

Connie Emerick
1177 El Medio Avenue
Pacific Palisades, CA 90272

July 24, 2018

Palisair Home Owners Association
Board of Directors

Re: Hearing Results and Civil Code Violations

This letter is in response to the "Results of Hearing on 5/21/2018 Regarding Alleged CC&R Violation (Trees)" letter dated May 30, 2018 from Howard Weisberg and the subsequent California Civil Code Violations by the PHOA Board of Directors in regard to the view obstruction complaint by Patti Gallagher.

Violation of Civil Code 4925

On June 18, 2018 I attended the PHOA meeting with the purpose to discuss the "Results of Hearing..." letter sent by Howard. Shortly after 7 pm, when the meeting was called to order, Howard proceeded to the Open Forum/General Comments part of the agenda. At this time, Howard acknowledged my presence at the meeting and indicated that I would speak during the Landscape Committee Report, number IV on the agenda, not in the Open Forum/General Comments part of the meeting. When it was my turn to speak, during the Landscape Committee report, item "e", Board member Kathy Wedeking immediately interrupted me and strenuously objected (for over 10 minutes) to my desire to address the Board, nonsensically citing and absence of Patti Gallagher at the meeting and insisting in a highly agitated state that the matter be held in Executive Session, where I would not be allowed to address the Board.

California Civil Code 4925 allows that (a) any member may attend board meetings and (b) the board shall permit any member to speak at any meeting of the association or the board, except for the meetings of the board held in executive session."

When I was finally allowed to address the Board, Kathy continued with her disruptive and disrespectful behavior. It was also distressing that association member Karen Olan was allowed to interrupt me several times and make comments while I was addressing the Board. Faced with constant interruption I gave up trying to address the Board. Even a very informal adherence to Robert's Rules of Order does not allow for this extreme lack of civility, particularly from a Board member. It is the responsibility of the Meeting Chair to respectfully allow speakers to address the Board without constant interference. Every association member has a right to speak in a board meeting on any topic without interruption. The end result is I was denied my right to address the Board with my concerns regarding the Hearing Results.

Selective Enforcement/Arbitrary and Capricious

The Davis-Stirling Act advises that when an association seeks to enforce its CC&R's, enforcement must be fair and uniformly applied. The PHOA has a history of failing to enforce rules consistently and is continuing selective enforcement in an arbitrary and capricious manner, inviting community mistrust.

On April 28, 2014, Rick and Marisol Barbers, the Gallagher's neighbors at 1200 El Medio Ave., sought the assistance of the PHOA Board of Directors in resolving a two-year personal dispute with the Gallaghers, involving vegetation and trees on the Gallagher's property that were blocking the Barbers canyon view. On February 13, 2016, the Board determined, unanimously, that the vegetation and hedges in question on the Gallagher property be maintained at a maximum height of 6 feet. Rick Barbers currently reports that the hedges and vegetation in question are well over 6 feet and have never been properly maintained. It is interesting to note that current board members, Suzanne Weisberg and Miriam Schulman were both directly involved in this dispute and apparently do not see the irony in this situation. It is the duty of the Board to enforce its determinations, particularly when the current Complaining Member is not complying with a similar determination.

Board members present at the Hearing on May 21 had the opportunity to view the 9+ foot tree/plant growing on Kevin Minds property growing within 18 inches of our 5 foot privet hedge. It is odd that the Board members present at the Hearing and the Board members who viewed the numerous photos in Patti's multiple emails failed to realize the significance of this selective enforcement. The fact that the "Complaining Member" is "OK" with a 9 foot obstruction to her view while strenuously objecting to a 5 foot hedge is immaterial. **If the Board fails to enforce a rule against one member, but not another in a similar situation, the board may have waived its right to enforce that rule against any other member. By enforcing its rules, regulations and determinations in an arbitrary and capricious manner, the Board is inviting lawsuits and other legal action and remains an ineffective governing body.**

Hearing Results

We appreciate the fact that the Board acknowledges that we carried out extensive pruning and removal of hedge materials and that **as of the Hearing date of 5/21/2018 "the remaining plantings did not unreasonably obstruct or unreasonably diminish the nature or quality of the Gallagher's ocean view."** Please note that the remaining planting was measured at 5 feet by more than one Board member at the time of the hearing. We have a serious problem with the Board asking us to maintain a hedge height of 4 feet-when the Board ruled that at 5 feet the plantings did not unreasonably obstruct or unreasonably diminish the nature and quality of the Gallagher's ocean view. Also, a 4- foot height impacts our backyard privacy in relation to our next door neighbors, a concern that I shared with the Board members at the time. This specific height ruling is unfair, unreasonable, arbitrary and capricious.

