

Palisair Home Owners Association
A NON-PROFIT CORPORATION
P.O. Box 901
Pacific Palisades, CA 90272
www.palisair.org

The association itself is a "Tract Committee"
under the Declaration of Restrictions covering
Tracts 15944, 15948 and 19890, and operates as
such through its Board of directors and its Officers

October 4, 2014

Mr. Hal Oliver
1051 Palisair Place
Pacific Palisades, CA 90272

Dear Hal,

This correspondence shall respond on behalf of the PHOA to the issues raised in your letter of September 18, 2014, addressing the proposed Koi Pond for the on-going construction project at 1054 Palisair Place. In response to the matters raised in your correspondence, as well as prior related issues brought to the attention of the PHOA, many members of the Board visited the site and viewed the location, status, and design of the Koi Pond. In addition, members of the Board met with the owner and his contractor, reviewed the plans for the Koi Pond and surrounding area, and inspected the site.

We agree that Article II, Section 3 of the CC&Rs poses a prohibition as to animals "kept or maintained in such a manner that they become, directly or indirectly, an annoyance of any kind to a neighbor." On review of the status and plan for the subject Koi Pond, however, we do not see how it poses a perceived or actual violation of this Section.

Based on our analysis and review of the plans, the pond will be entirely enclosed by a wall at the front of the residence which will be 42" in height, which is entirely in compliance with the CC&Rs and city ordinances. As such, it will not be possible to see the pond, unless one walks up to the wall and leans over it. It will be virtually impossible for one to fall inside or trip into the pond from the street.

As to the proposed danger of the West Nile Virus, or any other disease promulgated by stagnant water, we have confirmed that the water will not be stagnant. As you have noted, there are pipes currently visible at the far side of the property closer to the Teitelbaum residence. Those pipes are for the operation of the pump system, which will keep the water constantly flowing in and out of the pond. The means by which the fish will be maintained thus will not allow for, or promote, the growth of mosquitoes or any other pestilence to our understanding.

Of note, the pipes will not remain visible. A solid wooden gate is part of the plan, which will screen the pump area from the street, once completed.

On the proposed danger of animals collecting to snatch the fish from their haven, the pond will also be covered with a mesh screen, which will entirely enclose it and prevent access to the fish by birds or coyotes. The presence of the fish will be no more inspirational to the collection of predators on Palisair Place than the ownership of a cat.

Can people nonetheless simply be annoyed because fish are present? That remains a possibility. But we need to provide a measure of reason here and we do not see it as reasonable to speculate that this pond will result in annoyance under the design conditions presented. If the design is not met, or if there are found to be other, unreasonable causes of annoyance when the pond is completed, that may well pose grounds for the matter to be revisited at that time, but we cannot restrict pets on the basis of what might be a "potential" annoyance.

With regard to the setbacks for both the pond and the equipment, as we have informed you, we continue to treat the pond as a landscape feature, much like a pool, which would of course be much larger than this pond. It is accepted that pipes to maintain a pool or pond may be placed inside the setback.

Allow me to expand on that from the CC&Rs: "No structure (except clothes line poles, pool heaters, fences, walls and the like, provided their location has been duly approved by the Tract Committee) shall be erected, placed, permitted and/or maintained on any lot or building site in this tract nearer than 10 feet from the established front line or nearer than 5 feet from either side line." The plumbing in this area is related directly to the maintenance of the pond, and is considered commensurate with a pool heater, filter, and related plumbing.

In addition, to quote from the CC&Rs: "No fence, wall, hedge, or planting (with exception of trees), if exceeding 3 1/2 feet in height above finished surface (not counting any part used as retaining wall), shall be permitted or maintained on any land in this tract in the area between the established front line and the front set-back line; nor if exceeding six feet above finished surface (not counting any part used as retaining wall) anywhere to the rear of the front set-back line, unless a height variance is granted by the Tract Committee." As pointed out, the enclosure for the pond will be 3 1/2 feet, again in compliance with the CC&Rs.

Of note, we also addressed with the owner the subject of a previous agreement that he would not have a fountain at the front of their residence. He does recall that there was a fountain drawn on his first set of plans, which was merely the architects attempt to give some design elements for envisioning the front of the house. He rejected those plans and that architect. It was never part of the plan, therefore, he never intended to build one. He does not recall, however, any discussion with the neighbors of a dislike for that fountain or an agreement that his ultimate plan would not include a fountain, Koi Pond, or any other body of water.

I hope this answers your questions on the subject. The board has spent a good deal of time over the last two weeks reviewing the project and discussing each and every issue which you have raised. We are aware that you and other neighbors would have preferred that this project not include any body of water at all. In our view however, the CC&Rs do not pose a restriction to such a design feature and do not permit an avenue to prevent the continued construction of the residence, as you have suggested.

Sincerely,

Larry Friedman
Palisair Homeowners Association