



FW: 16163 Anoka - Communication

2 messages

Di Saia, Steven <Steven.DiSaia@sedgwicklaw.com>

Wed, Feb 5, 2014 at 8:50 PM

To: Francine Kirkpatrick <DrFKirk@verizon.net>, Syd Vinnedge <syd.vinnedge@gmail.com>, Diana Ungerleider <dianaunger3@gmail.com>, Karen Olan <karenolan@beckarmed.com>, Patti Gallagher <p.gallagher2@verizon.net>, Vi Walquist <viwalquist@gmail.com>

Cc: Larry Friedman <lpfriedman1@gmail.com>, Hal Erdley <halerdley@gmail.com>

All:

This is the response from David Schultz to the last letter from Mr. Huber and my request to him for a “bottom line” position.

Unless someone objects, I will forward this to Mr. Del Colliano and his counsel as well.

Steve

From: Schultz, David [mailto:dschultz@mckennalong.com]

Sent: Wednesday, February 05, 2014 6:16 PM

To: Di Saia, Steven; Margye Baumgardner; jake.schultz@mac.com

Cc: Larry Friedman

Subject: RE: 16163 Anoka - Communication

Thank you Steve. I did not have time to speak with Ms. Baumgardner, so this response is really just from me. But, as you are likely aware, we do share similar views and concerns. Although Ms. Baumgardner will most likely respond from her viewpoint, I offer the following which you can forward to Mr. Huber and Mr. Del Colliano as definitive statements concerning the issues and Mr. Huber's letter. At the outset, I wish to join in your belief that the decision process should come to a conclusion, with the parties hopefully working to a compromise or solution to the issues. Thus, I will direct my response to Mr. Huber's letter with that goal in mind.

First, I do not think it is necessary for Mr. Del Colliano to spend any money to fix the existing fence separating our properties or to trim his tree. The fence and tree have been on the property for many years, and we have lived quite nicely with both. I also believe that neither are relevant to the proposed construction at issue. So, please advise Mr. Huber and Mr. Del Colliano that neither are necessary to be done from our perspective. Of course, if Mr. Del Colliano wants to keep his tree, that is fine by us, and we will just clean up the pine needles when they drop. It really is not that much of an inconvenience and he should not incur any expense regarding that. If he would prefer to cut down that tree, we are fine with that too. With respect to the fence, it has never been an issue with us or our former neighbor, so I really don't view that as an issue at all. Thus, we can either keep the current fence in place and/or Mr. Del Colliano can put a new fence on his side that is the same height. Regardless, neither is an issue that the HOA or anyone should have to consider.

Second, I really don't want to address Mr. Huber's letter point by point, as that is not the goal of my e-mail. Although most of Mr. Huber's letter is directed to Ms. Baumgardner's property, I will offer a few thoughts after reading his letter. We have previously set forth a number of concerns regarding the proposed construction. I fully trust that the HOA board understands these concerns, as well as the issues discussed in Mr. Kirshner's report and Mr. Aberle's letter, and the future impact of having a proposed structure that is almost twice the limit under the CC&Rs. I will not repeat all of that here. But, respectfully, I believe that Mr. Huber's letter does not address all the concerns that have been raised, the 15 ½ foot height restriction in the CC&Rs and/or the various factors that the HOA considers in deciding whether to approve or disapprove a plan to construct a structure in excess of that height restriction. I also do not think it was productive or professional for Mr. Huber to list items that he believes devalues Ms. Baumgardner's house, like no new roof (which is untrue because she just recently had a new roof put on) etc... These items are patently unrelated to the proposed construction and thus are not relevant to the matter at hand. I frankly think it would be best for all concerned to move away from that.

Third, the real point of this email is to offer a proposed solution, which I sincerely hope everyone will appreciate and want. On behalf of Rachel and myself, I believe that an appropriate solution and compromise, which would be best for all concerned, is that Mr. Del Colliano can build a second-story structure on the other side, above the garage that I understand will be moved up and attached to the house. Under that proposed solution (1) Mr. Del Colliano would gain the added 600 square feet that he wants; (2) the addition can be placed in a second story structure if that is what he prefers over an addition on the first floor; (3) the addition should not be as tall because a garage ceiling can be shorter than the interior of a house; and (4) it will lessen the impact that has generated concerns from us and Ms. Baumgardner. If Mr. Del Colliano agrees to this solution, I will withdraw our objections, which is definitive. If Mr. Del Colliano is not agreeable to that, I think another definitive solution is that we simply have the HOA board decide whether to approve or disapprove the proposed plan. I am willing to stand by the HOA board's decision, either way. The HOA board is a disinterested, fair and thoughtful group, who has been provided with information from both sides and is vested with the discretion to make the appropriate decision under the CC&Rs. Thus, I would hope that Mr. Del Colliano and Mr. Huber will abide by any decision made. Again, I am certainly willing to do so.

