

Loma Vista HOA
Meeting Minutes (Not approved)
Meeting with Compliance Committee to go over their Recommendations
June 9, 2020

Roll Call at 7:10 pm via Zoom

Ryan Evans- Present
Travis Scharmann- Present
Laura Burdine- Present
Rebecca Bracken- Present
David Gibby- Present
Kevin Hansen (Compliance Committee)- Present
Leland Roberts (Compliance Committee)- Present
Robert Lerma (Compliance Committee)- Not Present

Ryan Evans: I would like to call the meeting to order. I appreciate all the time and effort Kevin, Leland, and Robert have put into the committee.

Kevin Hansen: Robert has just responded and is not able to join us, but he is on Board with what we have sent so he is fine.

Ryan Evans: Just to get us started. I appreciate the document you sent. We can go over it and hit the highlights and go back over the details. The Board asked the committee to review the governing documents, review the Boards legal liability regarding compliance, options for compliance including fines and management, and to solicit member feedback where possible. I will turn the time over to you.

Kevin Hansen: The recommendation was pretty straight forward. Are there any questions or concerns the Board has on those or clarity we can provide?

Ryan Evans: Where the first thing. The creation of a CCR review committee to go over ccrs and make recommendation. You guys talked about "fit for purpose" and said the language was vague and left for interpretation.

Leland Roberts: just a general cleanup. as we did research with governing documents online. there is verbiage for a review of the documents if things have changed or require updated. to my knowledge ours have never been updated since 2007. our concern is there things in ours that need to be updated to reflect current law? A legal review would be necessary. For example, lot A and B owners and we no longer have builder owned lots. Same with lots 1 and 2 may become common area. What needs to be cleaned up to clarify and limit liability for the association.

Laura Burdine: I will answer your question. Before members took over the Board in 2015, Josh Yates did update the CCRs to add things such as variances may be granted by the design review committee and remove the requirement for each lot to have a single-family dwelling. That was removed for the Questar lot. That is the last time they have been updated.

Leland Roberts: I was involved in this when we took it over from him in 2015 and do not believe he was qualified to put together the governing documents, nor review them. That is my opinion.

Kevin Hansen: Regardless we believe some could be cleaned up and some over them could be removed. We feel there is general clean up that could be done. There is a significant amount of rules and going through them to see what ones we want to keep would simplify it. If we can simplify those, it would go a long way. Some ask, "Why do we even have a HOA?" If Robert were here, he would say if they are reasonable and rules make sense, I am fine with it. If we have a reasonable fine schedule, I will be fine. If we simply the rules and make it very clear, clean them up, I think it will go a long way.

Laura Burdine: In your research, did you determine what a cost would be to have the governing documents redone?

Leland Roberts: The attorney responded to our request with a cost of a couple hundred dollars.

Rebecca Bracken: The attorney was responding to reviewing our CCRs to make sure they are legal, and the Board has paid him to do that already. Just to spend the time to researching all the first mortgage holders and then notifying all of them in order to make any changes to the CCRs, I would estimate the cost would be about \$3,000-4,000.

Kevin Hansen: Could we get that information ourselves?

David Gibby: I actually did that before when we considered modifying before. I went through all the county records and pulled all records. It took me a couple hours. But we could certainly do it. We could have a committee make the recommendations, then sent it over the attorney to see if it is correct.

Kevin Hansen: Yes, that is exactly right. The committee make the recommendation, the Board reviews it, modifies it, the Board gets final say, the Board sends it to the Attorney. The Attorney makes suggestions, and then begins the process of ratification.

Laura Burdine: I contacted the attorney's office to update the address and while on the phone I talked to her about the process of updating the CCRs. Even with doing things ourselves, I still believe we could be in this thousands of dollars. I am not opposed to this at all. We had people really upset about the Board just talking to an attorney for a couple hundred dollars.

Kevin Hansen: I am thinking if we come to the attorney with revised CCRs, hopefully simplified, how could it be thousands of dollars?

David Gibby: Perhaps the attorney's office was developing new CCRs for us from ground level.

Laura Burdine: No, that wasn't to develop. That was to modify and to review.

Kevin Hansen: Hopefully the committee could do a lot of that work ourselves to save money. Do as much as we can so the attorney is just reviewing and make recommendation.

