



HOA SALES DISCLOSURE PACKET

VILLA WATER DAMAGE

AS OF:

04/04/2024

For questions or comments, please contact John Patrick Maura, General Manager, at
(415) 492-4916 or jmaura@smithranchhomes.org

SMITH RANCH HOMES

TO: SMITH RANCH HOMES RESIDENTS
FROM: SRH BOARD OF DIRECTORS
SUBJECT: EMERGENCY SPECIAL ASSESSMENT NOTICE
DATE: 4/4/24

On March 26, 2024, the Smith Ranch Homes Board of Directors approved a \$2 million dollar emergency special assessment to fund the recovery from the water damages in four villas. The Association insurance policy does not cover flooding or microbial growth. The 2024 Reserves funding is limited and cannot continue to be used to cover these unforeseen expenses. The Board has carefully considered all of the options, and consulted with legal counsel and our team of expert architects and engineers and determined this action is needed immediately.

The first of three installments, will be due May 15, 2024 and will be listed on your monthly statement. **See Appendix 1, (Schedule B) for the attached assessment according to the floor plan of your unit and the attached sheet showing the details of your account and your particular Emergency Assessment.**

This notice serves Smith Ranch Homes' requirement to provide individual notice to the members of any special assessments of the association. The Board of Directors may, without homeowner approval, levy special assessments that do not exceed 5% of budgeted gross expenses for the fiscal year.

California Civil Code Section 5610, authorizes the Board of Directors to levy and emergency assessment in an "emergency situation."

CC&R Article 5.6.C, Special Assessments levied for maintenance, repair or improvement expenses related solely to any residential building shall be allocated according to the percentages listed on Exhibit "B" (Appendix 1), which are based upon the ratio of the interior square footage of each Unit to the total interior square footage of each Unit to the total interior square footage of all Units. Special Assessments levied for any other purpose shall be allocated among all Units equally.

The Villa water damage emergency is currently estimated at \$5 million dollars. Two million dollars is needed now to fund the ongoing testing and remediation. A second Special Assessment will be considered after all interior and exterior testing is completed in April.

Therefore, based on the recommendation of legal counsel and management, and as concurred by the Finance Committee, the Board of Directors approved this emergency special assessment, covering the emergency portion of the villa water damage repairs.

If you have questions or comments, please feel free to contact the General Manager at 492-4916.

**RESOLUTION OF THE
SMITH RANCH HOMEOWNERS ASSOCIATION
BOARD OF DIRECTORS
For the
LEVY OF AN EMERGENCY SPECIAL ASSESSMENT**

Dated March 26, 2024

The Board of Directors of the Smith Ranch Homeowners Association (“the Association”) has at its duly noticed meeting on March 26, 2024, adopted the following Resolution.

RECITALS

- A. The Association is a condominium project that consists of Units and Common Areas;
- B. The Association is charged with maintaining, repairing, and replacing the Common Areas, which are defined as the entire property except for the individually owned Units, the boundaries of which are essentially the interior unfinished surfaces of the perimeter, floors, ceilings, and walls of each Unit;
- C. The Association includes a mix of larger and smaller Units, with the larger Units being defined as Villas;
- D. In the course of inspecting and investigating a reported plumbing leak in one of the Villas, it was discovered that the concrete slab was exuding ground water and moisture from beneath the Unit through the slab and into the Unit and adjacent common areas;
- E. It was discovered in the course of the investigation that the original Villa that had reported damage had extensive water and moisture damage and required significant remediation and repairs, and that other Villas similarly situated also had hidden water and moisture damage and would require extensive demolition, remediation and repair efforts;

