

Homes Association of Cedar Hills
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Winter News 2019

The Object of Enforcement is Compliance

The purpose of the Association is to enforce a set of Restrictions in order to maintain a “high-class residential district.” Regardless of what one might think of “high-class” as a descriptor, the intent is to define certain things as undesirable in the neighborhood and to declare the ability of “the Association” to permit certain things. Or, to not permit them. The Association uses the “permit process” to accomplish this goal. Violation letters are intended to remind neighbors that we live in an Association and we have some rules of “neighborliness” – they’re not used to “pick on” or punish people who may or may not realize they’ve violated a rule.

The Community Standard is Elected

Rather than declare specific community standards in styles, colors, sizes, etc. in the Restrictions, the Association relies on the “Permit Committee” to make most determinations. Although the Association can hire this function out, we prefer to use volunteer Board members to approve permits (weekly). Since we’re all neighbors, we all have a stake in making this process work. The Board is elected from the neighborhood(s) and each Director brings their own sense of what is appropriate for a standard. Consensus is rarely an issue.

Experience Informs Decision-Making

Things change, and policies may need to be adjusted as new information comes in or community standards change. Sometimes that community standard conflicts with the CC&Rs. In that case, the Board may present a resolution on the annual ballot, for vote by the membership.

Want to be a Director?

If you are interested in becoming a director, write up an introductory statement (who are you, why you want to be a director, etc.), get 10 neighbors to sign your nomination form, and turn it all in to the office by the April monthly meeting (to meet our notification and publication deadlines). Nomination forms are available at the office.

Welcome

to the H.A.C.H Winter Newsletter. This edition of the newsletter contains several articles about current issues of interest to the association.

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Policies

The Board of Directors regularly reviews and discusses policy ideas to help define our community standards within the framework of our CC&Rs. The following policies were recently approved by the Board:

- **Accessory Buildings (Sheds)** – the Board has added a “Medium Large” category of 120 square feet, this is due to Washington County setback requirements. An example diagram clarifying how to measure shed height and square footage has also been added.
- **Garage/Estate/Yard Sales** – the Board has defined a reasonable number of garage sales members can have each year (2 plus the HACH-wide sale) without going through the permit process. This is in keeping with rules in surrounding cities and is intended to both allow members the freedom to run a sale, while reducing the chance of nuisance to the neighbors.

See the Association website, or call the office, for full details.

Why Publish Policies?

Prior to 2010, the Board interpreted the Restrictions on a case by case basis without setting forth in writing the policies it used. Beginning in about 2010, the Board thought it would be helpful in maintaining consistency in interpretation and in providing more clarity to the membership if it set forth the policies it follows in interpretation and enforcement of the Restrictions, and it began doing so. It's a process that can take multiple board meetings per policy:

- Define the issue and determine whether the CC&Rs control it
- Propose and discuss a solution
- Develop the policy
- Approve & publish the policy

The publishing of approved policies (including on the Association website) serves multiple purposes:

- It declares policy to the membership, hopefully *before* a violation occurs.
- It helps in the continuity of Board/Permit Committee decision-making, as new board members join the effort, or rarely encountered issues come up.
- It gives the Board a starting point for future policy decisions.

New Member Meeting March 28, 2019

The Association is having a New Member Meeting on **Thursday March 28 at 7:00-9:00pm.**

The meeting will be held at the Association office, 9900 SW Wilshire St. Ste. 109, Portland.

This is an introduction to the Homes Association, with a discussion of the Community, the CC&R's and the upcoming Annual meeting. This is open to all members. Coffee will be available.

Call 503-292-1259 to reserve a spot. Looking forward to seeing you there.

