

Blackhorse Homeowners Association

9610 Waples Street
San Diego, Ca 92121-2992
WWW.NNJ.COM

(858) 550-7900
(800) 448-7601
FAX (858) 550-7929

Notice to Homeowners October 16, 2020

Status of Ground Lease and of Environmental Claims Submitted for Court Review

Current Status of Blackhorse Ground Lease

The Board of Blackhorse Homeowners Association is aware of the interest amongst existing homeowners, prospective buyers, brokers, and prospective mortgage lenders, concerning the status of the ground lease with the Regents of the University of California and the University of California, San Diego (collectively UC). As a general policy, and where appropriate, UC uses ground leases for development of UC property by private developers at campuses throughout California.

Currently, the UC position is that there will be no extension or other modification to the ground lease. However, UC has asserted that it is working on a "buy-back" proposal. Conversations started in February 2018. As of October 16, 2020, UC has not presented a proposal, despite several entreaties by the Board. UC asserts the proposal is now delayed for at least another year because of pandemic related issues. The repeated delay of the proposal is most confounding.

After acquisition from the Black family, the land which Blackhorse and the Estancia now occupy continued to be known as the "Stables" property. In the mid 1980's, UC's private developers submitted a "Stables" proposal to the City for over 300 residential units in three story buildings with other amenities including hotel and retail. The City Council rejected it by vote of 8-0, sending it back to UC for modification. Upon the Council's final approval of developer modifications and project reductions, all of the leases (total of eight) were set to end on November 30, 2051. But, in about 2003-04, UC modified the Estancia lease to end December 31, 2066. All rent for the Blackhorse leases was prepaid in 1986. Until 2051, UC will receive no income from any use of Blackhorse. Over the years, the Board, the Ground Lease Committee, individual owners, and supporters have made several attempts to engage UC in discussions on extension of the lease. The Board will continue to consider every reasonable option for a modification.

Environmental Claims Filed for Court Review

In early 2020, through a series of public meetings, UC San Diego introduced the community to the Theatre District Living and Learning Neighborhood (TDLLN) project. This project was conceived under the 2018 Long Range Development Plan (LRDP). UC San Diego stated that the project would not be subject to a full Environmental Impact Review (EIR) pursuant to the California Environmental Quality Act (CEQA). Rather UC San Diego insisted that the environmental issues raised by the project could be addressed by an Addendum to the 2018 LRDP. The Addendum process is a short-cut procedure under CEQA to allow agencies to bypass a full EIR where a project has been previously vetted. But the LRDP did not identify the Theatre District project in any detail. Moreover, the Addendum has precluded the Board from submitting expert statements questioning the project's lack of mitigation of significant environmental concerns.

In September 2020, the UC Regents (the approving agency under CEQA) ostensibly approved the Addendum with minimum examination of claims made by the Board and the community. On advice of counsel, the Board authorized the commencement of a lawsuit against UC San Diego and the Regents. Our attorneys filed the lawsuit this week. The case includes both procedural and substantive claims challenging the failure to follow CEQA. Our co-plaintiff is the La Jolla Shores Association, sharing cost and fees, and adding additional strength to our claims. We will provide updates about the lawsuit as developments emerge.

Current Status Of Blackhorse Ground Lease

2/12/2019

Blackhorse Homeowners Association (BHOA) Board is aware of a level of interest among affected parties – existing homeowners, prospective buyers and their brokers, existing and prospective mortgage lenders, among others – as to the status of the ground lease with the owner of the underlying land, The Regents of the University of California (UC). UC ground leases are not unusual; Blackhorse neighbor Estancia La Jolla Hotel is also on leased land. With this in mind, the following points are put forward to reflect the current status of the ground lease.

- Current UC/UCSD position: No change to ground lease.
- UCSD indicated that they are working on a “buy-back” proposal. Conversations started Feb 2018. As of Feb 12, 2019, UCSD has not presented a proposal to the Blackhorse HOA Board.
- Our understanding is a proposal would require UC Board of Regents review before it could be presented to the Blackhorse HOA Board (**the Board**).
- **The Board** anticipates negotiation of a proposal — should one be presented by UCSD.
- **The Board** anticipates Blackhorse members would have to agree on a negotiated proposal
- The current ground lease will expire on November 30, 2051 – there are actually a total of seven leases, one for each phase of development of Blackhorse, but all with the same terms – or just over 32 years from now.
- All rent for the ground lease's 65-year term was prepaid in 1986. UC is receiving no income from or use of the Blackhorse property and will not do so until 2051.
- Over the years, the **Board**, the BHOA Ground Lease Committee, individual home owners, and community supporters have made numerous attempts through different forums to engage UC/UCSD in a discussion on an extension of the ground lease.
- **The Board** will consider every possible option to modify the Ground Lease.

