation when some swim team members decided to run across the pool with the tarp in place.

14. Maintain lifeguards on duty at the pool.

It is the responsibility of the REHOA to mitigate damages. The higher the probability of harm the more we are required to do to prevent harm from occurring.

15. Replace the portable stairs provided for all to use including seniors and the disabled. Provide for prompt maintenance and correct procedures for removal from pool and replacement.

The Portable stairs are a necessary way to enter the pool for some of our homeowners. The treads on the steps are there to prevent slipping. These treads wear out or are pulled off on occasion. This causes a safety hazard. These stairs need to be checked regularly and repaired when needed. Waiting until after Swim team season is over before repairing is negligent. Also the stairs have been damaged due to inappropriate removal and replace practices.

16. In addition to a key, establish a sign-in sheet to access pool area. This could be an honor system, manned by the Pool Manager, or manned by volunteer or selected homeowners.

A sign-in sheet is a better security format than just a key entry.

**APPENDIX A**

**RUDGEAR ESTATES HOMEOWNERS ASSOCIATION**

**POOL RULES**

**Rudgear Estates Homeowners Association**  
**Pool Party Reservation Rules**

1. Only Association and pool members in good standing may reserve the pool for special events.
2. Reservations cannot be made that will close the pool from use by other REHOA members and guests. Those making reservations must be prepared to share common areas of the facility with others. Requests to block off, reserve, or mark specific grass areas, pool deck locations or pool furniture cannot be accommodated. If specific sites or accommodations are required, have someone arrive well before the event begins.
3. All reservations must be received by the Pool Manager Nancy Grabow at least two weeks prior to the event. Short suspense reservations will be handled on a case by case basis with no guarantees of accommodation. To be complete, a reservation request must have all necessary information and be accompanied by two signed checks. One check to cover the projected event cost and the other with the \$300 cleaning / garbage removal deposit. Checks should be made payable to the Rudgear Estates Homeowners Association (REHOA). For parties sponsored by an organization (ie. Murwood Elementary School) proof of insurance must be provided with the reservation request. Reservations will be handled first come, first serve. Dates cannot be held without a completed reservation.
4. Reservations can be mailed or delivered to the Pool Manager, Mrs. Nancy Grabow. You can mail or deliver reservation requests to 756 Laurel Dr., Walnut Creek, CA 94596. You can contact Mrs. Grabow at 925.941.6430 if you have questions.
5. Fees and deposits:
  - a. Hourly party rate: \$30 per hour for parties over 15 and up to 35 guests.
  - b. A separate and non-negotiable \$300 clean-up and garbage removal deposit is required to complete a reservation. This deposit will be fully refunded within one week if the on-duty lifeguard approves the after party clean-up. If the after party clean-up is not verbally approved then the entire deposit will be forfeit.
6. A Disclaimer must be filled out completely by each guest over the age of 18 prior and given to the on-duty lifeguard prior to the start of the event. For parties with underage children, the Disclaimer Form must be filled out by one of the parents of each child.
7. No parties with more than 35 guests will be allowed.
8. The pool member sponsoring the party must be in attendance throughout the party and is responsible for rule enforcement of party guests and will be accountable for any damages.
9. All garbage generated by the party must be removed from the premises at the conclusion of the event unless an alternate plan is coordinated with the Pool Manager prior to the event.
10. Parties may begin no earlier than ½ hour after the pool opens and must conclude at least ½ hour prior to the pool closing.
11. Events must start and end as planned unless approved by the Pool Manager or on-duty lifeguard. Failure to end a function on-time will put the clean-up / garbage removal deposit at risk. Cleanup is defined as: removal of all garbage and equipment, return of any and all moved furniture, departure of all guests from the pool / BBQ area and a completed inspection by the on-duty lifeguard within the time allotted for the party.

## **Rudgear Estates Homeowners Association Pool Rules**

### **Diving rules:**

1. One person on the diving board at a time.
2. Swimmers must not distract or interfere with those who are on the diving board.
3. No diving until the area beyond the end of the diving board and underneath is totally clear of swimmers.
4. All diving must be from the end of the diving board, no jumping toward the sides of the pool.
5. No swimming under the diving board or touching it from below.
6. No back flips, Belly Flops or other unsafe activity from the diving board or deck.
7. No running dives from the deck
8. Diving allowed in the deep end of the pool only. Sanctioned swim meets and certified swim lessons are exempt.