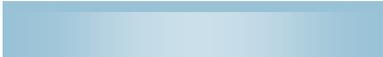


Transparency vs Secrecy

The Board has heard a lot about “transparency” and “secrecy” lately. The Board is proud of its efforts to manage Association business in an open manner. Given that Directors are typically elected with 65% to 85% of the vote, it’s hoped that the membership feels the same way:

- **Policies:** Complaints not too many years back of “violation letters based on unpublished policy” were arguably valid, but the Board has made steady progress in documenting and publishing policies that matter to the membership, typically four to six policies written or updated per year. Newly approved policies get mentioned in the newsletter, published on the Association website and are available in print at the Association office.
- **Newsletters:** starting in 2015, newsletters have been published four times per year instead of only in Spring and Fall, containing updates on policy changes, issues affecting the Association and the neighborhoods, results of voting, surveys, notice of meetings, etc.
- **Income/Expenses:** basic financial documents are published to homeowners twice per year, as required by statute. Extraordinary expenses are typically described in the newsletter.

Some members would like to see certain items online that in the past the Board has decided would require a secure login or online access by the membership. The Board is looking at surveying membership interest in upgrading the website, but needs more information regarding costs of operation (e.g. login maintenance, security, etc.), actual content desired, as well as the level of interest (how many members would actually use it).

- **Income/Expenses:** Financial statements are currently published in print to the membership twice yearly.
 - **Violations/Legal matters:** The Board generally does not publicly discuss legal matters in process for several reasons. We try not to “shame” our members who may either be in violation of the Restrictions or in litigation. Discussing unresolved legal matters openly can disadvantage the Association by revealing strategy to an opposing side. The Board’s goal is to protect the interests of the Association for the benefit of the membership as a whole. In some instances, the Board may decide that it is in the best interests of the Association to make some public comments about ongoing litigation or disputes.
 - **Meeting Minutes:** Minutes from meetings in the current year are available for free, by request of the office staff (email, letter, or in person). A request form exists for prior years, with associated costs to be determined by the amount of work required by office staff.
 - **Permit Process:** The Board considers the Permit process to be a conversation between the homeowner and the Board (as represented by the Permit Committee). That conversation extends to the immediate neighborhood by requiring signatures of surrounding neighbors on the back of the permit application (number of signatures depending on the extent of modification). That conversation does *not* extend to the entire Association, hence, the Board’s decision to support homeowners’ privacy by not making all permits available online.
 - **Blog:** There have been no conversations regarding *what* content would be in a HACH blog. As well as no estimate of the cost in time to input, inspect, moderate, etc. The Board has decided in the past to not partake of the social media world, for several reasons stated in other newsletters. Currently the Board has not changed its position.
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So What is This lawsuit I Heard About?

You may have heard about a lawsuit the Association is involved in. At the last annual meeting and at monthly board meetings there have been references to a lawsuit in progress. Recently, on social media there has been related discussion. Before I was elected to the board, I was curious as well.

Now, after being on the Board for some months, I feel it is time to dispel rumors and to provide some background for the actions taken by the Board. For many good reasons, however, the Association, like most parties involved in a lawsuit, generally does not comment on pending legal matters. But I think that it is in the best interests of the Association to provide members with at least some information about the lawsuit in order that the members might appreciate the context of the lawsuit from at least my perspective. The homeowners involved in the litigation have a different view of the issues in dispute. I understand that. But this note is not intended to litigate the pending dispute. It is simply to provide an overview of the lawsuit from my perspective.

The restrictions at issue.

Despite what you may have heard, the lawsuit is not about a fence. It is about two important Articles found in the Restrictions, Articles V and X. Article V (a), provides, in part:

ARTICLE V

(a) (1) No Dwelling House, garage, shed, outbuilding, fence, ... , ground level slab, wall or other structure ... shall be placed, erected, maintained or constructed upon any portion of the Property, and no alterations which would materially alter the exterior appearance of any such structure shall be made, unless a complete set of plans and specifications therefor, including the exterior color scheme, together with a plot plan indicating the exact location on the Building Site of the proposed building, other structure or hedge, shall have been submitted to and approved in writing by the Association and a copy of such plans and specifications as finally approved deposited for permanent record with the Association. ...

