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## 161613 Anoka - Communication from Mr. Huber

1 message

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

Sat, Feb 8, 2014 at 11:33 AM

To: Larry Friedman <lpfriedman1@gmail.com>, Francine Kirkpatrick <DrFKirk@verizon.net>, Patti Gallagher <p.gallagher2@verizon.net>, Karen Olan <karenolan@beckermed.com>, Diana Ungerleider <dianaunger3@gmail.com>, Syd Vinnedge <syd.vinnedge@gmail.com>, Vi Walquist <viwalquist@gmail.com>, Hal Erdley <halerdley@gmail.com>

FYI.

Steve

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**From:** Terrance Huber [mailto:[terrancehuber@gmail.com](mailto:terrancehuber@gmail.com)]

**Sent:** Saturday, February 08, 2014 10:44 AM

**To:** Di Saia, Steven

**Cc:** Jerry Del Colliano; Krista Del Colliano; Bobby Rees

**Subject:** Anoka, Del Colliano, Baumgartner

Steve,

I would propose the following as a response to Ms Baumgartner's 2-7-14 email, and i would ask that you circulate it to Board members, in advance of their meeting to consider this issue.

To: Palisair HOA Board Members:

This is in response to Ms. Baumgartner's email to the Board dated February 7, 2014.

First, I would like to point out that I have a long-standing policy against responding to ad hominem attacks, as the same does not advance the discourse. It is useful and helpful to stay on point.

Second, I would like to state categorically that no credible qualified professional evidence has been presented in this matter which would suggest or confirm that the proposed Del Colliano addition would have a negative impact upon the value of any property in the Plaisair group of homes.

A. Mr. Aberle's unprofessional biased inaccurate and speculative "opinion" is wholly contradicted by Mr. Aberle personally, in his February newsletter of which the Board has a copy, and

B. By Michael Edlen's (an expert in the same Coldwell Banker office as Mr. Aberle) posts in the Pali-Post in January referencing a general 15% increase in such values over the past year

To suggest, as does Mr. Aberle, without any evidence whatsoever, (and I might add without any credentials to serve as the basis of his "opinion") that the proposed addition will create damages in the hundreds of thousands of dollars seems to suggest a mythical world in which the Baumgartner residence will escape the increase in value of Pacific Palisades ocean-view homes due to the presence of the proposed addition.

Since Mr. Aberle's "opinion" lacks merit, what then of Mr. Kirshner's opinion? Mr. Kirshner appears to possess the appropriate credentials, but he contradicts and undermines his opinion of impact upon value in the third paragraph of his letter (positive or negative?) when in the final paragraph of his letter he recites "Determining specific value impact requires considerable research and this task was beyond the scope of what I was asked to perform." Stated somewhat differently, he has determined impact without having done the research to determine impact.

Ms. Baumgartner suggests that the REAL ISSUE (sic) is "... that the proposed addition will ..." "significantly DECREASE (sic) the value of my property..." As to this issue, neither Ms. Baumgartner nor Mr. Aberle nor indeed Mr. Kirshner has presented any credible evidence in support.

Further, Ms. Baumgartner suggests that another portion of the REAL ISSUE (sic) is that the proposed addition will "... severely impact the enjoyment of my home."

Since enjoyment is strictly a subjective issue and since she does not elaborate on that point, I can only say that Mr. Del Colliano has been suggesting since the meeting in Mr. Erdley's home in November that he would be happy to address the privacy issue (I have to make the assumption that that is what she is referring to) at his expense and that he would agree to work with her regarding vegetation maintenance indefinitely. Any agreement with the Fick's in this regard is irrelevant.

Next, however, I believe we get to the real issue underlying Ms. Baumgartner's position which is that the proposed addition is "...completely (emphasis added) out of character for the neighborhood." She just doesn't like it.

Well, what then is the "character" of the neighborhood and where in the CC&R's does the HOA derive its right to protect Ms. Baumgartner's notion of the character of the neighborhood?

Moving the proposed addition to the east of the structure is architecturally repugnant, not a practical solution and in fact would create a neighborhood eyesore.

Next, Ms. Baumgartner makes reference to "...Mr. Del Colliano's proposed removal of the long established trees on my property."

I personally attended the meeting at Mr. Erdley's home at which Mr. Del Colliano very specifically did not propose the removal of Ms. Baumgartner's trees. I would point out that Ms. Baumgartner made a similar false accusation at her home when certain Board members and I were present and I challenged that accusation at that time, as it would be in violation of the CC&R's (not to mention California law). Parenthetically, I would add that the accusation that "...Mr. Huber came onto my property without my knowledge or permission..." is not only patently false but my presence, participation (verbally) and engagement of Ms. Baumgartner in conversation was witnessed by HOA Board members. Mr. Del Colliano has reached out to Ms. Baumgartner on several occasions only to be ignored by her for more than three months.

There is nothing in the CC&R's which requires the Board to disallow **any** proposed submission if it has **any effect whatsoever** on the neighbors or the neighborhood. Rather, the CC&R's require the Board members to conduct their inquiry fairly, in good faith, recognizing their fiduciary duties to all homeowners and to determine whether a proposed submission has or would have an unreasonable effect on the neighbors and/or the neighborhood taking into account the current circumstances of the neighborhood.

The proposed Del Colliano addition does not have an unreasonable effect upon the neighbors or the neighborhood and should under the Bylaws and the law, be approved.

Thank you for allowing me the opportunity to respond to Ms. Baumgartner's email to you.

Terrance Huber, for Mr and Mrs Del Colliano

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