More troubling is the determination that our backyard fencing-which Howard acknowledged he could barely see and does not impact the Gallagher's view in any way is to be maintained at 4 feet. I have shared our concern of coyotes and other wildlife entering our backyard multiple times with Board members, leaving our pets and ourselves vulnerable to attack. The coyote threat to pets is extreme in our area and has been for several years. There are reports of coyotes attacking people who are attempting to protect their pets in the Santa Monica, Palisades and Malibu areas. Our neighbor's cat was attacked next to our front door during daylight hours on April 21 and a coyote was in our backyard in the early morning hours of April 14, after the hedge in our backyard was trimmed to 4 ½ feet. I watched the coyote exit our yard-clearing the 4 ½ foot hedge easily. The chicken wire fencing was installed later that day, as I explained to Miriam, our neighbor to the west. **The PHOA Board of Directors is exposing itself to liability by not allowing us to protect our pets, ourselves and our property from the threat of coyotes and other wild animals. Davis Stirling recommends that associations with wild animal problems should obligate owners to take affirmative steps to protect themselves from wild animals. The PHOA Board of Directors has taken a uniquely different approach-insisting that we compromise the health, safety and welfare of our pets and ourselves in a ruling that does not affect the Gallagher's view and benefits no one.** It is difficult to understand the thought process that went into this ruling, a determination that benefits no other homeowner in any way and has potentially devastating consequences for our family.

Homeowner Associations adopt rules and regulation to benefit all homeowners, not just Complaining Members. In the PHOA CC&R's the Tract Committee is instructed under Article IV, Section 1 to represent the interest of "all land owners 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."

We propose that the Board has ignored and discounted our interests and concerns in this dispute, after we made expensive and extensive alterations to our landscaping in a good faith effort to appease the demands of the Gallaghers. Instead of being fair and reasonable, the Board has issued thoughtless and punitive rulings that unreasonably and substantially interfere with our use and enjoyment of our outdoor area and compromise the safety of our pets and our family. It is troubling that some members of the Board have had private conversations with Patti regarding this dispute. Any Board member who allows themselves to be influenced by inaccurate statements by a Complaining Member is acting discriminately and unprofessionally. Furthermore, the Board has made decisions and acted upon baseless concerns and inaccurate statements made by the Gallaghers. An example of Patti Gallagher's "alternate facts" is the allegation that we installed a green screen the day after the Hearing at a height of 7 feet. In reality, **the green screen was installed 5 days after the Hearing, at a height of 4 feet, where it remains today at the same height.** By removing the hedge in our backyard, we have completely lost our privacy, and are in a position where we look directly into our neighbor's kitchen and dining room, and they, in turn are able to look directly into our bedroom. This loss of our privacy is a major concern for us, and the fact that privacy issues are not addressed in the CC&R's do not negate their importance.

It is also worth noting that the ocean view enjoyed by the Gallaghers today, as it relates to our landscaping is far superior to the view from their home at the time of purchase in October 2000. The ocean view from the Gallagher residence, as it relates to our landscaping, has not diminished over time; in fact, their ocean view has improved over time. Equally important is the determination of the Board, as stated in the "Results of Hearing" letter dated May 20, 2018, "Prior to the hearing on 5/21/2018, you carried out extensive pruning and removal of planting. We find that, as of that date, the remaining plantings did not unreasonably obstruct or unreasonably diminish the nature or quality of the Gallagher's view." The remaining plantings were measured at 5 feet. These are important distinctions in any potential legal action.

Moving forward, our hedges which are in the Gallagher's sightlines will be maintained at 5 feet, which is the height determined by the Board on May 21st, that did not unreasonably obstruct or unreasonably diminish the nature or quality of their view. The fencing in our backyard will be maintained at 7 feet, which is the minimum fence height necessary to keep coyotes and other wildlife out of our backyard.

By issuing arbitrary and capricious rulings the Board has missed the opportunity to work together with us to resolve this dispute in a fair and reasonable way. If the Board responds to this correspondence or any other interaction or conversation with us with any form of threat, including but not limited to the imposition of fines or penalties we will retain an attorney to represent us in this matter. We sincerely hope the Board does not pursue this course of action.

Respectfully,

A handwritten signature in black ink that reads "Connie Emerick". The signature is written in a cursive, flowing style with a large initial 'C'.

Connie Emerick