

November 5, 2025

VIA U.S. MAIL AND EMAIL

Michael Ponce
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RE: THE FRANCISCAN HOMEOWNERS ASSOCIATION
Parking Space Striping

Dear Michael:

Thank you for your patience as we work through the logistics and legality of the parking issues. As you are all aware, due to the replacement of the City's failed storm drain, your deeded parking space was one affected by the reconstruction project. In preparation for the City of San Diego's Storm Drain Project to begin, the Franciscan's lottery spots were vacated in December 2024 to accommodate owners displaced by the project. We reassigned a couple of owners to a couple of these spots initially as requested by the City for placement of the temporary bypass pumping system. However, the project did not require the full use of parking spaces 112 – 123 until end of March 2025 at which time you were notified in writing and provided a temporary parking pass for your temporarily assigned lottery spot.

Beginning in March 2024 the storm drain project was on nearly all Franciscan HOA's meeting agendas and updates were given during the General Meetings as reflected in the Minutes of those meetings. All owners could have come to any meeting to receive updates. However, to our recollection, only one affected owner came to one meeting regarding an issue with a lottery spot.

The Board has considered your responses to our decision to restripe spaces 114 – 123 as *single* spaces in compliance with the CC&Rs. At this time, the Board has decided to *restore the striping* of your parking spaces (114 - 123) to their historical pre-existing configurations (see paragraph *below regarding these configurations*). Parking space 123 was not an extended space on the *original plot plan* but appears to have been striped as an extended space regardless. Once the *restriping* is complete, we will advise you so that you can move from your temporarily assigned lottery spot back to your deeded spot. We will collect the temporary passes at that time as well. At this time, the Board will also honor the historical pattern of use. That is, if you choose to park two vehicles in your parking space (114 - 123) the HOA will not find you in violation nor tow the second vehicle in violation of the CC&Rs as long you are still in compliance with all other provisions of Section 5.34 of the CC&Rs relating to *Vehicle Use and Parking*.

More specifically, parking spaces are defined as part of the Restricted Common Area per Section 1.22.1 of the CC&Rs. Under the CC&Rs, only the right to use parking spaces is appurtenant to an

owner's unit, the spaces themselves are not considered a physical component of the unit per Section 5.34.1:

All parking spaces within the Community, whether open or covered, are part of the Restricted Common Area, and are not a part of any Owner's Unit. The exclusive right to the use of the parking spaces shall be assigned in the Grant Deed to the respective Owner at the time each Unit is sold.

We understand that you may have relied on the measurements written on the condominium's original plot plan as if they were the historical pre-existing measurements of your parking space. However, the plan's description of a 40-foot length for your parking spot is not physically possible, given the as-built dimensions of the parking area. We have gathered historical data from Google Earth. Your parking spaces as far back as we can see on Google Earth from 1985 (with no clear or measurable parking lines from 1985 until 2000) to 2025 have been between approximately 8' x 21 and 8' x 26' (with the latter measurement being most consistent and measurable since 2004), but never 8 ½' x 40'. Some of the historical Google Earth photos are not good and you can't see spaces well nor parking space lines, while others are very clear. Therefore, we will be striping your parking spaces back to what they have been historically. That is, approximately 8' x 26'. Consistent with the CC&Rs, specifically Section 2.7 and Civil Code Section 4220, the Association will rely on the actual physical boundaries of the parking spaces rather than the description expressed in the condominium plan, which appears to have been made in error.

Since there is no special designation for any tandem parking in the current CC&Rs, understand that the current CC&RS limit each parking space to one vehicle per space regardless of any dimensional description in the condominium plan. Again, the Board cannot unilaterally change this rule. While we will be honoring the historical use of your spaces at this time, Section 5.34.2 states:

It shall be the right of each Owner of a Condominium to be assigned a parking space suitable for parking one (1) automobile. Each Owner shall have the exclusive use of the space so assigned for as long as he owns such Condominium, and the right to use such space shall pass to the transferees of each Unit whether or not such right shall have been specifically described in the instrument of conveyance or transfer.

The Board is legally bound by the Associations' Bylaws and CC&Rs as they are written and did not and cannot change the CC&Rs unilaterally as suggested in some of your responses. In researching this issue during the initial phases of the City of San Diego Storm Drain project, the Association discovered that the one-vehicle restriction was a remnant of the original CC&Rs recorded in 1978, and the original language was not altered when the CC&Rs were restated in 2017. The Board therefore remains in disagreement over the issue of whether parking spaces 114 - 122 were

specially designated for two vehicles or designated for one vehicle as stated in the CC&Rs. If you, as a Member of this Association, wish to change or amend the CC&Rs to request that your parking spaces be designated for parking two vehicles, then you will need to research and take the proper steps necessary to do so. However, until any changes or amendments are made to the CC&Rs, all owners must comply with all provisions of Section 5.34, excepting the conditional exemption above for parking spaces 114 - 123.

The Association must rely on Section 5.34.7 in enforcing the restriction regarding parking boundaries on everyone:

No Owner may park any vehicle in a manner so that the Association determines that the vehicle unreasonably extends beyond the boundaries of a parking space or into streets or sidewalks within the Community.

Therefore, you must park your vehicle(s) within the boundaries of your designated space so that they do not unreasonably extend into the parking lot driveway. Violations are issued for all vehicles, regardless of parking spot location, which extend into the driveway.

Thank you again for your patience during this process.

Regards,

THE FRANCISCAN HOMEOWNERS ASSOCIATION BOARD OF DIRECTORS

Aerial view of 6780 Friars Rd back parking lot spaces 114 - 123.



Google Maps

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