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- F. The extent of the damage created risks to the health of the residents of the affected Villas such that they had to vacate their Units;
- G. The Association has engaged professionals to implement the necessary remediation efforts, determine the extent of the damage and how to address the source of the water causing the damage, and to prepare a scope of work for the necessary work;
- H. Because the damage and the underlying cause of the damage were unknown, and unforeseeable, there are no reserve or other funds set aside to address the necessary remediation and repairs;
- I. Significant funds have been spent already as the conditions required immediate action, and those expenditures, and the ongoing costs that will be incurred in the near term, have created a serious shortfall in funding that must be addressed immediately;
- J. When taking into account the funds spent to date on emergency remediation and investigatory efforts, and the funds that will be needed in the near term to continue the necessary remediation and investigatory work and to develop a viable scope of work for permanent repairs, the Board has determined that the sum of 2.0 million dollars must be raised immediately;
- K. California Civil Code Section 5610, authorizes the Board of Directors to levy an emergency assessment in an “emergency situation”, which is defined as any one of the following circumstances:
 - (a) An extraordinary expense required by an order of a court.
 - (b) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is

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responsible where a threat to personal safety on the property is discovered.

(c) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the annual budget report under Section 5300.

- L. Civil Code Section 5610 cited above also requires that, if an emergency assessment is levied pursuant to subsection (c), that the Board also shall pass a resolution containing written findings as to the necessity of the extraordinary expense and why the expense was not or could not have been reasonably foreseen in the budgeting process, and that the resolution be distributed to the members with the notice of assessment.
- M. The Association's CC&Rs, Section 1.9, define an "Emergency" as an "... event or condition that threatens imminent peril to the health or welfare of persons, or damage to property, or an emergency situation as defined in Civil Code § 1366 (b)." Civil Code Section 1366(b) is the predecessor statute to Civil Code Section 5610 quoted above;
- N. The Board of Directors has carefully considered all of the options, and consulted with its professional staff, construction consultants, and legal counsel, and finds that it is necessary to levy an emergency special assessment to generate funds now, while the investigation continues, in order to avoid a catastrophic funding shortfall that will adversely impact the various services provided to the residents and the quality of the residents' lives;

NOW, THEREFORE, BE IT RESOLVED THAT the Association, by and through its Board of Directors, has made the following findings and taken the following actions:

1. The circumstances present an emergency situation defined by Civil Code Section 5610, in that (i) the water damage has resulted in conditions in the affected Units that created and create a threat to personal safety of the residents, which required and require prompt action, (ii) the extraordinary expenses are necessary and could not have been reasonable foreseen in preparing and distributing the annual budget(s), and (iii) the failure to timely raise some portion of the funds now would lead to unacceptable and potentially catastrophic consequences.

2. On that basis the Board hereby levies as an emergency assessment in the total sum of \$2,000,000, which total amount shall be allocated amongst all homeowners per Article 5.6.C in the CC&Rs, according to the percentages in Exhibit "B" (square footage of each unit to the total interior square footage of all units), as illustrated on the attached **Appendix 1**.

3. A minimum of 30 days' notice must be provided to the membership before the emergency assessment is due. Funds are needed as soon as possible, but, the Board understands that some owner's may need additional time to arrange their personal financing to pay their proportionate share. Each owner's share of the Emergency Assessment shall therefore be payable in three installments, with the first installment being due on May 15, 2024, the second on June 15, 2024, and the third on July 15, 2024.

4. Staff is directed to provide timely notice of the levy of this Emergency Assessment to each owner, and to do all things necessary and reasonable to complete the levy and collection of these funds. A separate reserve bank account will be created and these amounts shall be separately accounted for.

5. This levy of this emergency assessment will not provide funds for all of the anticipated expenses that will be incurred as the extent of the damage and the necessary

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be needed, which options may include the levy of another emergency assessment, a member approved special assessment (with or without a commercial loan), a Board approved increase in regular assessments or the levy of a Board approved special assessment, eliminating, or decreasing member services, and/or the reallocation of existing reserve funds.

ABSENT

Glynn Phillips, President

Dean Porter

Dean Porter First Vice President

Gladys C. Gilliland

Gladys Gilliland Vice President

Garret Scholz

Garret Scholz, Treasurer

Tom Bertelsen

Tom Bertelsen, Secretary

CERTIFICATE OF SECRETARY

I certify that I am the duly qualified and acting secretary of the Smith Ranch Homeowners Association. The foregoing is a true and correct copy of the Resolution duly adopted by the Board of Directors of the corporation at a duly noticed Board meeting held on March 26, 2024, and entered in the minutes of such meeting. The Resolution has not been modified or appealed and is, as of now, in full force and effect.

