

Loma Vista HOA
Meeting Minutes (not approved)
Meeting with Compliance Committee to go over their Objectives
April 4, 2020

Roll Call at 7:00 pm via Zoom

Ryan Evans- Present
Travis Scharmann- Present
Laura Burdine- Present
Rebecca Bracken- Present
David Gibby- Not Present
Kevin Hansen (Compliance Committee)- Present
Leland Roberts (Compliance Committee)- Present
Robert Lerma (Compliance Committee)- Present

Ryan Evans: Welcome everyone to the meeting. David will not be joining us tonight. We appreciate your thoughts and ideas and look forward to your evaluation and strategies for CCR compliance including attainment, enforcement and the recommendations. We met as a Board to establish goals and we can read through those and make sure we get them correct.

Laura Burdine: Ryan I can share my screen. I will let everyone read through this.

Kevin Hansen: One of the initial questions I have was discussed at the annual meeting was reviewing the CCRs themselves and are there some CCRs that can be recommended for removal or modification. Is that part of this? Or is this just looking at the aspect to comply and what that looks like or we actually looking at the CCRs themselves.

Ryan Evans: We may have some differing opinions perhaps, but our initial objective was to evaluate strategies for compliance attainments and options for non-compliance. But I think that is still appropriate if the neighborhood has some feedback on the CCRs.

Laura Burdine: There are some unique things listed in the CCRs and some do not make sense. They were written in a different time but in order to modify the CCRs, you must have like 75% approval from the first mortgage holders. So, it is quite a process. We can pull those up and take a look. If you guys see something in there, that is not relevant we can discuss it. But that is not the main goal.

Rebecca Bracken: The last bullet point is to collect association member's ideas and suggestions as a catch all, so reviewing the CCRs could be part of that. If there is something in the CCRs the majority of members want removed or added, lets customize those.

Ryan Evans: Utah code has since limited the number required for modification to not be above 2/3.

Laura Burdine: I sent you both the full Utah code and the portion on the fines.

Kevin Hansen: So for clarity, what I hear you saying, the goal how to figure out not the fine schedule, but how do we enforce the CCRs we have today and if there are CCRs we find not appropriate, that can be a

secondary objective.

Ryan Evans: My personal opinion, we should be working towards getting folks into compliance. One of the issues mentioned in October if they are paying their dues and working towards compliance. I heard that loud and clear.

Leland Roberts: I guess we can go to the agenda and they may answer my question. We can go through it first.

Laura Burdine: You guys have a copy of the CCRs and Bylaws, Utah Code which trumps CCR and Bylaws, so be aware of that. The Board has a legal liability to enforce the CCRs so doing nothing is not an option. It is a hard thing to enforce compliance, it is a challenge. There is a liability for the Board and homeowners. Compliant homeowners to come back and sue the Board for not enforcing the rules. So, we would you to research that as well.

Leland Roberts: Has that been a threat by homeowners?

Laura Burdine: No, not that we are aware of. A rumor was started that I am going to. That is not true.

Ryan Evans: Not that I am aware of Leland.

Leland Roberts: So, is something that your attorney said is common or happens?

Laura Burdine: I don't think that particular question was asked.

Rebecca Bracken: The attorney did say in the annual meeting, the language in the governing documents outline what the Board is responsible to doing. The specific language used is shall, which means must. Those listed obligations in the bylaws include fines.

Kevin Hansen: So, you are saying that is a legal liability for the Board. That is a given based on the legal advice received already. It is really for us to understand what is that liability? What do you mean? Do you want us to acknowledge that? What is your hope on that bullet?

Laura Burdine: To just make sure that us as a Board are doing what we are legally obligated to do in order to keep the Board from lawsuits by satisfying obligations. Does that help clarify?

Leland Roberts: This is one that concerns me. I brought it up the meeting. If the Board goes down this route, the Board cannot pick and choose which ones they will enforce. If you are recognizing you have a legal obligation to follow this, even stuff as student of the month signs do not meet the CCRs.

Rebecca Bracken: Actually, they can Leland. So, any signs must be approved by the Board, they are not prohibited. So in order to satisfy the requirement, the resident would email the Board for approval.

Leland Roberts: Has anyone ever done that?

Rebecca Bracken: Yes

Leland Roberts: How many, out of curiosity?

Rebecca Bracken: Probably 2 have asked me. I told them to email the Board.

Laura Burdine: I haven't had anyone ask me.

Rebecca Bracken: That is where we need more communication. Because the letters have been selective up unto 2019, letters were sent to everyone with a violation because the Board cannot pick and choose what they will enforce. The Board satisfied that legal requirement by sending 49 letters in July.

