

Subject: Re: Thomas Trees

Date: Saturday, June 28, 2014 6:51 AM

From: Francine Kirkpatrick <DrFKirk@verizon.net>

To: Hal Erdley <erdley@ieee.org>, Larry Friedman <lpfriedman1@gmail.com>, Steve Di Saia <steven.disaia@sdma.com>, Patti Gallagher <p.gallagher2@verizon.net>, Diana Ungerleider <dianaunger3@gmail.com>, Syd Vinnedge <syd.vinnedge@gmail.com>, Vi Walquist <viwalquist@gmail.com>, Karen Olan <karenolan@beckarmed.com>

Conversation: Thomas Trees

Hello everyone,

Yesterday Larry and I had a conference call with Kristine Truong, our CC&R attorney, and I have disappointing news. The sections in the CC&Rs, Article IV, Sec 6, "Recording and Mailing of Notice of violation" is defunct! The law no longer provides for this option. To realize the extent of the loss of our power read footnote 12 from article 6: [12] By committing or maintaining a violation, the owner himself is clouding his title. Filing a Notice of Violation upon the public record against a certain lot will impart constructive notice of this fact to any prospective buyer or loan company. Furthermore, in escrow, the title search will reveal the existence of the Notice and the title policy will have to list it as an "encumbrance affecting the title." Thus, all interested parties are warned that the property may soon be involved in litigation.

Experience shows that in most cases the recordation of a Notice of Violation will make further court action unnecessary. It is our desire to avoid actual litigation, which, of course, would "tie up the title" for quite some time. But, if a violation has occurred which the owner cannot be induced by amicable means to remedy within a reasonable time, we will have no choice but to file a Notice of Violation.

The only option left to us is the following: . Write a letter saying homeowner trees are a CC&R violation and add provision saying they have to correct violation within 30 days and threaten them that if they don't do it HOA has right to go on property to cut trees and charge the homeowner cost. If they don't pay cost, which is called a special assessment then because our CC&Rs does give us lean rights we can put a lean on property and proceed then to what is called a "non-traditional foreclosure". If we proceed with this option - cut trees and Thomas doesn't pay we charge him and file Non-traditional foreclosure. Another option rather than entering property to correct a violation is to sue so court gives legal judgment. Cost is around \$20,000 plus cost if disputed....can be costly.....However Kristine assured us if homeowner sues the PHOA we will win. Cost for law suit not going to be higher because it's not a structure that is being sued over, it's a tree - what somebody wants to spend on a tree is limited.

The PHOA has already sent a certified letter to Thomas (2/16/13) that was returned unaccepted. Therefore we have no paper trail proving he has been informed of the CC&R tree violation. I therefore asked Kristine to write a letter for *her* signature. We can assume Thomas will accept a certified letter from a law firm. Once done we can then contact the sales broker of this CC&R violation. If we are lucky even though there is no notice on the title it could be that the buyer will make pruning of the trees a condition of closing escrow.

Francine

Steve, Article IV, Section 6 of the CC&Rs:

Section 6. Recording and Mailing of Notices of Violation **12)**

Notice of any breach or violation of any of the restrictions or notice of any failure of any person, firm or corporation to comply therewith, within a reasonable time after the occurrence of such breach, violation or failure to comply, shall be executed by the owners of the reversionary rights herein provided for, or by the Tract Committee, or by the record owners of any land in said tract, and recorded in the office of the County Recorder of Los Angeles County, describing the lot or building site involved; and a copy of such notice, showing the date of recordation and document number, within a reasonable time after recordation thereof as aforesaid, shall be mailed by certified mail to the last known address of the person, firm or corporation responsible for such breach or violation of, or failure to comply with, any of said restrictions. Until such notice shall have been recorded and mailed as in this Section 6 provided, neither the owners of the reversionary rights, nor the Tract Committee, nor the record owner of any land in said tract, shall have the right to commence any action at law or the enforcement or foreclosure of the liens as provided herein against any person, firm or corporation responsible for any breach or violation of any of said restrictions, or for failure to comply therewith.

Hal

On 6/27/2014 3:57 PM, Di Saia, Steven wrote:

I will be interested to hear the input from Kristine. Do we have some avenue in the CC&RS to file a notice of violation? Never heard of that.

Steve

On Jun 27, 2014, at 2:42 PM, "Francine Kirkpatrick" <DrFKirk@verizon.net> wrote:

Re: Thomas Trees

All,

As we voted at board meeting I am getting consult this PM with Kristrine Troung re how to file a notice of violation on the property. So we will have to very quickly get a certified letter to him giving him 30 days to prune or notice will happen. I'll keep you posted.

