

Rio Bravo Community Association (RBCA) provides this response to a letter posted on the Rio Bravo Master Golf Course Homeowners Association (MHOA) [website](#)¹ dated April 25, 2021. The characterization of the April 25, 2021, letter that RBCA "created" the 'Gate Crisis' is misleading, misplaced and stated only to support a distortion of the facts. RBCA has more than a decade long history of being transparent by posting its governing documents, budgets, and other key information on the [RBCA website](#).² You can review RBCA's facts and figures at any time by going to the RBCA website.

Regrettably, the April 25, 2021, letter postures RBCA as being 'coercive' to the golf course at the detriment of MHOA members and/or the golf course. For more than a decade, RBCA has been responsible for the guard station operations and maintenance but also the landscaping at the southeast corner of Highway 178 and Miramonte Drive and a portion of the eastern side of Miramonte Drive north of Las Palmas Drive, the Guard Gate entry area landscaping, and Casa Club Drive – these areas are designated on the [Common Area map](#).³

RBCA has been engaged with the Rio Bravo Community associations and entities that have either completely or partially failed to meet their payment obligations. For this response, the focus is on the golf course because it has failed to meet its payment obligations since the 1st Quarter of 2019 and that failure is the most significant factor affecting continued operations of the Security Gate and other RBCA obligations. MHOA decisions have centered on providing cover to the golf course rather than what MHOA's community has resoundingly stated, by way of survey responses, verbal, and written expression, to RBCA – that the Guard Gate must stay in place.

MHOA, as presented through its board leadership, refuses to pay for most of RBCA's Common Areas, including general and administrative expenses. Common Areas that all Rio Bravo [Gated] Community homeowners benefit from, which is only 12.6% of the overall 2021 RBCA Operating [Budget](#), and which amounts to \$9.31 per month or \$27.94 per quarter of the \$221.69 quarterly assessment/fee that each home/lot is billed. For example, out of the monthly \$9.31, RBCA provides insurance that covers the Guard Station, that covers the off chance there is an accident on Casa Club Drive, and more and the question is why? At the end of this response, RBCA has attached a breakdown of the services that cost \$9.31 so we hope that you agree that the monthly \$9.31 of Common Area expenses cannot be and should not be the reason we lose the Security Gate and our nice landscaping to our beautiful Rio Bravo Community.

¹ <http://www.riobravogolfhoa.com/default.php>

² <http://www.rbcahoa.org/documents/documents.htm>

³ <http://www.rbcahoa.org/documents/RBCA%20Common%20Area%20Map.pdf>

Lastly, the 2021 budget did not allocate reserve funds because of the dire financial circumstance to ensure the Guard Gate remained open. Future budgets will have a reserve component and use of reserve funds was properly utilized to meet the gate emergency. To the extent MHOA and two other associations are not annexed associations subject to RBCA CC&Rs, RBCA will agree to a letter agreement that future reserve funds from non-annexed associations be segregated in a joint checking account with RBCA, requiring approval by RBCA and the non-annexed association before such funds are utilized on reserve items, such as a periodic slurry seal on Casa Club Drive.

The following provides a verbatim section-by-section review of MHOA’s April 25, 2021, letter in the left column (arial font) and RBCA’s response in the right column (times new roman font):

MHOA April 25, 2021, Posted Letter

How RBCA’s management decisions created the “Gate Crisis”

- 1) For almost 10 years RBCA’s management failed to renegotiate RBCC’s share of the gate costs. Per \$1000 of real estate value the golf course is paying 22x the rate the Rio Bravo behind-the-gate resident pays i.e., \$37.95 vs \$1.71. RBCC was the #1 contributor to the gate. RBCA Annexed HOAs hold 28 golf memberships, 14 of which these members’ golf revenues are consumed by the gate cost.

RBCA’s Response to April 25, 2021, Posted Letter

The failure to pay RBCA caused the Gate Crisis – Period.

