

Palisair Home Owners Association

A NON-PROFIT CORPORATION

P.O. Box 901

Pacific Palisades, CA 90272

www.palisair.org

palisair@gmail.com

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

PHOA BOARD MEETING NOVEMBER 20, 2017 MINUTES

I. Vice President Howard Weisberg called the meeting to order at 7:05 p.m. at the home of Miriam Schulman. Present: Brian Bradford, Diana Ungerleider, Howard Weisberg, Suzanne Weisberg, Roger Broderick, Chuck Emerick, Dawn Hill and Miriam Schulman. Absent: Francine Kirkpatrick. Also present: Kim Bantle.

Guests present: Michael & Laura Cohen, Joyce Ruskin, Kathy Wedeking, Dieter Holberg, Sheila Goldman, Leslie Isaacs, Michael McCall and Jonathan Weisberg.

II. General Comments Sheila Goldman expressed concern about her neighbor's plans at 1085 Palisair Place (Orosco). Kim reported that the owner has not resubmitted plans, nor has he applied for approval at the Dept. of Building and Safety.

III. Approval of 10-23-17 Minutes Minutes from the previous meeting were reviewed and were approved as written.

IV. Treasurer's Report

a. Bank Balances Chuck reported that checking account balance is \$12,386.90 and savings account balance is \$24,535.05.

b. Delinquent Dues There are currently 16 home owners in arrears, owing \$14,172.65 in unpaid dues.

d. Proposal for collection of unpaid assessments (dues) Howard read aloud the resolution he drafted which describes in detail a proposed process for collecting unpaid dues. *Following discussion, Howard moved to adopt the resolution as policy; Miriam seconded; 7 in favor; 1 opposed; motion passed.* NOTE: See complete wording of resolution at end of minutes.

V. Membership and Governance

a. CC&R Rewrite Postponed

b. For Sale and Escrows Dawn reported that:

- i. 1239 Las Pulgas Road sold.
- ii. 16044 Anoka Drive is in escrow.
- iii. 1216 Las Pulgas Road is for sale.

c. Executive Committee No report.

d. 2018 Board Election Howard reported that three Board members' terms are expiring: Francine's, Dawn's and Miriam's. Discussion ensued on self-nominating process, and on need for new Board members. Board members will contact several possible candidates and ask if they are interested in running for a Board position.

e. December 28 Mailing to membership Diana will coordinate mailing, with assistance from Howard. For annual meeting, Board members will contact potential guest speakers.

VI. Plans Committee

a. Under Review (November report):

i. 1124 Las Pulgas Rd. (Martin) Approval letter and plans were signed by homeowner. Plans have been submitted to the city for permits.

b. Under Review (November report):

i. 1055 El Medio Ave.- Chapin Homeowner says he must revise the basement plan based on the engineer's report and will be submitting to the PHOA when ready. Nothing submitted to city yet.

ii. 1160 El Medio Ave. - Gonzales Plans have been submitted to city for permitting.

c. Under Construction:

i. 1341 Las Canoas- Koch City required some changes; permits were obtained. Construction has begun.

ii. 1261 Las Lomas Ave. - Rothman No developments.

VII. Landscape Committee

a. Overview of plans to enforce compliance Suzanne reported that an Executive Session meeting is scheduled for Monday, Nov. 27 at the home of Dawn Hill, to evaluate the view blockage on three properties (Kaplan, Wellwood and Darvish). Board will vote on whether there are violations.

b. 1000 Las Lomas Ave. - Streiber Meeting with homeowner was postponed to January, at owner's request.

c. 949 Las Lomas Ave. - Thomas No developments.

d. 1034 Las Lomas Ave. -Vernez No developments.

e. 1261 Las Lomas - Rothman No developments.

f. 1170 El Medio - Gallagher No developments.

g. 1200 El Medio - Barber No developments.

h. 1216 Las Pulgas Rd. - Wellwood (see item "a." above).

i. 1148 Las Pugas Rd. - Darvish (see item "a." above).

k. 1177 El Medio Ave. - Emerick No developments.