Additional

- Status of UCSD FEIR for 2018 Long Range Development Plan

In November 2018 the Board of Regents approved the Final Environmental Impact Report which included considerable revisions to the Draft EIR originally submitted by UCSD to the Regents. These revisions addressed some, but certainly not all, concerns raised by the HOA during the comment process.

Nevertheless, to ensure that the HOA will be seen as accommodative to the progress of a possible ground lease proposal, the Board decided not to proceed with adversarial review of the decision of the Regents.

It is important to note that future projects, identified by UCSD under the 2018 LRDP, will be subject to environmental review and public comment. We affirm the ongoing commitment to preserve the viability and vitality of our highly desirable residential community.

April 19, 2018

Notice to Blackhorse HOA Members regarding the Blackhorse Ground Lease

Dear Homeowners,

As you know, our Blackhorse community was built on land leased from the Regents of University of California. Because of increasing concern about the future of the ground lease and in the spirit of transparency, the Blackhorse HOA Board wants to provide you the following update on the ground lease.

In March 2018, Jeff Graham, the Executive Director of Real Estate for UCSD invited the Blackhorse Board for a meeting to explore options regarding HOA members' concerns about difficulties selling their homes because of the ground lease. Jeff Graham and the Board met on April 4th and had a productive initial discussion on various possible scenarios that would benefit both the University and the homeowners. Mr. Graham will prepare initial analyses of alternative scenarios with the campus CFO and Chancellor and get back to the Blackhorse Board in the next two months. He communicated that the scenarios will not include an extension of the ground lease. We plan to meet again as more ideas crystalize.

The Board is encouraged with the recent interests shown by UCSD to work with us on the ground lease issue. The Board plans to, as much as possible, keep the homeowners apprised of any progress made. As always, the Board welcome your thoughts and questions as we continue to engage the University regarding this issue.

If you would like more background information, see the summary of the ground lease and activities the HOA has taken in recent years below.

Sincerely,

The Blackhorse HOA Board of Directors

[A summary of the ground lease between UC Regents and Blackhorse Homeowners:](#)

- Term of Lease - 65 years ending November 30, 2051.
- Lease Payments - None. The developer pre-paid the UC Regents a one-time fee at lease inception, and the UC Regents receives no on-going payments from the lease.
- Blackhorse HOA Obligations - Minimal other than maintaining the property for its original purpose and funding restoration of the property to its original condition at lease end.
- UC Regents' Obligations - The lease neither obligates UC Regents to extend or renew the ground lease nor to negotiate with the Blackhorse community regarding lease modification or sale of the property.

STATEMENT RE BLACKHORSE GROUND LEASE

2017

Blackhorse Homeowners Association (BHOA) is aware of a level of interest among affected parties—existing homeowners, prospective buyers and their brokers, existing and prospective mortgage lenders, among others—as to the status of the ground lease with the owner of the underlying property, The Regents of the University of California (UC). UC ground leases are not unusual; Blackhorse’s neighbor Estancia La Jolla Hotel is also on leased land. With this in mind, the following points are put forward to reflect the current status of the ground lease:

- The current ground lease expires on November 30, 2051—there are actually a total of seven leases, one for each phase of development of Blackhorse, but all with the same terms—or just over 34 years from now.
- All rent for the ground lease’s 65-year term was prepaid in 1986. As a result, BHOA is not making any ongoing payments or incurring any real estate-related costs during this period. Similarly, UC is receiving no income from or use of the Blackhorse property, and will not do so until 2051.
- The BHOA Board has appointed a lease committee that has been engaged in extending the Blackhorse lease arrangements. The committee’s efforts to date include obtaining expert assistance in determining the values of relevant property interests—*e.g.*, UC’s underlying fee simple, and alternative extensions of the BHOA leasehold—engaging real estate counsel, engaging a lobbying firm, exploring sources and structures for financing a lease modification; and initiating a dialogue with the campus Chancellor and UC personnel.
- The Board intends to do everything possible to obtain a modification of the ground lease.