The golf course pays the rate it pays because the predecessor parties to the [Reciprocal Use & Maintenance Agreement](#)⁴ agreed to pay 20% for guard related expenses and 30% for common facilities, such as Casa Club Drive. This agreement was agreed to by the predecessor parties, with review by the predecessor attorneys – in other words, by sophisticated businesspersons. In 2019, the successor owners of the golf course suddenly decided the rates were unfair, yet they too were sophisticated business owners when they purchased the golf course, and in fact, paid the assessment from 2017 through a portion of the 1st quarter in 2019.

The gate crisis was created by the failure of the golf course paying its assessment starting in 2019, and not because of a purported 10-year failed negotiation. When A&E Union, the predecessor party, sought to lower the amount, A&E Union

⁴ <http://www.rbcahoa.org/documents/8-25-05%204-20-01%20RBCA%20Reciprocal%20Use%20and%20Easement%20Maintenance.pdf> at paragraph 6.

- 2) RBCA's management in 2019 rather than renegotiate a more reasonable and equitable cost-sharing agreement with RBCC instead:
- a) Used its capital reserves as a source of operating funds
 - b) Failed to develop alternate plans while depleting its cash
 - c) Special assessed the Annexed HOAs in 2020 to build cash
 - d) Liened RBCC as their plan to recover cash

Note: MHOA retains cash reserves in MHOA cash accounts, meaning none of the cash consumed by RBCA belonged to MHOA. Regardless, RBCA is demanding that MHOA replenish RBCA's capital reserves.

- 3) RBCA's coercive act of liening RBCC to force RBCC to resume making payments that it cannot justify or afford backfired leaving RBCA cash strapped.

Implementing Fixes

was told RBCA would recommend a reduction upon future build-out but as everyone knows, build-out has been slow at Rio Bravo. So, the gate crisis is directly tied to the arbitrary non-payment by the golf course starting in 2019 and not 10 years as inaccurately asserted.

RBCA exercised for the first time in its history in 2020 borrowing from reserves, which is allowed, to fund operating shortages primarily related to the golf course's non-payment. The borrowing of reserve funds is the appropriate vehicle for such activity. RBCA has engaged in numerous attempts to resolve the non-payment issue by the golf course but cannot operate under the terms presented by the golf course, and then later changed, and effectively withdrawn. RBCA responded by adjusting its budget in 2020, and subsequently implementing a 5% special assessment as allowed. RBCA has the right to take collection actions and it did.

RBCA can request increases in assessments to maintain operations and to pay back reserve funds borrowed, the very funds used to maintain the roadway (Casa Club), landscape easements (guard entry and most of the east side of Miramonte), and monument corner (the community signage and landscaping at the southeast corner of Highway 178 and Miramonte Drive).

When a party does not pay, RBCA can and will engage in collection activities. RBCA has a fiduciary responsibility to collect. If collected, the Rio Bravo Community benefits, and if you are a homeowner of Rio Bravo, you benefit.

- 1) RBCA should:
 - a) Immediately remove the lien on RBCC's property. This is a red flag to any purchaser interested in buying the golf course.
 - b) Negotiate a reasonable gate-use charge for RBCC's non- behind-the-gate patrons accessing the gate and turn over the common area gardening and landscaping efforts to RBCC which lowers the common facility costs of the HOA fee.
 - c) Reduce the Annexed HOAs' gate fee by RBCC's gate-use quarterly collections until RBCA's cash reserve balance is replenished to pre-RBCC payment exit. Upon meeting RBCA's pre-exit reserve balance any gate-use collections will be shared by both Annexed and Non-Annexed HOAs.
 - d) Reduce the 2021 Security Gate Budget's contingency to \$3,000 from \$58,176, and any other costs assumed by RBCC.

Unless RBCA is paid or a settlement agreement is reached, additional collection activity will continue.