### **Baby pool rules:**

1. No children over 6 years of age in the Baby pool without the approval of the on-duty lifeguard.
2. Pool members or guests must supervise their children directly when using the Baby pool.
3. No more than 10 children in the Baby Pool at a time.

### **Lifeguards:**

1. Lifeguards are to focus primarily on swimmer safety.
2. On-duty lifeguards will not answer phones, text-message, open the pool gate or undertake any activities that distract their attention from the swimmers.
3. Lifeguards are not authorized to make phone calls unless it is to protect life, limb, sight or property.
4. Lifeguards will always have available their proof of lifeguard, CPR and first aid certification.
5. Lifeguards will inspect to ensure a fully stocked first aid kit is on-site and available each day. Any deficiencies will be identified to the Pool Manger on the day they are discovered with resolution complete within 24 hours.
6. The final interpretation of any pool rule in dispute is decided by the senior on-duty lifeguard.

## **Rudgear Estates Homeowners Association Pool Rules**

### **Operations:**

Pool opens: 1 May

Pool closes: 30 September.

Pool Manager: Mrs. Nancy Grabow 925.941.6430

Spring hours (5/1/07 to 6/8/07): open @ 3:30 close @ 7:00, Weekend hours: open@ 12:00 close@ 7:00

Summer hours (6/11/07 to 8/29/07): open @ 12:00 close @ 8:00, Weekend hours: open@ 12:00 close@ 8:00

Fall hours (8/29/07 to 9/7/07): open @ 3:30 close @ 7:00, Weekend hours: open@ 12:00 close@ 7:00

Rules governing the daily use of the REHOA pool are determined by the REHOA Board of Directors to ensure safe operations and protect the interests of our membership. These rules are subject to change at anytime. Failure to follow the rules or the instructions of the on-duty lifeguards will trigger the following escalation path though it can be enacted at any appropriate point:

1. On-duty lifeguard asks member(s)/guest(s) to comply with stated rules (one warning only).
2. On-duty lifeguard contacts Pool Manager to make aware of problem.
3. On-duty lifeguard asks member(s)/guest(s) in question to leave the facility.
4. On-duty lifeguard clears the pool until member(s)/guest(s) depart the facility.
5. On-duty lifeguard calls the Walnut Creek Police Department @ 925.943.5844
6. On-duty lifeguard closes the pool until clearance to return is given by Pool Manager.
7. Any incident that goes to Step 3 will be referred to the REHOA Board.

Pool members or guests who abuse pool rules or staff are subject to disciplinary action which may include suspension from use of the pool facilities.

### **Complaints:**

To register general complaints or pose questions, contact the pool manager, Mrs. Nancy Grabow at the number listed above. If complaints are specific to the Rudgear Estates Swim Team (REST), contact Aaron Davis directly at 925.323.9409 or e-mail him at [adavis35@hotmail.com](mailto:adavis35@hotmail.com)

Rudgear Estates Homeowners Association  
General Pool Rules Posted on RE Website as of August 2007

1. All pool members should come prepared to show identification proving they are residents of Rudgear Estates or are Pool Members.
2. No smoking on the facility property.
3. No Glass containers of any type are allowed on the facility property.
4. The pool is for use by REHOA Members and their guests only. REHOA members who invite guests are limited to seven people per home and are ultimately responsible for every aspect of their guests conduct. Members who will exceed the number of authorized guests must coordinate with the Pool Manager for a party.
5. Non-swimmers or weak swimmers as determined by the on-duty lifeguard must wear a certified and functional flotation device when in the pool and have a responsible adult swimmer providing direct supervision. Flotation devices are not required if the swimmer in question is in the pool with and managed directly by an adult swimmer.
6. No running, pushing, climbing or rough play while on or in the area of the pool deck. Footwear is highly recommended.
7. No dunking or rough play in the pool.
8. No balls or unsafe equipment or activities in or out of the pool.
9. No skateboards, in-line skates or scooters are allowed on the facility property.
10. The hillside north of the BBQ area is off-limits as a play area.
11. Children age 12 or younger must be accompanied and directly supervised by an adult at all times.
12. Radios are allowed in the pool area but both volume and music selection cannot be offensive to any pool member or adjacent property owner.
13. No foul language or rude behavior is permitted.
14. A ten minute rest period will be called on the hour by the lifeguard. All swimmers under the age of 18 must completely exit the pool during that time. No sitting on the edge with feet in the pool. Swim lessons by certified personnel are exempted from this rule.
15. If members or guests move pool furniture it must be put back in its place before leaving.
16. Lap lanes are to be used by lap swimmers only. Minimum age for use is 18 unless approved by the on-duty lifeguard. No lap swimming in the deep/diving end of the pool.

