

November 7, 2014

Larry Friedman, President
Palisair Home Owners Association
www.palisair.org

Dear Larry:

The following are comments and critique of your letter of October 4th. Your statements appear arbitrary and, in many cases, do not follow the spirit and intent of the PHOA CC&R's.

Let me start with my number (2) violation complaint, which you did not respond. The structure built between the side of the building and the retaining wall on the north side of the house. It is approximately 10' feet wide, 8.5' tall and extends from the front of the building to the rear,33' or more in length. This property was excavated down to street level, then after the retaining wall and building wall were completed, this structure was constructed of cement, dirt (filling which is a CC&R's "no no" in Articles 2, 3 and 4), and pipes. Unknowingly, you sighted the very restriction referring to this violation, but wrongfully, regarding another subject matter. The CC&R's state, "No structure can be erected, placed, permitted and/or maintained on any lot or building site, nearer than 5 feet from the sideline". In so many words, the CC&R's require a five foot pathway on each side of the building walls. My neighbors and I, still, await the Track Committee's (The Enforcement Agency") judgment of the above infraction.

Let me sight here from Article 4, Section one, paragraph two. "The Tract Committee shall represent the interests of all landowners of the tract and in good faith shall execute, interpret and enforce these restrictions for the benefit of the tract and all landowners, within the purpose, spirit, meaning and intent thereof." Article 3, Section one, last paragraph states, "The sole discretion of the Tract Committee must be exercised in good faith, non-arbitrarily and consistent with the restrictions and applicable governing laws. In exercising this discretion, the Tract Committee shall consider factors, including but not limited to, how the structure may impact property values, statements from members of the Association, the presidential effect of the decision on the Association, and how such structure would affect the character of the neighborhood."

Now, to the issues about the Koi Pool. As to what you wrote in your letter, I wish to make some (not all) observations. You say many members of the board visited the site. There's only one member of the T.C. that lives in the neighborhood and you did not invite her. You are also aware that I have a great deal of knowledge regarding the plan changes during construction of this new building. You have requested input from me on numerous occasions. I live next door to the project, and you did not include me in the meeting. Have you any interest in the neighborhood's concerns?

You will, also, agree that the T.C. had never seen any plans for the Koi Pool before this visit, since no plans were ever offered to you and you did not request them, even after knowing of change of original plans, and complaints from neighbors. In your current meeting with the

builders, did anyone from the T.C. collude with builders in the redesign of the area? In other instances, this type of activity by the T.C. has been brought to my attention. You seem to have a great deal of new information regarding the project, that you did not have the previous week. May I see the Koi Pool plans that you finally examined?

In fact, you have been advised of many changes in the building and excavation plans, and you have never requested new plans. Costs of new plans are paid by the builder. All that is required of the PHOA INC, is due diligence and stewardship.

In your current letter ,paragraphs 2 thru 7,you deviated from my concerns and complaints about the water pool and rambled about fish as pets, a 42" entirely inclosed wall, stagnant water, a gate to hide the water pump under Mrs Teitelbaum's bedroom window, and the fact that this pond is smaller than a swimming pool,.... therefore, according to you, it's all landscape design. Instead, you write of snatched fish and mesh screens. Evidently, as you stated, the pump will have to run all day and night to keep the water moving for the fish. Be sure to explain your approval of this to Mrs. Teitelbaum. You ignored my recanting of parched animals coming up from the canyons in search of water, eating neighbor's flowers and plants, and how hard it was to get rid of them. You are stating that the moving water will not draw animals to the area, and they will not know there is water there because of the forty-two inch wall. You must be aware that the CC&R's " Article 2, Sections 1, 2, and 3 can never be abrogated" . When I and other neighbors have, numerously, informed the T.C. that this Koi Pool is an annoyance, this automatically becomes a violation, and the project should be rejected. Your arbitrary remarks should not over-rule the CC&R's.

Most disappointing of all, throughout your letter, you magisterially made a mockery of my and my neighbors concerns and annoyances of this non-planned project. It is insulting that you choose to agree with the builder's statement rather than the homeowners regarding his original plan to remodel. Why were we invited to a Plan Review with his architect, if there was no intent to build?

In answer to your closing paragraph, I have to say that you did not answer nor address any part of my letter, as you so claimed. You rambled on in an arbitrary way, showing no cognizant of the CC&R's, nor the content of my letter. I would have expected you to be more sincere in answering my letter. Let's hope that your reply to this letter will be more accurate. The CC&R's definitely provides more than one way to reject the building of the Koi Pool. I suggest that you and the T.C. review the CC&R's, especially Article 2, Section 1; and Article 4, Sections 1 and 2.

Please remember, you encouraged me to read the CC&R's, and as a favor, report back to you. In another instance you and the T.C. requested that I meet with your Hal Erdly to discuss plan changes and other issues concerning the 1054 Palisair construction,which I did, but so far, no reply from anyone. This takes a lot of my time. Are you and the T.C. appreciative, or what?

Yours truly, Hal Oliver