RBCA has responded to the golf course's initial rate reduction request but the golf course has signaled that their initial rate reduction letter terms have changed and effectively withdrew it. RBCA took over landscaping years back because the golf course was providing subpar landscaping services to the entry of our Rio Bravo Community. RBCA is not foreclosed to this concept if landscaping standards can be maintained but ultimately the golf course will charge RBCA for these services.

Originally, Rio Bravo was started out as a Master Planned Community, which means that everyone would pay an equal share. In 1985, bankruptcy was filed and in 1988 Rio Bravo was given back to Wells Fargo to satisfy a debt and these financial events fragmented the Master Planned Community. Now we have a mixture of homeowner associations, some annexed under RBCA and some are not. The surveys RBCA took last year of the entire Rio Bravo Community resulted in the majority of homeowners wanting everyone to pay the same fee and to remove the annexed versus non-annexed fees. RBCA responded in the 2021 budget by applying the same rate to all parties. Paying the same fee can make the Rio Bravo Community operate as a Master Planned Community and not on some divisive 'gate-use', road-use formula.

The contingency category must be in place until recovery is made. Whether a contingency amount is set or not, RBCA must balance the budget and the amount of the necessary assessment would not

e) Revise the 2021 Security Gate Budget revenue requirements from the 377 Annexed and Non-Annexed HOA residential lots based solely on the gate's operational costs.

f) Develop a separate 2021 Budget for Annexed HOAs which includes RBCA's G&A costs and the fee to replenish RBCA's reserves over a 5 to 7-year period less the quarterly collections from RBCC's gate-use.

change. This 'contingency' line item is not to create an accumulation of cash. More precisely, it is a line item to balance the budget because of the continued non-payment of the golf course. If a settlement is reached with the golf course, the contingency will be eliminated and appropriate credits to the current or subsequent budget(s) will be made as RBCA has demonstrated it has done in 2013, 2014, 2015, and 2019's budgets – see below.

The security gate expenses are only one component of the RBCA annual budget and category placement of the budget items is not dispositive how funds are utilized. For example, insurance is under the Common Facilities portion, but it covers the guard station, the entry, Casa Club and all RBCA so just because it is not categorized under Security Gate does not mean coverage is limited or not applicable to the security gate components of the 2021 RBCA Operating [Budget](#). Homeowner association budgets cover all operational costs and get split evenly, that is the norm, and that is what the Operating Budget is designed to do.

There is no need to have a separate budget. RBCA has its budget(s) online for all to see and circulates at each monthly meeting its financials. Requests have been made by some for bills to back up the financials and no one has suggested any issues with the bills and expenses that make up the financials. There has been talk about a true-up, that money should go back if not used. In fact, every month there is a year-to-date expense report that compares the budgeted amount and to the actual expenses through the year-end. If there are extra funds, those funds roll over to the next year that is why there have been few increases prior the golf course not paying. When RBCA has collected large amounts, the budget has been credited for those large amounts. See \$30,000

carry over credit in the [2013's budget](#);⁵ in [2014's budget](#);⁶ in [2015's budget](#);⁷ and in [2019's budget](#).⁸ Collectively, RBCA has credited back into the budgets listed above roughly \$85,000.00 as a line item credit on the budget. RBCA has rolled over all surplus funds each year. Again, all budgets and key documents on the [RBCA website](#) in the [Documents](#) tab.

For simplicity, an image of the “Proforma Cost Allocation” and Net Typical Community Budget page is centered below.