Rudgear Estates Homeowners Association  
General Pool Rules Posted at the Pool as of August 2007

1. All pool members should come prepared to show identification proving they are residents of Rudgear Estates or are pool members.
2. No smoking on the facility property.
3. No Glass containers of any type are allowed on the facility property.
4. The pool is for the use by REHA Members and their guests only. REHA members who invite guests are limited to seven per home and are ultimately responsible for every aspect of their guests conduct. Members who will exceed the number of authorized guests must coordinate with the Pool Manager for a party.
5. Non-swimmers or weak swimmers as determined by the on-duty lifeguard must wear a certified and functional flotation device when in the pool and have a responsible adult swimmer providing direct supervision. Flotation devices are not required if the swimmer in question is in the pool with and managed directly by an adult swimmer.
6. No running, pushing, climbing or rough play while on or in the area of the pool deck. Footwear is highly recommended.
7. No dunking or rough play in the pool.
8. No balls or unsafe equipment or activities in or out of the pool.
9. No skateboards, in-line skates or shooters are allowed on the facility property.
10. The hillside north of the BBQ area is off-limits as a play area.
11. Children age 12 or younger must be accompanied and directly supervised by an adult at all times.
12. No foul language or rude behavior is permitted.
13. For reasons of sanitation and safety, no pets are allowed.
14. A ten minute rest period will be called on the hour by the lifeguard. All swimmers under the age of 18 must completely exit the pool during that time. No sitting on the edge with feet in the pool. Swim lessons by certified personnel are exempted from this rule.
15. If members or guests move pool furniture it must be put back in its place before leaving.
16. Lap lanes are to be used by lap swimmers only. No lap swimming in the deep/ diving end of the pool.

APPENDIX B

RUDGEAR ESTATES HOMEOWNERS ASSOCIATION

August 23, 2007 Homeowner Meeting  
and  
Homeowner Input

## SUMMARY OF NOTES FROM 8/23/07 SWIMMING POOL MEETING

- An overwhelming majority of homeowners (by a show of hands) indicated that NO alcohol should be allowed at the pool, including at swim team events. There was a concern that if someone drank at the pool and then drove and hurt someone, we could be found liable. It was also suggested that we check on that with our insurance carrier.
- It was agreed that a risk assessment should be undertaken to ascertain how much the outside pool members and swim team operations expose the HOA to liability.
- It was agreed that we should find out how much more insurance (above the \$11 million we have) could be obtained and how much more it would cost.
- A majority of those in attendance seemed surprised that only 40 or so swimmers of the over 200 on the swim team were Rudgear Estates homeowners' children.
- Attendees were also surprised that "polliwogs" were not counted in the swim team number count. Although they use the pool, they do not compete, so the swim team does not count them in their numbers. That should be changed, or the polliwog program should be eliminated.
- There was a question whether \$125 for splash fee and \$300 for outside pool memberships is adequate, and that we should investigate what other pools charge.
- There were concerns regarding the safety of the pool itself; stairs not being adequately maintained, and the pool structure itself is dated and should be inspected.
- Although it was suggested that we eliminate the lifeguards, most that spoke out thought we should keep them because of increased liability if we employed them previously and then chose not to at a later date.
- There were homeowners who spoke both for and against the presence of the swim team at Rudgear Estates. However, most did express concern that the Swim Team was consistently exceeding the limit set by the REHOA Board each year.