Thank you very much for forwarding Mr. Huber's letter. Once again, I very much appreciate everyone's thoughts and the consideration that the HOA board has shown to all concerned.

Best Regards, Dave

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P Please consider the environment before printing this e-mail

From: Di Saia, Steven [<mailto:Steven.DiSaia@sedgwicklaw.com>]
Sent: Wednesday, February 05, 2014 3:41 PM
To: Schultz, David; Margye Baumgardner; jake.schultz@mac.com
Cc: Larry Friedman
Subject: RE: 16163 Anoka - Communication

Hello David:

In my view, tomorrow afternoon is fine. Will you have a response and perspectives on behalf of everyone, or should I expect a response, if any, from Margye separately? I have heard again from Mr. Del Colliano and am trying, if possible, to keep the lines of communication open.

One of the things I am hoping to accomplish is a definitive statement of what needs to be done to make everyone happy – i.e., from your perspective, what Mr. Del Colliano has to do to satisfy you all with this project. I know that is a tall order, but we are down to the end of the road here and I want make all efforts that can be made to accomplish compromise.

Steve

Steve Di Saia

Chairman, Plans Committee

Palisair Home Owners Association

From: Schultz, David [<mailto:dschultz@mckennalong.com>]
Sent: Wednesday, February 05, 2014 3:34 PM
To: Di Saia, Steven; Margye Baumgardner; jake.schultz@mac.com
Cc: Larry Friedman
Subject: RE: 16163 Anoka - Communication

Steve, I apologize, but I have been in client meetings and trying to get a filing done for tomorrow. Can I respond tomorrow afternoon? If you'd rather have something in-hand today to forward to Huber, that's totally fine, and I can put aside a half-hour to send you something.

David Schultz | Partner
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From: Schultz, David
Sent: Tuesday, February 04, 2014 9:12 AM
To: 'Di Saia, Steven'; 'Margye Baumgardner'; jake.schultz@mac.com
Cc: 'Larry Friedman'
Subject: RE: 16163 Anoka - Communication

Thank you for forwarding Steve. I am very busy this week with an appellate brief due on Friday, so I appreciate you confirming with Mr. Huber that his deadline for a response is not firm. It is a bit unusual to demand a response, in writing, by 3 p.m within 2 days of sending a letter. I will discuss the letter with Rachel tonight and provide you with a response tomorrow. It will not be lengthy, and I will talk with Rachel about aiming our response with a potential solution in mind.

I do have two initial thoughts, however, concerning Mr. Huber's letter. First, the proposed concession of putting up a new fence in the back and cutting down a tree on his property are not relevant to the issues. They are, in reality, things that Mr. Del Colliano wanted to do anyway for his benefit. Second, I do not think it is productive or professional for him to denigrate Margye's house by providing a list of items that he claims impacts value, like no new windows, no new roof (which is untrue because she just recently had a new roof put on) etc... These items are also not relevant to the matter at hand.

I remain willing to stand by whatever decision is made, which I have said from the start. Throughout this process, everyone on the HOA board has been very helpful and professional. I truly thank you.

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From: Di Saia, Steven [<mailto:Steven.DiSaia@sedgwicklaw.com>]
Sent: Tuesday, February 04, 2014 8:00 AM
To: Margye Baumgardner; Schultz, David; jake.schultz@mac.com
Cc: Larry Friedman
Subject: 16163 Anoka - Communication

All:

Sorry, I intended to send this to you all after the Annual Meeting last night, but it got rather late and I had several things to get done. As I mentioned at the meeting, the attached is the response from counsel for Mr. Del Colliano to the report we forwarded to him from the independent appraiser retained by the Board to evaluate the issues presented by the project.

Of note, I have exchanged notes with him, since this correspondence was received yesterday, and confirmed that the deadline set forth at its conclusion is not hard and fast, but, as the proposed concessions provided in the letter really address your interests, I wanted to insure that you had a chance to review it.

Steve

Steve Di Saia

Chairman, Plans Committee

Palisair Home Owners Association

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Di Saia, Steven <Steven.DiSaia@sedgwicklaw.com>
To: Diana Ungerleider <dianaunger3@gmail.com>

Thu, Feb 6, 2014 at 7:45 AM

For file.

Steve

From: Di Saia, Steven
Sent: Thursday, February 06, 2014 7:45 AM
To: 'Terrance Huber'; 'Jerry Del Colliano'; 'Bobby Rees'
Subject: FW: 16163 Anoka - Communication

All:

This is the response from Mr. Schultz to the correspondence previously provided by Mr. Huber. As you will

note, pursuant to the discussion which I had with Jerry yesterday, I have asked the affected neighbors for a definitive statement as to what they believe they need to satisfy their concerns about the project, which Mr. Schultz has provided below.

I have not yet received such a statement from Ms. Baumgardner, but she has responded that she will provide it today or tomorrow.

[Quoted text hidden]