**Proforma Gate and Common Facility Costs
RBCA HOA and Casa Club, Fairways, and the Master HOA lots**

Proforma Cost Allocation		
1	Typical budget for RBCA G&A and Gate, Common Facilities	\$ 279,080
2	Back out G&A which is specific to managing affairs of the subsidiary HOAs under RBCA pursuant to RBCA's CCRs	<u>\$ (38,500)</u>
3 = 1 - 2	Net Typical "community" budget for Gate, Common Facilities	\$ 240,580
4	Community Residential Lot Count	377
5 = 3 / 4	Annual cost per lot	\$ 638
6 = 5 / 12 mos	Monthly cost per lot	\$ 53
7 = 6 x 3	Casa Club, Fairways, MHOA Quarterly cost per lot	<u>\$ 160</u>
8	RBCA HOAs' Lot Count	216
9 = 2 / 8	RBCA HOAs' G&A Adder/month	\$ 15
10 = 7 + 9 x 3 mos	RBCA HOAs' Quarterly cost per lot	<u>\$ 204</u>

⁵ <http://www.rbcahoa.org/documents/11-29-12%20RBCA%202013%20Annual%20Disclosures%20Final%20Packet.pdf> after page 13.

⁶ <http://www.rbcahoa.org/documents/12-3-13%20RBCA%202014%20Pro%20Forma%20Operating%20Budget%20and%20Worksheet%20Final.pdf>

⁷ <http://www.rbcahoa.org/documents/11-18-14%20RBCA%202015%20Pro%20Forma%20Operating%20Budget%20Approved.pdf>

⁸ <http://www.rbcahoa.org/documents/12-1-18%20RBCA%202019%20Budget%20Pages.pdf>

1 Typical budget for RBCA G&A and Gate Facilities \$279,080

2 Back out G&A which is specific to managing affairs of the subsidiary HOAs under RBCA pursuant to RBCA's CC&Rs (\$38,500)

3=1-2 Net Typical "community" budget for Gate, Common Facilities \$240,580

4 Community Residential Lot Count 377

5 = 3/4 Annual cost per lot \$638

6 = 5/12 mos Monthly cost per lot \$53

The 2021 RBCA Operating [Budget](#) is \$334,316.00 and includes three components 1. Common Facilities, 2. Security Gate, and 3. Reserves (although in 2021, no funding was allocated to Reserves). The amount of \$279,080 is not Typical and is arbitrary and was not approved by RBCA – in effect, it is an amount that creates confusion.

The Common Facilities portion of the RBCA Operating Budget is \$42,140.00 or 12.6% of the \$334,316.00 Operating Budget. It is unknown why \$38,500 is subtracted by MHOA. RBCA provides a table of the Common Facilities budget line items, and how they relate to RBCA operations, including Guard Gate operations, toward the end of this document for your review.

As noted above, the Typical or Net Typical budget is an MHOA unilateral creation that was not approved by RBCA.

RBCA agrees that there are 377 homes/lots within the Rio Bravo [Gated] Community, which RBCA has used to divide its Operating Budget by to reach the \$221.69 quarterly assessment. RBCA does not agree with this annual cost as it is not based on the RBCA 2021 Operating Budget. The correct annual cost per home/lot is \$888.78, a difference of \$250.78 mainly because MHOA has unilaterally altered the Security Gate portion and refuses to pay most of the Common Facilities portion despite benefiting like all other Rio Bravo [Gated] Community homeowners.

As noted in the proceeding response, this monthly rate is inaccurate, the correct monthly rate is \$73.90, a monthly difference of \$20.90.

7 = 6 x 3 Casa Club, Fairways, MHOA Quarterly cost per lot \$160

8 RBCA HOAs' Lot Count 216

9=2/8 RBCA HOAs' G&A adder/month \$15

10=7+9 x 3mos RBCA HOAs' Quarterly cost per lot \$204

Had RBCA implemented actions consistent with 1(a) and (b) in the "Implementing Fixes" section the costs reflected in the above table of \$159/Qtr and \$204/Qtr could be in place allowing for smooth operation of the gate without concern or threat of closure.

As noted in the proceeding response, this monthly rate is inaccurate, the correct quarterly rate is \$221.69, a quarterly difference of \$61.69. Moreover, the listing of Casa Club and Fairways [associations] improperly implies that Casa Club and Fairways endorses MHOA's position, and ignores long-term agreements, and understandings.