Ryan Evans: We need to weigh the cost of risk of poorly writing CCRs. Having bad language, not

enforcing it enough or too much could result in a lawsuit. So more and concise info would be better.

Leland Roberts: A group could get together and bring a lawsuit and I all have to pay for that. We could put together a committee to clean it up ourselves, then spend a couple hundred dollars for the attorney to review.

Ryan Evans: We could put all this information on the table for everyone to consider.

David Gibby: I don't think cleaning them up would be a huge task. I think cutting things out that is no longer needed and provide clarification.

Kevin Hansen: I just feel like a lot of stuff no longer applies now that the neighborhood is developed. Some things are petty. Some things the committee can look at. It is never as easy as it sounds.

Leland Roberts: The first thing we should do is get that first lean holders language out of there.

Rebecca Bracken: The more the Board and the committee could do themselves, the cheaper the cost would be to the neighborhood.

Kevin Hansen: I think if the Board told everyone we are forming a committee to review the CCRs, they would say "Excellent, it is about time." So, I think you would get a lot a support.

Laura Burdine: That will take a significant amount of time and working together as a team, which I know we can do. We can do great things. So how do we enforce compliance while we are working on all these things?

Leland Roberts: I don't think the goal was to do it all this year. I would suggest not doing anything different. Letting the neighborhood know these things are coming up. The Committee did the research and the only way to bring people into compliance is to have a fine schedule. There is no other way to do it.

David Gibby: I agree, and I really like the fine schedule you put together. It was clear, concise, and reasonable. I feel like it will be well received by the majority of homeowners.

Leland Roberts: We did do some unofficial polling to ask what is a reasonable fine and that is what we came up with. I believe people were heated in the fall because they felt the fines were excessive. As we talked to people, no one was against fines only that they had to be reasonable.

Kevin Hansen: Ok there was a few that said no fine schedule but those were the same people that do not want an HOA. We just need to do the best we can with those people. What we read, is that a fine schedule must be reasonable. A judge will side with the homeowner if it is not reasonable. I consider this a middle-class neighborhood, so we tried to make it reasonable. It also must have a cap. The fines cannot just keep acquiring. We proposed the maximum fines be \$500 and then a lien is placed on the home.

Laura Burdine: What if a homeowner accepts the max fine amount of \$500 and would rather pay that,

then say get their back yard done?

Kevin Hansen: Then you would have to deal with that. The problem is a judge will throw out anything excessive. The goal is to get everyone to talk to the Board. There is a risk of that happening. The Board has the ability to take other legal action though, but I could be costly to take legal action.

Ryan Evans: Is there not an option for the Board to be able to have work done and then charge for reimbursement?

Leland Roberts: Yes it is in the governing documents now.

Kevin Hansen: But if the charge is excessive a judge may not side with you. Based on what I read, anything beyond \$500 may be excessive. After the meeting, coming back with something mild or tame, sends the message but still has a fine schedule attached to it.

David Gibby: I have read the same things Kevin, what courts would allow, what is reasonable.

Leland Roberts: Laura, there will always be those difficult individuals. I don't have a good answer on how to address that. I do feel this fine schedule would not burden a homeowner to the point they cannot complete their landscaping. We feel it is important to get a signed contract between the homeowner and the Board.

Ryan Evans: Then the Board would have a legal standing to be able to enforce something.

Laura Burdine: Would the committee be active throughout the year and help with enforcement? I just think about the participation as it is, trying to get people to do that when everyone is so busy.

Leland Roberts: The Board is the only one that could that.

Rebecca Bracken: A management company could do it.

Leland Roberts: Yes, a management company could help but it is only the Board. We found one example that two citizens could come together and go to the Board over an issue. But the Board would have to investigate.

Laura Burdine: Let me restate, that is not what I was getting at. As a Board, especially as we are standing now, trying to get participation is difficult. We are busy. Will there be a committee that could track timelines or agreements and report to the Board when the time has passed? Just record keeping.

David Gibby: Per the Bylaws, we do have the ability to increase the size of the Board. So, we could increase those positions and assign them compliance tracking and issues.

Laura Burdine: We are so busy, but we don't want to see things fall through the cracks because of lack of participation. We don't want to get lost.