## Notes from Pool Meeting August 23, 2007

### Addressing:

1. Pool memberships.
2. REST operations.
3. REHA legal liability as it relates to pool operations.

### **Amy Leach** – Robb Road

Supports the community. The pool is old and needs remodeling she would like to work on the committee and address health and safety issues.

### **Shari Santos**- Committee Chair

Pool memberships to those outside of REHOA.

Currently the board allows for 100 outside pool memberships at \$300 annually and it is open to anyone who comes with a check. We do not know how many people are associated with each membership because it is per household.

### **Glen Casebolt** 4474 Whitecliff

Glen would like to know under what CC&R this is allowed. He could not find it in the CC&R's and quoted Article 2, #1

This is not allowed without CC&R approval  
There is a deviation from the CC&R

**Mike Campbell** also has concerns about swim team, outside pool memberships, and liability issues.

Show of hands showed the majority are against selling outside memberships and a recommendation was made that legal counsel be taken into consideration to see if the Board can actually sell outside memberships.

Who is the underwriter for our insurance?  
Who are considered homeowners, guests or invitees?

### **Joe Tringe** – appointed by Aaron Davis as Board Liaison

Joe wanted to address liability, cost and risk. He agreed that there is an additional risk for more users of the pool and recommended that the Home Owners go to their respective insurers and purchase coverage.

The response from the Homeowners was "We should not have to."  
Selling memberships to those outside of the REHOA represents an income.  
Swim Team and outside memberships account for 60% of pool income. The increase to homeowners would be more than \$10 per year.

### **Ann Smith** Devonshire

Ann wanted to know if Joaquin Ranch is part of our HOA. The answer was no.

### Individual Liability

Show of hands showed that the majority were in favor of an independent Risk Assessment undertaken by a qualified third party with no potential for conflict of interest or insurance representation.

### **Valerie Skala**

Suggested that the pool be closed until this assessment was undertaken and the question of

liability could be sorted out.

### **Christl Kasler**

Why is the HOA not able to have enough insurance to cover liability? We should look into the maximum possible insurance again.

Why can the swim team only get 2million in insurance? Look into the maximum coverage for the swim team.

### **2. Swim Team Operations**

Swim team will not enforce the cap. The cap set by the board this year was 185 and membership is over 208.

The board is ignoring the HO's. The board must enforce the CC&R's.

**Ian Goltra** 1428 Whitecliff is on the Governing Board of the Swim Team

It is required that the swim team membership be left open to the HO's after closing. So after they closed the membership at 185 the remaining are HO's and polliwogs.

There are only 40 swim team members in the HOA.

If they want a lower cap or other regulations this must be set by the HOA Board. The swim team follows what the board directs.

Polliwogs are 3 & 4 year olds that don't have to pay or pay less because they don't compete and therefore they are not counted in the total membership.

HO's voiced concern that the rules are not being followed.

Ian reminded them that it is the Board that sets the rules.

HO's requested that the board revisit policy and cap as it is not being adhered to. The current limitations the board is setting are not being enforced.

### **Roger Lamm**

The cap does not limit the number of people using the facility.

Swim team members come from anywhere as long as they pay the fee, or Splash fee.

How are people who enter accounted for? You could give your key to anyone and they can bring in as many people as they wanted.

How is this being enforced?

**Ian Goltra** stated that the swim team membership needed to increase in order for it to be economically viable, to enable them to pay for coaching etc.

Statement by committee-

Alcohol is allowed at the pool

HO's: who okayed this?

Glenn stated that when he was President of the board this was never allowed

There is currently outside access to a pool with alcohol. This is not being managed. Glenn reiterated that we need to stick to the rules.

Amy Leach felt that the alcohol issue was being blown out of proportion and Tang agreed. A show of hands showed that 3 people present were in favor of allowing alcohol at the pool. All others felt it was a liability.

**Valerie Skala** stated that other swim teams had "no alcohol"

**Gladys Engman** . . . Robb Rd.

Gladys felt that alcohol exposes us to no limit of liability. Does the board have the authority to grant permission? She felt we should be minimizing our liability.