216 is the number of homes/lots that are within the annexed subsidiary associations subject to the RBCA CC&Rs.

The Common Facilities portion of the RBCA Operating Budget is \$42,140.00. It is unknown why \$38,500 is subtracted by MHOA and then divided by the number of annexed subsidiary association homes/lots to remove Common Facilities cost from MHOA, Casa Club, and Fairways. Effectively the unilateral refusal by MHOA to pay for Common Facilities and then improperly applied to Casa Club and Fairways is contrary to all homeowners paying equally.

As noted above, \$204 is the product of a budget prepared by MHOA and not the approved 2021 RBCA Operating [Budget](#). It is inaccurate and the cause of much confusion.

Had RBCA implemented the MHOA suggestions, there would be no Guard Gate and landscaping would be in terrible shape endangering the Rio Bravo Community and making it aesthetically unpleasant to all homeowners. Instead, RBCA took steps to borrow from its reserves and imposed a special assessment to keep the Guard Gate and other operations in place as the overwhelming number of homeowners in the Rio Bravo Community insisted upon. MHOA's attempt to second guess RBCA's board does nothing to ensure RBCA can continue to keep the Guard Gate and landscaping in place going forward. The

cause of RBCA's budget shortfalls is the golf course failing to pay since 2019 as well as partial payments from two non-annexed associations.

Net Typical "Community" Budget for Gate & Common Facilities

Guard Staffing	\$ 190,000
Web Hosting	14,950
Landscaping - Guard Station, Common Areas	14,500
Utilities - Electricity, Water, Phone	12,080
Guard Station Operations	4,050
Contingency	3,000
Common Area R & M	1,000
Management Fee	1,000
Total Security Gate, Station, Grounds	<u>\$ 240,580</u>

Guard Staffing \$190,000

Web Hosting \$14,950

Landscaping – Guard Station, Common Areas
\$14,500

Consistent with the 2021 RBCA Operating [Budget](#).

Inconsistent with the 2021 RBCA Operating [Budget](#) as RBCA does not list web hosting in the amount of \$14,950. RBCA believes MHOA meant the combination of Gate Portal Subscription \$7,500.00; Gate Portal Supplies \$6,500.00; and Internet G \$950.00 – if so, it is consistent with the Operating Budget.

RBCA believes MHOA meant the combination of Repairs and Maintenance G \$500.00; Landscaping Maintenance G

Utilities - Electricity, Water, Phone \$12,080

\$11,000.00; and Landscaping Repairs \$3,000.00 G – if so, consistent with the Operating Budget.

Guard Station Operations \$4,050

RBCA believes MHOA meant the combination of Security Gate line items for Telephone 1,000.00; Water 7,400.00; Electricity Guard Station 1,600.00; and Common Facilities line items for Telephone 240.00, Hosting \$240.00 and Electricity Street Lights \$1600.00 – if so, it is consistent with the Operating Budget.

Contingency \$3,000

RBCA cannot determine the basis of MHOA’s calculation for this item, and as such, this item is inconsistent with the Operating Budget.

Common Area R & M \$1,000

RBCA utilized a contingency amount of \$58,176.00 to balance the 2021 RBCA Operating Budget as this amount offsets the continued non-payment of the golf course, it considered available funds for year ending 2020, and it ensured an Operating Budget that did not exceed a 20% increase over the prior year’s budget. MHOA’s application of a \$3,000 contingency amount is unrealistic to both balancing the 2021 RBCA Operating [Budget](#) and keeping the Guard Gate and other services operational.

Management Fee \$1,000

Consistent with the 2021 RBCA Operating Budget.

Total Security Gate, Station, Grounds \$240,580

Consistent with the 2021 RBCA Operating Budget; however, this amount is a portion of the overall management fee.

Inconsistent with the 2021 RBCA Operating [Budget](#) and unrealistic to both balancing the 2021 Operating Budget and keeping the Guard Gate and other services operational.

