

# PHOA NEWSLETTER

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## Court Upholds PHOA on CC&Rs

The PHOA has successfully defended a lawsuit filed against it by owners of a home on Palisair Drive who wished to add a second story exceeding the 15 1/2 foot height restriction for structures in the three tracts governed by the PHOA CC&Rs.

In 2005, the owners submitted plans to build an addition more than 25 feet high. After consulting with neighbors, evaluating potential view loss from properties behind the home, effects on surrounding property values and the remodel's architecture, the PHOA denied approval.

The Palisair Drive home owner sued the PHOA, contending that their proposed addi-

tion did not significantly obstruct views or otherwise violate the CC&Rs, and that the PHOA had acted in bad faith. After failed mediation and settlement attempts the case was tried in a Santa Monica courtroom in September, 2009.

The week-long trial included a visit to the affected sites by Superior Court Judge John L. Segal, who, on October 7, found in favor of the PHOA. In a 31-page decision, he said the board legitimately exercised its "sole discretion" in denying the remodel, which he said diminished views. He added the PHOA acted "well within its authority and discretion under the CC&Rs, and .. acted reasonably .. and in good faith."

## How Much is a View Worth?

*By Anthony Marguleas*

Well, it depends. Is it an ocean, canyon or city view? How unobstructed is it? In general, ocean views are worth more, followed by city, then canyon (or mountain) views. But it's subjective: different buyers might prefer one over the other. Still, ocean view properties hold their values best because a stunning sea vista has a serious emotional impact on a buyer.

A house with an unobstructed 180-degree ocean view from most rooms can add as much as \$1 million to its value. For example: Two Arno Way homes sold recently, one for \$2,619,000, the other for \$2,850,000. Both are considered tear-

downs, both sit on lots roughly the same size with 50% flat and usable land, and both have plans and permits (worth \$250,000 to \$350,000) for new homes.

Based on comparable prices in that Bel-Air Club area, non-view sites at about the same size sold for about \$1,300,000. So the unobstructed view properties on Arno sold for more than \$1,000,000 more.

There are many variables of course. By at 90-degree ocean view could sell for \$400,000 to \$500,000 more than a non-view property. Palisades view properties can vary by as much as 50% in price between, say, a home in the Highlands--typically the most affordable area--and

one in the Huntington.

Recently, some home owners are finding that their views are in jeopardy because of new construction or remodeling projects. Many believe their treasured vistas are protected by law, or that neighbors cannot build additions or let landscaping grow high enough to block scenery. But generally there are no federal or state laws that protect views. Some California cities, such as Malibu and Tiburon near San Francisco, have view protection ordinances. The city of Los Angeles does not.

Broadly, American common law gives a landowner no natural right to air, light or an unobstructed view. The

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courts have usually refused to tamper with this idea on the grounds that it is "solely within the province of the legislature to gauge the relative importance of social policies and decide whether to effect a change in the law."

But in many L.A. hillside communities the original developers recorded special Conditions, Covenants, and Restrictions (CC&Rs) to provide home owners with protected views.

Keith Turner, an attorney and Palisades resident who specializes in view rights, says the law regarding CC&Rs is not as clear as many home owners assume. When disputes erupt between property owners, the courts generally have struggled on how to apply CC&Rs and interpret nuances in language.

The California Supreme Court has written that CC&R-related law is the "the most complex and archaic body of American property law remaining in the 20<sup>th</sup> Century." Law professor and author Edward Rabin uses stronger language: "The law in this area is an unspeakable quagmire."

According to Turner, there are several current lawsuits involving view rights disputes in the Palisades. Recently, Turner and Don Franzen, another Palisades attorney, successfully represented a Marquez Knolls property owner whose neighbor filed an injunction to try to stop construction of a new home the neighbor claimed would harm his view. Fights over Marquez Knolls CC&R interpretations have been the subject of two state Court of Appeal decisions involving years of legal battles. Another long case involving the Castellammare area resulted in an agreement that a property owner must follow the CC&Rs in building his home.

***Marguleas is a real estate broker and owner of Amalfi Estates. He has sold properties in the Palisades for 17 years and writes regularly on real estate.***

## What is the PHOA?

**The Palisair Home Owners Association** represents all the property owners in our three tracts. Our primary purpose is to maintain and enforce the CC&Rs, which are designed to maintain a quality neighborhood, especially the preservation of home owners' views and property values. **We depend upon the support from all of you, including the payment of your annual dues, to continue our work.**

Our legal expenses have ballooned as some home owners remodeling plans have resulted in disputes over the members' interpretation of our CC&Rs.

## Members E-mail Addresses

In order to keep our members informed we request that you provide your E-mail address by simply sending an E-mail message to:

erdley@ieee.org

## **VOLUNTEERS NEEDED!**

Your Association needs your help.

Volunteers are needed to fill open Committee and Board positions. Please call or E-mail any of the directors below for more information.

# YOUR BOARD OF DIRECTORS

The proposed slate of the PHOA Board of Directors for current year is :

President	Hal Erdley	310-454-9774	erdley@ieee.org
Vice President	Larry Friedman	310-459-9362	lpfriedman@verizon.net
Treasurer/Secretary	Francine Kirkpatrick		sonniekaren@yahoo.com
Membership	Gael Buzyn	310-710-3893	gaelbuzyn@hotmail.com
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