Francine

That is an interesting development - I did not see that coming.

I think we need to let the realtor know about the existing lack of compliance as soon as possible, so there cannot be a later claim that the information was not available to potential buyers. I wonder if we should do such a thing by formal writing - what do you think?

Steve

From: Patti Gallagher [mailto:p.gallagher2@verizon.net]
Sent: Thursday, June 26, 2014 4:11 PM
To: Di Saia, Steven; Larry Friedman; Francine Kirkpatrick; Hal Erdley
Subject: Thomas Trees

All,

This is an interesting new development. Thomas has listed his house. Since he was notified of tree violations formally by letter 2-26-13 and in person in September 2012 by Hans (who reported he refused to cooperate) shall I contact the realtor to inform him of noncompliance and what else should I say?

Patti

Begin forwarded message:

From: "Anthony Marguleas" <anthony@AmalfiEstates.com>

Date: June 26, 2014 10:44:58 AM PDT

To: p.gallagher2@verizon.net

Subject: TheMLSPro(TM) Saved Search "Gallagher Palisair New Buyers" Results Auto-Notification

Reply-To: "Anthony Marguleas" <anthony@AmalfiEstates.com>

Your Agent Contact Information

Agent Name: Anthony Marguleas

Agent Phone: 310-663-8127

Agent Fax: 310-943-6819

E-mail Address: anthony@AmalfiEstates.com

Website: <http://www.AmalfiEstates.com> <<http://www.AmalfiEstates.com/>>

Saved Search: "Gallagher Palisair New Buyers" has returned the following listings:

935 LAS LOMAS AVE PACIFIC PALISADES, CA 90272 \$9,450,000 Active 14-771711 <<http://www.themls.com/notification/?mail=a2/bCIqdr2Ahl78y3bfYJg=&search=MXP2g9vdqddAvWjjVniWq5xdCFIMhKiAfjHo5FI3AaXmh7BopyqyXA==&id=Imdzd6qI+rI7eX1gcejr/JVXUFxJX0xH>> <[http://www.themls.com/notification/?mail=a2/bCIqdr2Ahl78y3bfYJg=&search=MXP2g9vdqddAvWjjVniWq5xdCFIMhKiAfjHo5FI3AaXmh7BopyqyXA==&id=Imdzd6qI+rI6kL6Adj+OKQ==>](http://www.themls.com/notification/?mail=a2/bCIqdr2Ahl78y3bfYJg=&search=MXP2g9vdqddAvWjjVniWq5xdCFIMhKiAfjHo5FI3AaXmh7BopyqyXA==&id=Imdzd6qI+rI7eX1gcejr/JVXUFxJX0xH) <<http://www.themls.com/notification/?mail=a2/bCIqdr2Ahl78y3bfYJg=&search=MXP2g9vdqddAvWjjVniWq5xdCFIMhKiAfjHo5FI3AaXmh7BopyqyXA==&id=Imdzd6qI+rI6kL6Adj+OKQ==>> · **Area:** (15) Pacific Palisades · **Subdivision:** · **Property Type:** Residential Single Family · **Bedrooms:** 4 · **Bathrooms:** 7.00 (4 2 1 0) · **Lot Size:** 91,053/AS · **Building/Living Area:** 3,392/AS · **Land Type:** Rooms: Art Studio, Barn, Entry, Family, Guest House, Living, Master Bedroom, Office, Pantry, Patio Covered, Stable, Workshop, Other

Equipment: Dishwasher, Dryer, Garbage Disposal, Gas Dryer Hookup, Hood Fan, Range/Oven, Refrigerator, Washer

Remarks: Ideal for development or for the creation of a special estate or compound, this property blends serenity and privacy on approximately 2.1 acres. It is conveniently located in the heart of Pacific Palisades, has not changed hands for over 70 years, and truly presents a "once-in-a-lifetime" opportunity. The site runs street-to-street from Las Lomas Avenue to Maroney Lane and includes a single family home of nearly 3,400 square feet, an additional structure of over 1,500 square feet, a plant house, a studio and two 2-car garages. Steeped in history, the property evokes memories of a more tranquil, simpler lifestyle. While growth has taken its natural course in surrounding areas, the property remains one of the largest, most unique, and gracious sites in Pacific Palisades.

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