(1) The approval of said plans and specifications may be withheld not only because of their noncompliance with any of the specific conditions, covenants and restrictions contained in this Declaration, but also because of the dissatisfaction of the Association with any or all other matters or things which, in the judgment of the Association, would render the proposed structure or improvement inharmonious with the general plan of improvement of the Property or neighboring properties or with the structures or improvements erected on other Building Sites in the immediate vicinity of the Building Site upon which said structure or improvement is proposed to be erected.

(2) ...

(3) The Association may place reasonable conditions upon its approval, including but not limited to time allowed for completion.



Article X provides in part:

In the event the Association employs an attorney to enforce or restrain a violation of this Declaration, or any provisions thereof, even if no suit or action is commenced ... the Association shall be entitled to its attorneys' fees incurred there with ... all such charges shall constitute a lien on the whole Building Site with respect to which they were incurred....

In the lawsuit, the Association contends that Article X means what it says. If a lawyer is retained by the Association to enforce or restrain a violation of the Restrictions (which are also called the "Declaration"), which includes Article V, then the Association is entitled to recover the attorney fees that the Association incurs from the member that violated a provision of the Restrictions. In this case, the homeowners violated Article V of the Restrictions by building a wall and fence on their property without first submitting their plans and specifications for their project to the Association and obtaining the Association's approval of them, even though they knew both were required by the Restrictions. The Association retained an attorney because of their violation.

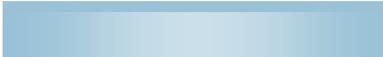
Prior to trial, the judge ruled against the Association for reasons that the Association believes to be in error. The Association has appealed the ruling. The Association has appealed because the Restrictions provide that homeowners who violate the Restrictions must reimburse the Association for the attorney fees that are incurred as a consequence in order to enforce or restrain that violation.

Also, before the lawsuit was filed, the Association offered to the homeowners the opportunity to engage in free mediation. After the lawsuit was filed, the Association repeatedly proposed that the parties engage in some alternative dispute resolution programs to resolve the dispute. The homeowners declined those invitations for various reasons. Then, last summer the parties did participate in the Appellate Settlement Conference Program and a mediation did take place. Unfortunately, the parties were unable to resolve the case (and by law the persons who participated may not disclose what was said during that mediation).

One of the principal purposes of the Association is to maintain the high quality of our neighborhoods by making sure that our members comply with the Restrictions. At times, the Board determines that it makes sense to retain counsel to obtain compliance. The Board also believes that when a homeowner decides to bypass the procedures that have been used for years to review remodeling or other construction projects, then that homeowner should pay the attorney fees incurred by the Association to enforce compliance with those procedures.

When it comes down to it, the Association does need to be able to enforce the Restrictions; it is the very reason the Association exists. Without the eventual force of law (which in today's society is a lawsuit), the Association would lose its ability to enforce the Restrictions, to keep our neighborhoods nice, and to maintain the value of our homes.

Rex Wheeler, Vice President



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Conduct of Members at Board Meeting

The monthly meeting for December was brought to a halt because of the conduct of a handful attending member homeowners. Recently, the conduct of members attending HACH's monthly board meetings has deteriorated into outbursts, physical and verbal expressions of profanity, and other repeated statements that were out of order and were intended to disrupt the meeting. It is not acceptable that volunteer directors and staff are subjected to this treatment. The purpose of the board meeting is for the directors to conduct the Association's business. Members are invited to attend and listen. Members are allotted time during the meeting to raise issues to the Board in three minute segments. No other input is allowed unless specifically invited by the person who is chairing the Board Meeting.

The behavior of a small group of members is interfering with the directors' ability to conduct the Association's business in an orderly manner. In future meetings, the Board will issue one warning and then trespass offending members from the building. If a member refuses to leave after being requested to do so by the Board, the Sheriff's Department will be called. No interruptions or outbursts will be tolerated.

Additionally, members may not congregate in the building's lobby after the board meeting is adjourned. The building closes at 7:00 p.m. The Association is allowed to keep the door open until 8:00 p.m. on board meeting nights, but the landlord does not permit members to congregate in the lobby after 7:00 p.m. because that prevents the building's staff from completing their work. Please exit the building after the meeting is adjourned.