Kevin Hansen: I think what you are saying is that we are legally liable, and I do not think that is what is in question here. Are there CCRs that should not be since we have to enforce all?

Rebecca Bracken: Until a CCR is removed or amended, the Board must enforce them.

Laura Burdine: Let me pull up these documents here. This was our first letter that was sent out in 2016. The Board makes decisions as a quorum, so it is not just one person making decisions. The majority have to agree. This letter was sent out for vacant lots for weed violations trying to get people to do maintenance.

Leland Roberts: I am not concerned what was done in the past, I am just concerned for 2 reasons. 1. That you guys are a volunteer Board. Are you considering the burden this will put on Board members?

Laura Burdine: I can tell you the reason I got the maintenance company bids because it was recommended in the last Board because it would pit neighbors against neighbors and so it should be handled by a professional management company. So that was the main reason. If people are not satisfied with how things are being done, that would have a 3rd party company option in the budget. I will share a different screen.

Leland Roberts: Is there is a blog or community forum for HOAs? Are there others in Tooele that are similar to ours to see what others are doing? Do I want to pay more money to have someone else do it?

Ryan Evans: This is why we are asking for your help.

Laura Burdine: I have reached out to other HOAs in Tooele County in the last couple years. I have tried relentlessly Overlake without success. I was able to work with one, but they were attached units. They have maintenance company help with theirs. Overlake does as well. This letter was sent out in 2016 for gravel driveways/parking areas. It is there for you to review. The next letter is the catch all for 2019. It has every CCR compliance issue. We could not pick and choose. The circles were marked indicating the compliance issue.

Ryan Evans: Over the years, there has been interpretations and precedents set since I have been a Board member. CCRs like other codes and regulation are up for interpretations. So, can these be changed, in my perspective as a Board member, I wouldn't mind suggestions in interpretations in the language as such.

Leland Roberts: I have talked to you about this Ryan. It says in the CCRs (landscaping) it says gravel areas are not permitted but says 25% of landscaping can be gravel, boulders, and rock. It is a separate sentence. So, it can interpreted either you can have 25% gravel or 0%.

Kevin Hansen: Either we have to enforce, or we don't. If we do, what are we going to enforce? The CCRs, all of them. The opportunity lies because if you have CCRs, you have to enforce them. So, what it comes down to, A. How do we want to enforce? B. Are there CCRs that need to be amended.

Leland Roberts: This fine schedule got enough people rallied up that there might be enough interest to have people vote on it to do something.

Laura Burdine: To vote on the fine schedule or the CCRs?

Leland Roberts: Both, seems like there was enough interest that people would want to participate in both.

Laura Burdine: Voting on a fine schedule do not have to participate in. Rebecca what do you remember about the Utah law. What did the attorney suggest?

Rebecca Bracken: The attorney stated, the fine schedule should not be in the CCRs. In all the CCR research in the State, not one was included in the CCRs. It is very difficult to update or remove CCRs. The fine schedule should be within the Rules and Regulations and should be voted on as a Board, not as a community. I am definitely not opposed to giving the community options. The two we have are drafts. In order to proceed, we wanted community input and participation.

Laura Burdine: What you see on your screen in a fine schedule from 2018. The goal was for it to be presented at the annual meeting in 2018. At the time, there were a few Board members felt it was rushed. This was written by David Gibby. This was the first one. The second one was presented at the annual meeting in October 2019.

Kevin Hansen: Was this particular proposal trying to go into the CCRs?

Laura Burdine: Yes, David wanted them to be placed in the CCRs and has language in there. As we researched, it was not necessary or recommend. This is where it talks about violations. Do you guys have any questions?

Leland Roberts: Is there a semi-final draft we need to review, or should we talk about one?

Laura Burdine: My personal opinion would be to collaborate on how compliance can be achieved, if a fine schedule is needed and what it would look like.

Robert Lerma: I am going to ask, we are going kind of backwards, for the three of us, what we are being asked to do right now is to weigh in on what the fine schedule should be?

Ryan Evans: Not necessarily.

Robert Lerma: Thanks Laura for putting these together. I would really like to go through each document

in depth. But what is being asked that after we look at this document, in order for us to give our recommendations on topic A, B, C. What is asked right now?

Ryan Evans: The purpose statement is to evaluate strategies for CCR compliance, that includes Utah Code and governing documents. Research liability review previous letters and fine schedule and provide feedback and provide options for any and all compliance and make recommendations on how to achieve compliance. We are happy to provide background information. But our intent is now to sway you one way or another.