VIII. New Business/ Old Business Howard reported that Francine contacted the Board and requested that something be done about her neighbor Ron Gonen's gate, which blocks her view when it is left open. He will consult with attorney and schedule a hearing in Executive Session.

The meeting was adjourned 8:35 p.m.

Next meeting: **December 18, 2017** (third Monday of the month)

Respectfully submitted,



Diana Ungerleider, PHOA Secretary

ADDENDUM:

Resolution on Collecting Past-Due Assessments and Other Charges

Whereas

- The Association, through its Board of Directors, has the legal obligation, spelled out in our CC&Rs and in the Davis-Stirling Act, to collect assessments, penalties, interest, and collection costs. In addition, not to do so would be unfair to the members as a whole, and would jeopardize the future of the Association.
- At the beginning of 2017, 27 homeowners owed \$30,000 in past due assessments, late charges, and interest.
- Early in 2017, the Association resolved to apply increased effort at collecting past due amounts. To this end, our volunteer board members have sent out two separate pre-lien letters along with an informal letter that asked for payment. We then engaged in extensive communications with several of the homeowners that responded.
- Subsequently, 11 homeowners paid in full. However, 16 remaining homeowners still owe \$14,000. Ten of these did not reply in any way to our communications. Three asked for meetings with the Association, either in the form of Payment Plan hearings or Internal Dispute Resolution “meet and confer” sessions, and three have paid in part.
- The job of further communicating with homeowners that are in arrears, then, if necessary, imposing liens, and then, possibly, starting non-judicial foreclosure, is beyond the technical competence and available time of our volunteer board.
- Mandatory assessments, as approved in 2011, are entirely separate from Fines for CC&R violations. A Fines policy was adopted earlier this year, and there is no power of non-judicial foreclosure to collect Fines.

We resolve that

- The files of the members that currently have amounts due for more than one year will be turned over to the Witkin & Neil law firm to proceed with the pre-lien letter, lien, judicial foreclosure process.
- An exception will be made for the homeowners that have asked for hearings. They will receive those hearings without their files first being turned over to the law firm. Their file would be turned over after such a hearing only if necessary.
- The pre-lien letters will be customized by adding text similar to the following:
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- 11-20-17 Minutes, p. 4

In 2011, the Palisair Home Owners Association members voted, by more than three to one, 80 in favor to 24 against, to revise its Covenants, Conditions, and Restrictions (CC&Rs) to institute mandatory assessments (dues). Since then the PHOA has mailed a statement to all members each year, giving the amount of the annual assessment and the conditions under which late charges and interest may be assessed. Also spelled out is the power of the Association to apply liens to the property of members that do not pay, and to foreclose without court action if payment still is not received. This power is also outlined on the Association's website, and is governed by California's Davis-Stirling Act.

The Association is an organization of neighbors, and all officer and director positions are voluntary. Our policy is to respect the rights of the minority and always act with respect in dealing with homeowners that do not share our opinion of what is best for the neighborhood. However, it is our responsibility to the Members as a whole, and our legal obligation, to collect all assessments and charges to the extent reasonably possible.

The association considers it improbable that we would actually foreclose on any Member's residence. As specified in more detail elsewhere in this pre-lien letter, homeowners have the right to meet privately with the Association. Next, we would have to vote affirmatively at a public Board meeting to impose a lien. Then, if the account still is not settled, we would have to vote in an executive session meeting on whether to foreclose. At that time, we would have the option not to foreclose, but simply to leave the lien in place, with the expectation of collecting all charges, including ongoing interest charges of 12% per year, in the future when the residence is refinanced or title is transferred.

However, in order to preserve our options, we are required to include in this pre-lien letter the following strict warning in bold type:

IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST (YOUR PROPERTY) IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.