March 27, 2024

BY: Tom Bertelsen

Tom Bertelsen, Secretary

Smith Ranch Homes

APPENDIX A

FLOOR PLAN TYPE	SQ FT	INTEREST/UNIT	ASSESSMENT
1	753	0.002392	\$ 4,784
2	821	0.002608	\$ 5,216
3	882	0.002802	\$ 5,604
4	948	0.003012	\$ 6,024
5	983	0.003123	\$ 6,246
6	1099	0.003492	\$ 6,984
7	1261	0.004006	\$ 8,012
8	1263	0.004013	\$ 8,026
9	1318	0.004187	\$ 8,374
10	1390	0.004416	\$ 8,832
11	1409	0.004476	\$ 8,952
12	1439	0.004572	\$ 9,144
9/2	2139	0.006796	\$ 13,592
11/2	2230	0.007085	\$ 14,170
7/4	2209	0.007018	\$ 14,036
2/2	1642	0.005217	\$ 10,434
9/9	2636	0.008375	\$ 16,750
6/1	1852	0.005884	\$ 11,768
5/1	1736	0.005515	\$ 11,030
4/3	1830	0.005814	\$ 11,628
701	1998	0.006348	\$ 12,696
705	1906	0.006055	\$ 12,110
709	2324	0.007383	\$ 14,766
713	2324	0.007383	\$ 14,766
717	1906	0.006055	\$ 12,110
721	1955	0.006211	\$ 12,422
725	2324	0.007383	\$ 14,766
729	1906	0.006055	\$ 12,110
733	2318	0.007364	\$ 14,728
751	1891	0.006008	\$ 12,016
755	1908	0.006062	\$ 12,124
759	2385	0.007577	\$ 15,154
763	1846	0.005865	\$ 11,730
767	2391	0.007596	\$ 15,192
771	3800	0.012073	\$ 24,146
779	1969	0.006256	\$ 12,512
A	2111	0.006707	\$ 13,414
B	2274	0.007225	\$ 14,450
A-1	2115	0.006719	\$ 13,438
A-2	2112	0.006710	\$ 13,420

**Smith Ranch Homes
Villa Water Damages and Special Assessments
Frequently Asked Questions**

I understand that the Board explained the background of the discovery of water damage at certain of the Villas at the Board Meeting on March 26, 2024. I was not able to attend. Can you give me a summary of how the damage was discovered?

In late December 2023, it was discovered in the course of a leak investigation that the original Villa that had reported damage had extensive water damage and required significant remediation and repairs, and that other Villas similarly situated also had hidden moisture damage.

Given the significant water saturation of the slab and a significant swing in moisture levels inside the units after it had rained, it became apparent that the water damage could not be attributed to a drain line, and had to be from an outside water source coming in through the concrete slab.

Ok, so how far did the investigation go from there, and what Villas have been discovered to have similar damage?

The investigation and testing expanded to include three additional Villas, to date, 701, 695, and 699, and to the exterior drainage systems and soils conditions, and exterior water proofing, which may be contributing to the excessive water under the units. The investigation and soil testing of the exterior conditions that may have led to the damage is ongoing.

I heard certain Villas had to be vacated by the residents. Can you explain why?

Environmental testing revealed mold conditions that impacted the air quality in Villas 701, 705, 695 and 699 given the demolition of large

areas of walls and flooring, it was not feasible for the residents to remain in the units.

What other Villas might be impacted and what is the Association doing to follow up on those?

Currently, there are three other Villas that are of concern, 691, 709 and the combined villa, 725/729. Interior testing is being coordinated by Saarman Construction and management and will begin the week of April 1.

How much money has been spent to date on remediation and investigation and other related expenses?

\$825,681

Wow, that is a lot of money paid to Critical Control? What is the Board doing to control those costs?

The Board, the Finance Committee and management are reviewing scheduled Reserve projects and Operations budgets to determine if there are any projects or amenities that can be deferred or paused without affecting the safety and comfort of the residents.