End of the verbatim section-by-section review of MHOA’s April 25, 2021, letter.

The following Common Facilities table from the RBCA 2021 Operating Budget provides the annual, quarterly, and monthly expenses per home/lot in the Rio Bravo [Gated] Community and what those expenses cover.

COMMON FACILITIES	Your Costs		
	Quarterly	Monthly	What does these expenses cover?
General & Administrative			
6005 Bad Debts CF*	500.00	0.33	0.11 Money written off which can be from debt related to the guard services.
6011 Bank Charges*	50.00	0.03	0.01 Fees related to bank charges, including for guard services.
6020 Accounting Services CF**	1,015.00	0.67	0.22 Fees related to accounting services, including for guard services.
6022 Accounting Website Subscription*	450.00	0.30	0.10 Fees related the Quickbooks for billing, including for guard services.
6030 Corporation Regulatory Fees*	50.00	0.03	0.01 Fees related to state filings, including for guard services.
6031 Corporation Taxes*	60.00	0.04	0.01 Tax filings, including for guard services.
6035 Management CF*	18,000.00	11.94	3.98 Management fees covering overall management, including guard services.
6040 Insurance CF**	4,700.00	3.12	1.04 Fees related to insuring Casa Club Drive, easements, and the Guard Station.
6045 Website Maintenance CF**	300.00	0.20	0.07 Fees related to the website that provides information for the Rio Bravo Community.
6050 Legal Services*	8,000.00	5.31	1.77 Legal fees, mainly for collection of nonpayment of guard services.
6051 Legal Costs*	250.00	0.17	0.06 Legal expenses such as filing fees, recorder expenses, mainly for collections.
6060 Office Expense CF*	250.00	0.17	0.06 Office related fees in support of Rio Bravo operations.
6062 Copying & Printing CF*	1,675.00	1.11	0.37 Printing and copying related fees in support of Rio Bravo operations.
6063 Postage & Shipping CF*	700.00	0.46	0.15 Mailing related fees in support of Rio Bravo operations.
6075 Property Records Subscription**	160.00	0.11	0.04 Subscription fees to audit lot ownership to properly collect.
6091 Meeting Facilities	2,400.00	1.59	0.53 Fees to conduct mandated Rio Bravo meetings.
Utilities			
6070 Telephone CF	240.00	0.16	0.05 Rio Bravo telephone.
6071 Hosting	240.00	0.16	0.05 Maintenance of Rio Bravo website presence.
6073 Electricity Street Lights	1,600.00	1.06	0.35 Street lights on Casa Club Drive.
6074 Water	0.00	0.00	0.00
Grounds			
6085 Repairs and Maintenance CF	1,000.00	0.66	0.22 Repairs made to guard station, A/C unit, plumbing.
6087 Landscaping Maintenance CF	250.00	0.17	0.06 Casa Club related landscaping as needed.
6088 Landscaping Repairs CF	250.00	0.17	0.06 Casa Club related repairs as needed.
TOTAL COMMON FACILITIES	\$42,140.00	\$27.94	\$9.31

There are 377 lots/homes billed for these expenses for the Common Facilities. It is impractical or impossible to separate costs further, and if so separated, it will cost a dollar to save a dime. RBCA has spent hours and hours of time addressing MHOA leadership's unwarranted and unjustified effort to dispute an approximate monthly difference of \$9.31 of Common Facilities and altering the Security Gate portion of the budget. These alterations place at risk the Security Gate and RBCA operations by further complicating anticipated and needed revenue that benefits all homeowners in the Rio Bravo [Gated] Community.

No non-annexed association is being required to annexed with RBCA. RBCA and the majority of the Rio Bravo [Gated] Community is requesting that every homeowner pay the same rate of \$221.69 per quarter – as a Master Planned Community would and should.

Rio Bravo Community Association Board of Directors