Laura Burdine: It is important to understand what the Board has done previously the past several years.

Ryan Evans: It is recommended your committee has a chair person, co-chair, and secretary.

Robert Lerma: Is that between Kevin, Leland, and myself?

Rebecca Bracken: Yes, you'll create your committee's structure.

Laura Burdine: It is important to also understand the HOA can not be absolved. If you have any questions, please contact Scott Wardle on the Tooele City Council. I had a conversation with him prior to the annual meeting. He told me that because of the double frontage property along skyline and Droubay, the developer could have a gate placed on the back of each lot on Skyline and Droubay so the owner can maintain it or have an HOA. The developer chose the HOA so it could not be disbanded.

Kevin Hansen: So Tooele City would need to approve it?

Ryan Evans: It is not like it cannot be done; it would just be a process.

Laura Burdine: Scott Wardle told me it is a 30 year contract and it would not be approved to be disbanded.

Kevin Hansen: I think we really need to educate the whole neighborhood. We have looked at this, it is not an option, we looked at this too. Therefore, these CCRs need to be enforced. Our friends and neighbors are on the Board. This is very helpful.

Leland Roberts: We will get together and meet right away.

Laura Roberts: There will be lots of questions and just reach out to us. We have emails and documentation.

Kevin Hansen: How would you like us to reach out to the HOA? Should we go through the president? If we have questions, should we address the whole Board via email?

Ryan Evans: Yes, let's be efficient. The timeline is 4 weeks. I would say to email the Board at lomavistahoa@outlook.com.

Kevin Hansen: I am thinking about the process and how to collect F and Q's so we can be transparent as possible to we can go to people and say, this is how things are. Educating people, we can document this

process.

Leland Roberts: We want to be transparent and helpful.

Kevin Hansen: How long before we can get a Board approval on the question to the attorney? Weeks?

Ryan Evans: No.

Leland Roberts: Lets get a legal opinion about the first lienholders but also is this in typical practice?

Laura Burdine: It seems pretty common in other HOAs I have viewed. I know another HOA that used the same attorney we have to get the CCRs completely rewritten. There are always options.

Kevin Hansen: So then to get them approved, they would need to contact each lienholder in the neighborhood?

Laura Burdine: I can ask them. I am pulling up the CCRs that talk about the first lienholders.

Leland Robert: Lets look at the definition of owner in the CCRs.

Laura Burdine: 1.4 "Owner" shall mean (when so capitalized) the record holder of legal title to the fee simple interest in any Lot. If there is more than one owner of record of legal title to a Lot then notice to any one of such owners of record shall be deemed notice to all owners of record.

Kevin Hansen: So can we get that clarified it is the lienholder unless the mortgage is paid off?

Leland Roberts: If that is the case, then no one could have voted for anything.

Laura Burdine: Voting rights specify us as members and we have voting rights.

Kevin Hansen: 2.1 Each Owner Bound by Terms of Declaration. Each Owner, by acceptance of a deed to a Lot is deemed to have read and agreed to be bound by the terms and conditions of this Declaration. So it seems that is a different definition of "Owner".

Laura Burdine: I will be honest, there are conflicting items. We are learning all the time.

Ryan Evans: To your point Kevin and Leland it is worth questioning.

Kevin Hansen: Just listening at the meeting, some owners felt many of the CCRs are not applicable and could be revised. Maybe that is a sticking point. If we can amend the CCRs, it gives our community some flexibility.

Ryan Evans: 8.4 Record of Ownership. Every Owner shall promptly cause to be filed of record the conveyance document to him/her of his/her Lot and shall file a copy of such conveyance document with the secretary of the Association, who shall maintain a record of ownership of the Lots. Any Owner who mortgages his Lot or any interest therein by a Mortgage which has priority over the Loma Vista HOA Declaration pg. 11 lien of any assessment provided herein shall notify the secretary of the Association of the name and address of the mortgagee and also of the release of such Mortgage; the secretary of the

Association shall maintain all such information in the record of ownership. So that defines the mortgage holders as an "Owner" also.

Laura Burdine: You guys all have copies of the Bylaws and CCRs so I recommend reading those and we will see if we can get a Board quorum approval to contact the attorney. So if you would like to send over a list of questions you would like the attorney to answer.

Ryan Evans: That is a good idea. Utah code also will have a definition to that could trump our documents.

Rebecca Bracken: We really appreciate you three and your willingness to spend time on this committee and to help educate folks.

Leland Roberts: Ok we will find out schedules and get together. Thanks everyone.