I heard about the Emergency Assessment that the Board approved at the March 26, 2024 meeting. Can you explain that?

Enclosed you will find a copy of the Resolution adopted by the Board, which explains exactly what findings were made and why they were made. The assessment is allocated pursuant to Schedule B, as explained in the resolution, and the due date for the three installment payments are May 15, 2024, June 15, 2024, and July 15, 2024.

Can I pay my share of the emergency assessment by Direct Debit?

Homeowners electing to have their existing ACH/Direct Debit program pay for their Emergency Assessments, please see the attached form (pink).

I thought members had to vote on these types of assessments. How can the Board assess us that much without a vote of the members?

California provides the express authority to a Board of Directors of a community association to levy emergency assessments, as outlined in the Resolution. Given the nature of the discovered damage and the need for immediate action, this situation qualifies as an emergency. The Board decision was based on the urgent need for funding and the concern that without emergency funding the services and amenities that the residents rely on would be adversely impacted.

Will there be another assessment for the Villas water damage problem?

Unfortunately, yes. The 2 million dollar emergency assessment is just the first assessment to address the short term needs and to pay for the investigation and determining how to fix the problem. A rough estimate from our consultant of total costs, which is dependent on additional ongoing investigations, may be in the 5 to 6 million dollar range – but we really won't know until the initial investigation is completed and a final scope of work is prepared and priced.

We are already looking at any and all funding options, including the levy of another emergency assessment, a member approved special assessment, whether we can utilize some of the reserves on hand without negative consequences in the future, as well as how we can save money in our operations.

I am on a fixed income and it's hard enough sometimes to pay the regular monthly fees and assessments and my other living expenses. Another even larger amount to pay in a short period of time would be very difficult for me. Will there be an option to pay overtime?

We are already in preliminary discussions with select lenders who work with HOAs and provide a funding source so that any owner who needs to pay over time, typically up to ten years, would have that option. These loans are not uncommon and we believe that our community will be able to qualify for such a loan and make that option available to the members.

When do you anticipate another assessment would be due?

While it is hard to say, we do not anticipate that additional funds will be due for several months. The emergency assessment has provided us with much needed breathing room. It allows us to complete a full investigation and to exhaust all options as to how to most efficiently and cost effectively fix the problem, as well as how best to fund that fix.

When will you have more information to provide, and where can I go if I have specific questions?

Our plan is to provide regular updates at least once a month, if not more frequently. We will also have information available periodically on our website that you can access under the Villa Updates header. And of course, you can always contact General Manager, John Patrick Maura with any specific questions or concerns. You may also email him at jmaura@smithranchhomes.org with any questions you have and we will do our best to respond, and to include whatever topic you raise in subsequent FAQ's, as most often other members have the same question or concern. We will also have periodic Town Hall Meetings whenever there is important information to share. Thank you.



Smith Ranch Homes
HOMEOWNERS' ASSOCIATION

Following are details about your share of the current Emergency Assessment:

Homeowner:	<u>SAMPLE</u>
Floor Plan Type:	<u>7</u>
Square Feet:	<u>1,261</u>
Approved Emergency Assessment:	<u>\$2,000,000</u>
Interest/Unit:	<u>.004006</u>
Your Emergency Assessment:	<u>\$8,012</u>

Each owner's share of this first Emergency Assessment shall be payable in three installments, with the first installment being due on May 15, 2024, the second on June 15, 2024, and the third on July 15, 2024.

Beginning in May, the Emergency Assessment will be forwarded to you as a separate statement with your monthly bill. Unless paid in full in May, you will receive continuation statements in June and July detailing your balance status.

Homeowners shall receive a receipt once their first emergency assessment is paid in full.

For homeowners electing to have their existing ACH/Direct Debit program pay their Emergency Assessments, please see the attached form (pink).

Homeowners not currently enrolled in Smith Ranch Homes' courtesy Direct Debit can contact the Accounting Department for more information at (415) 492-4915 or emailing ghernandez@smithranchhomes.org.



