

**SHADOWROCK TOWNHOME ASSOCIATION
BOARD OF DIRECTORS MEETING**

Tuesday, November 14th, 2023, at 5:30 PM MT

RECORD OF PROCEEDINGS

Board Members Present: Susan George – President
Rachel Wymer – Vice President
Gerald Reisman – Director
Tom Banner – Director

Owners Present: Joanne Applebaum
Bob Friedman
Ona Marshall
Ernest Marshall
Cater Rowley
John LaSalle
Jana Hazelberger
Bruce Adelman

Others: Present Alexander Yeiser – The Romero Group
Jerome Simecek – The Romero Group
Thomas Cordero – The Romero Group

1. Call to Order – Establish Quorum

The Meeting was called to order by Susan George. 5:34 pm MST.

2. Approval of Board Meeting Minutes from September 12th, 2023 (pg.2)

*Ms. George made a motion to Approve the Minutes, and Mr. Reisman 2nd the motion.
The Motion passed unanimously. 5:35 pm MST*

3. Introduce new APM – Thomas Cordero

Mr. Yeiser introduced Thomas Cordero, the new Assistant Property Manager to the board and owners present.

4. Letter to the Board – Ona & Dr. Ernest Marshall

Ms. George asked if the members of the board had a chance to review the letter.

Mr. Reisman acknowledge that he has read the letter and that he felt the Marshalls feeling were expressed legitimately by the letter.

Ms. Wymer addressed that certain issues such as dogs off leashes is not just limited to the owner in question. She also acknowledged that the board has not acted in the past over these issues, however she did want to refrain from her full commentary on the situation until the board could meet privately.

Mr. Yeiser then stated that all owner comments will be held until the end of the public hearing and at that time Ms. Wymer can motion for the board to move into executive session.

Mr. Banner commented that the issues brought forward in the letter are fixable issues that should be able to be fixed between neighbors without the need for litigation. He addressed some of the issues brought forth and that these issues such as cloths hanging on bushes and dog off leashes are issues that the board could easily remedy with corrective action.

Ms. George then stated that she completely disagrees with the statements that reference her specifically in letter. She then explains that the board was unable to meet last month to discuss these issues due to scheduling conflicts so all the board members could not be present. Ms. George then went on to describe an incident where her and Mr. Yeiser went to the Mrs. Marshall's home to speak about these but before they could be shown the issues in the backyard Mrs. Marshall lock the door and stood in front of it not allowing Ms. Goerge and Mr. Yeiser to leave until she was given a solution to how the board was going to handle her repeated complaints against the owner in question. After Ms. George says she offered to be an intermediary between Mrs. Marshall and Ms. Mullen (owner in question) to resolve these issues to no avail.

5. Inconsistent Enforcement

Mrs. George referenced that when she walked the neighborhood that she found 40 homes to be in violation with various planters, décor and outdoor furniture that would be inline with the Marshall's complaints. She believes it would be unfair to only single out one member of the community when many are in violation and that in the past the board has not chosen to enforce these rules and regulations.

Ms. George then references that in the letter it is stated that to make changes to the rules and regulations in the community manual they would need a 67% vote from all owners. She then stated that the rules and regulations are subject to change by a majority vote from the board.

Mr. Riesman then added that changes to the covenant documents require a 67% vote from the community but regarding the rules and regulations the board does have a lot my leeway in changing,

Ms. George then stated that she felt it would bring unrest and negatively affect the community since these rules and regulations have not been enforced in the past.

6. Revisions to Community Manual

Ms. George stated that there are several issues in the community manual that need to be revised but since all board members were not present at this time, she wished to table the revisions until a future date.

Mr. Yeiser then went through all the exhibits (pictures) present in the letter and stated which of the exhibits had been cured.

Ms. George reiterated the need for revisions to the community manual to be up to date with current Colorado HOA laws and suggested a special session to address all the revisions in question.

Mr. Yeiser then stated he spoke with Ms. Addison before the meeting began and wanted to express that she believes it to be best to hold all revisions to the community manual until budget talks for 2024 have been addressed as well as consulting outside legal counsel about all revisions.

Mr. Reisman again stated that there are legitimate complaints in the letter that are association wide. He also wanted to point out that maybe a resistance of enforcement because at what point do the consistent complaints turn into targeting of that individual.

Ms. George then stated that multiple members of the board, including Mr. Banner, have suggested the need for outside counsel when making any revisions to the community manual.

Mr. Reisman then suggested that if the board does retain outside counsel that Altitude law since they are HOA specialist.

Ms. George then suggested that a motion be made to vote to retain outside counsel.

Mr. Yeiser pointed out that there is only \$1000 budgeted in 2023 for legal services.

Ms. George stated she was willing to offer Mr. John LaSalle legal advice free of charge to the board but has declined due to their relationship being a conflict of interest. She then again suggested outside legal counsel.

Mr. Reiser wanted to state that Altitude Law does require a \$250 monthly retainer for their services. Then he said that since we haven't used any of the legal budget for 2023 we should be able to use that money to hire Altitude to respond to the letter and if the

board does decided to go with Altitude it would be minimum expense of \$3000 for the retainer alone. alone.

Ms. George stated that the reason she wished to volunteer Mr. LaSalle legal advice was to curb further expense to the association. She then suggested a vote from the board regarding the complaints in the letter being cured already she moved to have to board send a letter to 256 overlook about the dogs of leash complaint since that is the most pressing complaint.

Ms. Wymer agreed that a letter should be sent but added that the owner in question also cares for number of dogs belonging to members of the community on occasion and that single out one owner for other owner's animals is not fair and instead of targeting one owner it needs to be addressed at a community level.