David Gibby: We could propose to increase the Board to the maximum number in the next meeting so we could look at reviewing and rewriting the CCRs, looking at compliance, and more members to track

things.

Kevin Hansen: If we can simplify CCRs and make enforcement easier. It is easier to track. Some additional help would be needed. I like the idea of additional Board members.

Rebecca Bracken: The Board needs to use their discretion to protect homeowners that have received letters, who are out of compliance, and timelines should be private information. That is a great suggestion to have additional Board members.

David Gibby: I would really like to thank this committee. The product delivered to us has been far and above anything anticipated. It was brought to us and presented in a very concise and wonderful fashion. It makes it easy to see the recommendations and the paths forward. I can see the time spend and it is indicative of the neighborhood we live in to produce a product like this on a voluntary basis. I just want to express my appreciation.

Kevin Hansen: Hats off to Robert and Leland. They were awesome. Our overarching opinion of the committee and it would go a long way in the neighborhood to make the CCRs fit for purpose and the majority can live with and make enforcement easier.

Ryan Evans: Thank you very much

Rebecca Bracken: Yes, thank you.

Laura Burdine: Thank you.

Kevin Hansen: If you have any questions, reach out to the three of us as we were pretty much on the same page and it was unanimous and we all working together quite well. It was actually quite easy, no disagreements, and unanimously make the recommendations so you guys are aware.

Ryan Evans: We really appreciate your efforts as David said. I know we all feel the same way. Thank you very much.

6/9/2020 7:40 pm just Board members to discuss-Laura, David, Ryan, Rebecca, Travis

Laura Burdine: I have one concern regarding the given time frame to correct the violation. 60 days is a long time to give someone to put their garbage can away or whatever on the smaller thing. If we are giving 60 days for larger things like yards, that is more reasonable.

David Gibby: I look at it and think we could look at it and adapt the fine schedule to these more minor infractions. If they have 2 infractions within 60 days, the fine kicks in. So, I think you don't give them 60 days for their garbage can to be put away, you give them a 60-day period in which they can't do it again without a fine. That is the way I look at it.

Laura Burdine: Okay.

Travis Scharmann: That sounds good to me.

Rebecca Bracken: I believe that is reasonable.

David Gibby: If you tell someone to go move their garbage can, they do it and it is fixed. Then they leave it out the next week, you are never reaching that compliance state and they have to be told stop doing this.

Laura Burdine: I get it with the bigger stuff. Realistically we will not have a whole lot to work on, like yards here soon.

David Gibby: Having those extra Board Members will provide more feet on the ground with more compliance.

Laura Burdine: I agree it is something we can work on. I do think we need to form a nomination committee this year to help us. So things go smoother.

David Gibby: I agree.

Laura Burdine: All the dues are collected for the year. There is an outstand late fee from last year that is still unpaid. Should I send a statement or what should we do?

David Gibby/Ryan Evans: Yes, keep it on.

Laura Burdine: I know we were working on repairing the fence on the east end of Skyline. I know we are busy. I have gone ahead and asked Jason Barker for a bid to replace the portion behind Caldwell, Allred, and Carter's. The bid is \$5200.

David Gibby: We have replaced pieces and the colors haven't exactly matched. Do we have the money in the budget?

Laura Burdine: Yes, I don't know the exact amount we have but we have money left over in other areas.

David Gibby: That portion had early fixes and it is patchworked. If we have the money, it would be worth it to replace it.

Ryan Evans: It keeps failing and is not getting better with age.

David Gibby: Will you get the bid with galvanized pipe in the bottom rail? To firm it up. I did in my side yard and didn't have any more problems.

Laura Burdine: I will send the bid out for approval. Then I will schedule it. Moving forward with compliance committee recommendations will be wonderful. They recommend we don't change things this year, meaning we are sending out compliance letters.

David Gibby: We need to communicate to those not in compliance that they do not have a voting right.

Laura Burdine: We could modify our compliance letter to add that right? We could add that and let

them know to respond to us and let them know they are out of compliance and if it is not resolved by the annual meeting, then you don't have a voting right.

Ryan Evans: Is there going to be an opportunity for folks in the neighborhood to get on a compliance schedule/agreement to get back into compliance before October?

Laura Burdine: I would say not this year because that is something that needs to be worked out with the compliance committee's recommendations and adjustments of the ccrs. I do not foresee it, but do you guys have a different opinion or view?