**Nancy** asked if there had been precedent where a HOA had made the pool private?

It was noted that 3 of the 7 current board members have children on the swim team.

Aaron Davis

Rusk

Thompson

Swim Team usage and the sale of outside memberships should be put on a ballot to be approved by all HO's at the same time as the CC&R's.

Add the lack of control for who enters with pool keys. We don't know who uses them. Can this be controlled?

If there is nothing about alcohol in the CC&R's does this mean it is allowed?

**Ian Goltra** reiterated that the swim team cap was being enforced but that it always goes over because it is only the HO children who sign up late and the polliwogs. He insisted they are following the rules of the board.

The committee agreed to compile facts and figures, comments from this evening and submit a report to the board. All present wanted a copy of the report.

It was requested that the report of recommendations be put on the Agenda for the end of year meeting.

**Ann Smith** was told by Nancy Grabow (Pool Manager) that the pool would close the end of August because she could not secure lifeguards.

It was stated that she does not have the authority to close the pool.

**Shari Santos** reported that a suggestion had been made to do away with lifeguards and have a swim at your own risk policy.

Case law states that the bigger the possibility of harm the more you are required to mitigate that risk.

Amy Leach pointed out that Springbrook has Adult Lap swimming without lifeguards.

**Glenn Casebolt** pointed out that the membership and Splash Fees were paid to offset the cost of lifeguards.

It was recommended that the swim team close their membership before the cap to allow for late homeowner entrance. They could then put others on a waiting list.

Ian said they did close it and still it went over due to HO late entry.

The swim team is a separate entity and it is not included in the CC&R's.

**Ann Kaplan** appeared by letter endorsing swim team and outside pool memberships, but understands concern about liability.

**Don Hill** – Hillendale Ct.

The largest asset we have in our community is the pool. He moved here so that his 2 boys

could have a pool. They served as lifeguards at other pools.  
The HOA decided to have a swim team to give the children in the Association recreation and something to do.

There is a certain critical mass needed to maintain a Swim Team  
The total number of points at the end of the meet determine the winners. The larger the team the more points they can obtain. The fees help to provide for the swim team extras.

If there are only 40 HO swim team members the question is whether or not the HOA should continue to support the team.

Should the support of a swim team be on a ballot?

There are other swim teams that those 40 children could join.

Are the outside membership fees enough? Is the \$300/family covering the load and increase of liability?

HO's and not the board should vote on outside membership and swim team viability.

The increase cost of liability should be passed to outside members. HO's should not have to assume liability for outside use.

The more people the more risk.

**Ian** stated that the swim team bears a large portion of these costs.

Karen stated the swim team has new insurance policy

200+ swim team members have \$2 million in coverage

429 HO's have \$11 million in coverage

Is this enough and is it proportional to the risk?

The new CC&R's do not address outside membership or the Swim Team

Vote is needed to change the CC&R's or approve them'

Should the CC&R's be amended to incorporate rules for outside membership or Swim Team?

To summarize:

Pool membership

Who authorized this and for how many. Does our insurance cover them.

is the Property Manager and board acting in accordance with the CC&R's?

The Property Manager's contract should be reviewed annually.

Swim Team:

Caps are not being enforced.

Who makes the cap and how is it decided?

Can choose not to field a team within the HOA. It was unclear if this was lack of participants or lack of funds.

Is it financially viable for the HOA to support a team?

Liability

HO's are liable for anything that happens here.

Concerns about alcohol

Concerns about unsupervised swimmers, "Tarp running" was observed by Shari Santos.

As a twenty plus year resident of Rudgear Estates and a retired Registered Nurse, I have always been concerned about safety at the pool.

A concern of mine is over the damage and non-maintenance of the portable stairs. The serious neglect of the safety measures, such as the tread not being replaced, has clearly not been a top priority as I feel it should be.

I personally feel that there should be no swim lessons or swim team activity when there is open swim for residents. All swim practice and lessons should be in the morning as was done in prior years. Therefore, the life guards can do their job of watching all swimmers and the pool rules will be clear for all children during open swim. I have noticed some children do not always have adult supervision. The life guards are not baby-sitters.

I understand that it may be difficult to find life guards at this time of year to keep the pool open – I feel that every effort should be made to secure lifeguards as they are necessary at all times at the pool.

