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## FW: 1119 Las Pulgas

1 message

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David Schultz <DSchultz@polsinelli.com>

Sun, Aug 2, 2015 at 12:55 PM

To: "Francine Kirkpatrick (DrFKirk@verizon.net)" <DrFKirk@verizon.net>, "Vi Walquist (viwalquist@gmail.com)" <viwalquist@gmail.com>, "Karen Olan (karenolan@beckarmed.com)" <karenolan@beckarmed.com>, "Diana Ungerleider (dianaunger3@gmail.com)" <dianaunger3@gmail.com>, Roger Broderick <chaselaw@me.com>, Suzanne Weisberg <sjw@sjwlegal.com>, "Miriam Schulman (miriamschulman@hotmail.com)" <miriamschulman@hotmail.com>

FYI. Another Danny Seo email that I had to respond to, which you should be aware of.

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**From:** David Schultz

**Sent:** Sunday, August 02, 2015 12:54 PM

**To:** 'Danny Seo'

**Subject:** RE: 1119 Las Pulgas

Danny—Thank you for your email below. This email will follow-up on the telephone conversation that we had last night on this subject. Once again, I am always happy to discuss any matter with you and thank you for your call last night as well.

The term “view” is defined several times in the CCR’s. I know from discussing the issues with you and Bill at the prior meeting that both of you are familiar with that term. My interpretation is consistent with the thoughts that you and Bill both expressed. There are provisions in the CC&R’s that relate to not “unreasonably” obstructing or diminishing the quality and nature of someone’s view. And, the definition of “view” is set forth in Section 8 of Article V, as follows: “Whenever in these restrictions the phrase ‘the view from any other land of this or an adjoining tract’ is used, ‘adjoining tract’ shall exclusively mean tracts 15944 or 15948 or 19890, as the case may be. The ‘view’ shall include, but is not limited to, the sight of the ocean, mountains, city, valleys, canyons, sunrises and sunsets or any other sight deemed by the Tract Committee as being an important part of the property’s value that is entitled to protection.”

I know you are looking for some clarification, which is why the PHOA voted at the last board meeting to pay for half the cost of erecting story poles. I understand from my prior emails between you and Bill that were sent to me last night that you two have a PDF survey and have discussed a potential solution concerning where on your pad that your house will be constructed. Frankly, I am glad that you and Bill

are continuing to discuss the issues and am hopeful that you will arrive at a solution that is mutually acceptable to you. If it is necessary to help in that process, the PHOA board will certainly meet with both you and Bill to discuss the view issues after we receive the survey and then visit Bill's backyard with both of you to discuss your respective concerns and the line-of-sight issues from Bill's property. Without doing that first, however, it really is difficult to provide advance guidance beyond what is in the CCR's and what we discussed generally at the last board meeting.

In order to help with the process and expedite your discussions with Bill, I am certainly willing to also contact the other board members to schedule the site visit soon and hold a special PHOA board meeting to meet with you and Bill to reach a solution here. After we do that, we can certainly have a more robust discussion and sharing of thoughts as to the view issues involved here.

By the way, just as a point of clarification, I am not the PHOA attorney. While I may be an attorney, who practices law for my firm, I am not an attorney who is retained by or works on behalf of the PHOA. I'm just a homeowner like everyone else, and serve as a volunteer board member for the PHOA.

Best Regards, Dave.

**From:** Danny Seo [<mailto:dannyseo@gmail.com>]  
**Sent:** Saturday, August 01, 2015 6:13 PM  
**To:** David Schultz  
**Subject:** Fwd: 1119 Las Pulgas

David - Please give me some guidance here. Also, please respond to my prior email to Bill requesting to enter his backyard which I think would help you answer this request from me below.

Danny

----- Forwarded message -----

From: **Danny Seo** <[dannyseo@gmail.com](mailto:dannyseo@gmail.com)>  
Date: Mon, Jul 27, 2015 at 4:20 PM  
Subject: Re: 1119 Las Pulgas  
To: Francine Kirkpatrick <[DrFKirk@verizon.net](mailto:DrFKirk@verizon.net)>, Richard Blumenberg <[richard@rlbarchitecture.com](mailto:richard@rlbarchitecture.com)>, David Schultz <[DSchultz@polsinelli.com](mailto:DSchultz@polsinelli.com)>  
Cc: Philip Vertoch <[VERTOCH@aol.com](mailto:VERTOCH@aol.com)>, Scott Birdwell <[sbirdwell@discoverylandco.com](mailto:sbirdwell@discoverylandco.com)>

Francine, Richard and David,

I'm writing you as the president, architect and attorney of the Palisair HOA. Bill & Susan, my neighbors, and I have now met five times to try and resolve the "view obstruction" issue presented in the last HOA meeting. I am confident that we are coming closer a set of guidelines I can give my architect so that he can make any necessary modifications so that we can move forward with the process. However, I also need to know what the HOA will find acceptable because for obvious reasons, I am also confident the guidelines they give me will be far too much in their advantage.

Summarizing the CC&Rs, the "view" is pretty much anything and everything and must be "an important part of the property's value" to be determined by the HOA. My team needs to know how the HOA defines this to help narrow down what we can and can not design/build because I am also a home owner and entitled to my views. My feeling from the last meeting is that everyone would like me to build a tennis court and the house underneath the tennis court. My point is that because the definition of view is so broad, any neighbor can say everything is obstructing his/her view. I clearly demonstrated good faith by volunteering to reduce the size of my north wing. My land-use attorney has made me well aware of my rights but as a good neighbor and as I have demonstrated as soon as I have begun this process, I would like to move through the process in an efficient manner as well as be a good neighbor. However, I will not cave into unreasonable demands and/or processes.

I would like more guidance and then, in combination with my neighbor's demands, my team can modify our plans if necessary.

Thank you again for your time and understanding. I hope you appreciate how I am approaching this process at this time.

Warmest Regards,

Danny

On Wed, Jul 22, 2015 at 10:23 AM, Danny Seo <[dannyseo@gmail.com](mailto:dannyseo@gmail.com)> wrote:

Thanks. Bill and I again yesterday FYI. We are making progress.

Sent from my iPhone

On Jul 22, 2015, at 9:01 AM, Francine Kirkpatrick <[DrFKirk@verizon.net](mailto:DrFKirk@verizon.net)> wrote:

Danny,

Right now our secretary who holds the archives is on vacation until the 30th. As soon as she gets back I'll take a look and get back to you.

Francine

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**From:** Danny Seo <[dannyseo@gmail.com](mailto:dannyseo@gmail.com)>

**Date:** Tuesday, July 21, 2015 at 1:31 PM

**To:** ">" <drfkirk@verizon.net>, Richard Blumenberg <richard@rlbarchitecture.com>

**Cc:** LARRY FRIEDMAN <lpfriedman1@gmail.com>, David Schultz <dschultz@polsinelli.com>

**Subject:** 1119 Las Pulgas

Francine & Richard,

I'm likely going to Bill & Susan's (1119 Las Pulgas) tonight to discuss a solution. They are very nice people and I am a firm believer that we all want a swift solution.

Do you have records of the approved plans from the owners they purchased the house from? That project had to be approved by the HOA and I would like to see what was approved given that the former owners committed multiple felonies including and not limited to trespassing, property damage, cutting down an oak trees (=6 months of jail time) and more according to my land use attorney and attorney.

Again, I want a swift solution but I need all the facts in order to discuss with my neighbor. Thank you.

Danny

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