Smith Ranch Homes
HOMEOWNERS' ASSOCIATION

Emergency Assessment Payment

Many residents have asked to pay their Emergency Assessment in advance of the billing/due dates. Although this option is not required, it is very helpful to Smith Ranch Homes as your early payment will provide us with valuable working capital to address current, short-term cash needs.

If interested in paying the entire balance, or portion, of your assessment early, please forward an enclosed payment to the Administration Mailbox (located in the SRH Mailroom). Adding a payment note referencing the emergency assessment will be helpful. Checks can be written to the order of ***Smith Ranch Homes Homeowners Association – Water Damage***.

Current Direct Payment Service enrollees may also return their completed ACH authorization (pink form) to the Administration Box.

For any questions regarding the project or your emergency assessment, please contact John Patrick Maura, General Manager, at (415) 492-4916 or jmaura@smithranchhomes.org.



Emergency Assessment

Direct Payment Service Application

Smith Ranch Homes offers **Direct Payment Service** for your monthly resident account statement. We utilize a system with Bank of Marin, which allows us to originate electronic transactions with virtually any bank account. Smith Ranch Homes does not accept credit cards.

For those not registered and interested in this monthly service, please contact the Accounting Department at ghernandez@smithranchhomes.org or (415) 492-4915.

If already enrolled in this program, Smith Ranch Homes **shall not initiate** any Direct Payment Service payments of the current emergency assessment **without your expressed written consent**.

For current enrollees wishing to have some or all of the assessment be collected through this method, please communicate your preference below and return the form to the Administration Mailbox, or email: ghernandez@smithranchhomes.org, **before May 1, 2024**.

RESIDENT NAME: _____

UNIT: _____

FREQUENCY: *select one option*

ONE TIME – IN FULL (MAY 15, 2024)

EQUAL PORTIONS – MAY 15, JUNE 15, JULY 15

SIGNATURE: _____

I hereby authorize Smith Ranch Homes to deduct from my account as noted above. The statement of account will be distributed at the beginning of May. The debit to your account will be entered on the date(s) noted.



Smith Ranch Homes
HOMEOWNERS' ASSOCIATION

EMERGENCY ASSESSMENT PAYMENT

PAID IN FULL

Homeowner:	<u>SAMPLE</u>
Floor Plan Type:	<u>713</u>
Square Feet:	<u>2,324</u>
Approved Emergency Assessment:	<u>\$2,000,000</u>
Interest/Unit:	<u>.007383</u>
Your Emergency Assessment:	<u>\$14,766</u>
CURRENT BALANCE:	<u>\$0</u>

This receipt confirms your full payment of the first Smith Ranch Homes
Emergency Assessment.

**IMPORTANT UPDATE TO SMITH RANCH HOMES
ANNUAL BUDGET REPORT FOR FISCAL YEAR 2024**

When the Smith Ranch Homes Association (“the Association”) published its annual budget report for the fiscal year 2024, it was based on information known at that time.

The reserve study information and disclosures in the 2024 annual budget report provided, among other things, that the:

- 2024 Reserve Study Funding Plan met the Association’s objective of a threshold funding level,
- Board of Directors did not anticipate the need for a special assessment to fund the repair, replacement, or restoration, of any components for which the Reserves are being accumulated; and
- Reserve Fund cash and investment balance at the end of the 2023 fiscal year reflected reserves being adequately funded at that time.

In recent weeks it has become clear that circumstances have changed, such that as of this time, it is likely that the Association’s objective funding level will not be met, it is anticipated that a special assessment will be necessary this fiscal year, and that the percent reserve funding is and will be lower if a special assessment is not levied.

The primary reason for this change is the discovery of substantial hidden dry rot and water damage in 4-6 Villas, which will require significant demolition, remediation, and renovation work to address. We have also continued to face an increase in the anticipated cost of equipment, materials, and labor.

While the amount of funds needed is not yet known, it is expected to be in the five million dollar range. The Association is actively seeking information to clarify the scope of work and the costs of repair and remediation projects. In addition, the Association is investigating various funding options, including obtaining a commercial loan, which would allow members to choose to pay their share of a special assessment over time, rather than as a lump sum.

The Board intends to update the community every month, or more frequently as information becomes available.