This is the time of year when we residents can enjoy the pool without infringement by swim team activities.

Thank You,

Ann Smith

August 31, 2008

The Rudgear Estates Community Swimming Pool is definitely the most visible and probably also the largest asset and headache that the Rudgear Estates Home Owners Association has to manage.

When our family moved to Rudgear Estates, from the North Bay, over 20 years ago, the community pool was a distinct selling point, because, we were leaving a house with a pool and had three active swimmers from upper elementary school through high school, in age. The Rudgear Rats Swim Team was also a strong selling point.

Our oldest son had swum on a competitive swim team in Southern California and the North Bay. As a result, I appreciate the potential physical and social benefits of offering a competitive swim team, for the youth of the Rudgear Estates housing development. I also appreciate the fact that a competitive swim team needs a certain critical mass, to attract members. If there are not enough members to fill all of the events, the team seldom wins meets and, as everyone knows: "No one wants to join a loser".

Even though we live in close proximity to the pool and all three of our sons used it extensively, none of them ever joined the Rats team. All three did, however, complete their Boy Scout Lifesaving Merit Badge, and the older two eventually completed Red Cross Water Safety Instructor certification, so that they could serve as Life Guards. All in all, our family has greatly benefited from the Rudgear Estates community Swimming Pool. The occasional noise and parking problems created by Rudgear Rats home meets and team parties were a small price to pay for the benefits of an attractive community pool.

When my wife and I attended the meeting at the pool, recently several issues were raised with regard to the pool, its usage, and the Rudgear Rats Swim Team. These issues could be summarized as follows:

1. The size of the Rudgear Rats Swim Team (and the resulting pool maintenance and liability issues related to it).
2. The small number of Rudgear Rats Swim Team members (approximately 42 out of nearly 200) from Rudgear Estates Home Owners Association families.
3. The sale of Rudgear Estates Community Pool Memberships to families outside of the Rudgear Estates Home Owners Association, or their tenants.
4. The sale of "Swim Season Splash Fees" to Swim Team members who not members of Rudgear Estates Home Owners Association, Rudgear Estates Community Pool Membership families.
5. The potential liability exposure to Rudgear Estates Home Owners Association members due to Items 3 & 4, and whether Items 3 & 4 voided the Rudgear Estates Home Owners Association liability insurance.
6. The consumption of alcohol on the Rudgear Estates Community Pool property and the potential liability to Rudgear Estates Home Owners Association members.

Real estate developers do not dictate the policies of home owner associations for the developments they produce. The assets that they cede to those homeowner associations, however, do often steer the resulting homeowner associations into the paths that they take.

The following scenario is speculative, but highly plausible:

Long before our family purchased our home in Rudgear Estates, the Rudgear Estates Home Owners Association decided that it would be in the communities' interest to support a community swim team (why else would you have an Olympic sized community pool) and The Rudgear Rats were born. At first, there probably was no problem fielding a competitive swim team, as the development had many young families. In time, as the Rudgear Estates Home Owners Association families aged, and other activities competed for the attention of the remaining children, it became more difficult to keep the team competitive.

At some point, the idea of selling Rudgear Estates Community Pool memberships to families outside the association may have been floated as a means of maintaining a competitive Rudgear Rats Swim Team. Many of those outside families may have been like one of our former neighbors who had rented a house within the Association, and then bought a house nearby.

Eventually, even the Rudgear Estates Community Pool Member families may not have been sufficient to field a competitive Rudgear Rats Swim Team, and the concept of "Swim Season Splash Fees" may have been floated to fill the ranks of the team.

Whether or not the above scenario is true, the Rudgear Estates Home Owners Association needs to face the following issue:

***Do the Rudgear Estates Home Owners Association members wish to continue to support a community swim team, when only 42 out of nearly 200 members come from the 421 families in the Rudgear Estates Home Owners Association?***

If the answer to this question is no, then most of the above numbered issues go away. If the answer is yes, then the other issues must be addressed, and there may be some adjustments between the relationship between the Rudgear Rats Swim Team and the Rudgear Estates Home Owners Association.

Name of homeowner withheld by request.

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