David Gibby: I think it is something we should discuss. I think there is merit to starting people into compliance before the ccrs are modified. We could have a discussion on that and make a decision as a Board.

Laura Burdine: Can we make that decision so we can have things sent out in June? Letters were already out by this time last year so people had an opportunity to be aware.

David Gibby: I think we can send letters out. You know, if we have people come back and say I am not, we see the opportunity to approach them about, "Hey what is it going to take to get you into compliance? Are you willing to enter into a legal agreement with the HOA Board to come into compliance in a reasonable time frame?" Reasonable as in reasonable to the Board. I don't think that hinges on sending out the non-compliance letters. There is this opportunity that we really don't want to advertise. We need to keep things private like Rebecca said and look for legal agreements that would push them into compliance.

Laura Burdine: We could use the same letter as last year, but we really need to get participation on that this year. Where last year, it was only Rebecca and I. Would you guys be willing to participate and get it done?

Ryan Evans: For me, yeah, I am willing to that. It would be a good demonstration to be able to have not with just that some sort of communication that we want to bring back to the path of compliance here so we can demonstrate we are working with the neighborhood without another stick in the eye on how they feel about it. I would like to discuss to get back good communication with those folks in particular to make sure that we are headed down the right path for compliance together.

Rebecca Bracken: I am not sure what you are talking about Ryan. Are you wanting a letter to send with the compliance letter or what do you mean?

Ryan Evans: Yeah perhaps we can talk about it. I want to be sure that without compliance they would not have a vote. But more in the spirit of working with, there are options that Board is working on to a legal agreement.

David Gibby: Maybe what we need to note a compliance issue does exist in a softer fashion, but the Board does want to work with you to get in compliance.

Laura Burdine: Last year it was only Rebecca and I that went through the subdivision, filled out each letter noting each compliance issue, and sent them. You guys did not participate in that so I want to make sure you guys are okay to participate in that this year. If you remember last year, we were each given a section and Ryan and David did not do it. Rebecca and I had to do it, so we were consistent. So, I am asking, are you guys willing to take a section and go through and not compliance issues in your section.

David Gibby: I am going to throw something out there. I don't like going out and being the HOA cop, what I am thinking is can we send out a letter to the entire subdivision saying compliance assessments will be conducted during the month of July and all owners with compliance issues will receive a notice with instructions to remedy so they know it is coming. Then I feel okay doing it because I told them we would come out and walk the neighborhood and take pictures and you will know what we are doing. We are not spying on you. We are not sneaking around.

Laura Burdine: Ok, yeah.

Ryan Evans: I think that is a good idea.

David Gibby: If they know there is something that needs to be fixed, maybe they will do it before we go around.

Laura Burdine: These are all great things. I just want to make sure it isn't just one or two of us doing it and that it is coming from everybody.

David Gibby: And like I said, in this context I am willing to do it, they know I am doing it, and as a HOA Board member I am going to do this and have a camera and take pictures and send you a letter and say I noted this. This is how we would like to remedy. As long as we say we are going to do this, at least on an annual basis, and everyone knows from last year it is going to affect voting rights.

Laura Burdine: Okay

Ryan Evans: That is the important part to communicate this time and make sure we are clear.

Laura Burdine: It was communicated last year because it was sent out in the newsletter and it was addressed in the dues. People were aware.

Ryan Evans: I wasn't talking about the inspection; I was talking about the loss of voting rights.

Laura Burdine: So, David, since you are so awesome at writing letters, because you just have a good way to get it across, would you be willing to write the letter? I will be more than happy to mail them. I already have stamps and everything.

David Gibby: I will write a letter and try to get the draft sent out (for Board approval) by Thursday because I will be out of town.

Rebecca Bracken: What a great idea, thank you David.

Laura Burdine: That is a wonderful idea and we have full participation.

Travis Scharmann: Yes, I will participate.

Rebecca Bracken: Thank you everyone.

Ryan Evans: Is there anything else to discuss?

David Gibby: I move to adjourn.

Laura Burdine: I will 2nd

Everyone: Aye

Addendum:

The draft letter for compliance checks was sent to board members 6/21/20 for approval. Approval granted by quorum.

Letter announcing compliance checks were mailed out and received by residents July 5, 2020.