Mr. Riesman asked about the current enforcement and fines policy.

Ms. George commented that the current fining policy does not meet the new Colorado state laws regarding HOA, and this was an issue she wished to correct with the rest of the community manual revisions.

Mr. Simecek explained that under recent changes to the Colorado laws "Once a violation is registered with management and management has made the owner aware of the violation via certified mail or email, the owner then has 30 days to cure the violation and if the violation is a life safety issue, then the owner has 72 hours to cure the violation. With that if the owner cures the violation within the set time period the issue is considered resolved." He then suggested that the best course of action about the dog off leash complaint is to educate owner through posted signs and correspondence via email.

Ms. George then commented she generally doesn't see dogs off leashes when she is walking around the community but did recently have an incident when she was walking, and an unleashed dog began that run at her causing her and another resident to fall on the sidewalk. After she asked Mr. Yeiser to send correspondence regarding dogs off leash.

Mr. Yeiser commented that he did send correspondence and that on average the community has a 90% open rate for correspondence set via email.

Mr. Riesman asked Mr. Simecek about the association's restrictive limits or would they have to differ to the local ordinance regarding dogs.

Mr. Simecek explained the association is able to be more restrictive since they are on private property, but local law enforcement would not enforce the association rules and regulations.

7. Owner Comments on Non-Agenda Items (Limit 3 Minutes)

Mr. Yeiser opened the floor for owner comments.

Mrs. Marshall started by addressing what she feels is a misconception that her complaints are about décor in private areas but rather that the issue is with common areas. She then asked three questions to the board. " Is the board going to enforce the current rules and regulations? Per the exhibits present in the letter, does the board consider these to be violations? How does the board plan on enforcing the current rules and regulations?

Mr. Riesman comments that he feels there are two issues. The first being the board needs to enforce the current rules and regulations to the best of their ability. Also, that the issues the in the letter are broader than just one owner but it I a community wide issue. He then spoke to the fact that our HOA rules and regulations are subservient to Colorado laws. Mr. Riesman then asked Mr. Simecek to confirm that under new Colorado laws once a member of the association receives a violation letter, they then have 30 days to cure this violation. If the violation has been cured with this grace period if a new complaint was filed, they would again have 30 days to cure this violation from the date on which they receive the new violation letter.

Mr. Simecek confirmed that this is in fact the case under the new Colorado laws. He added that at the moment there is not a clear answer for repeat offenders in regard to remedies the association has.

Ms. George referenced the community manual (Filing complaints sec. A5 part d) in part that the board does hold discretion on enforcement if the board feels that the issue is not community wide.

Mr. Yeiser suggested that the board vote on if this issues are deemed to be community wide and require action from the board.

Ms. George then stated "We do have a vision, mission and purpose. It is posted on our website. We voted this in as a board. It's not written in our documents. If we did change our documents, we do have to record it properly. That's not really a document but it's a vision and a mission and a purpose to be respectful and kind to one another. Rather than complain the more of a need space community that works together. And we did vote in sustainable and regenerative agriculture, caretaking for our brands practices. We'd also like to bring that into behavior associations with our next-door neighbors and our whole community as well as with our finances, not just with our landscaping. So, this kind of issue is not compliance with those visions vision, mission and purpose statements."

Mr. Friedman then commented that if the board was to start enforcing these rules and regulations the entire community manual would have to be enforce without discretion in the essence of fairness.

Ms. George then referenced a Colorado court case from 2018 "Back in 2018, Orien, Cavanaugh, Holmes and Hancock LLC, in Denver, about restrictive covenants and with the included at the end of it was no action. The board often mistakenly believes they must enforce all violations, either because they have a legal duty to do so or by failing to enforce the violation. They will have waived the association's right to enforce against a future violation. And this can lead to unnecessary lawsuits and expenses for the association. Right. And so, while the association, through its board of directors, is charged with enforcing its covenants and rules overall, not every single violation must be enforced. Subject to the governing documents, the law permits the board to exercise its reasonable business judgment and make a case-by-case determination of whether and what type of enforcement is appropriate. "

Mrs. Marshall again asked if the board sees the décor added to common areas a violation and how will the board handle violations in the future?

Ms. George asked if the board would like to vote on these issues now or would like to table this vote until the board has met and outside counsel is attained.

Mr. Riesman responded by asking if this can be discussed in an executive session.

Mr. Simecek explained that to call an executive session there must be a specific reason such as to discuss the threat of litigation. He then explained that one of Mrs. Marshall's questions was somewhat answer when Ms. George read from section A5 about the board ability to use discretion in regard to rules and regulation enforcement.

Ms. George then expressed her concern about rules enforcement and that if the association starts to blanket enforce rules it will have a negative effect on the community now and in the future.

Mr. Friedman commented that if we are going to start enforcing the rules and regulations that we must look at all additions to the outside of homes such as holiday lights and décor in the essence of fairness. He went on to say that he feels some lights are okay for certain periods of time and also commented that he too walks the community a lot and does notice these same types of violations community wide, but compromise is a part of living in the community.

Ms. Wymer wanted to clarify that Mrs. Marshall was not filing a complaint about lights and décor in private areas (planters on balconies, holiday lights, etc.) but to changes made in common areas such as the back yard.

Mrs. Marshall confirmed.

Ms. Wymer went into greater detail "It's the piece that ona is bringing forward with pertains to the to the common bed in back in which does get planted and ripped out by the owner every single year. And that's what Corinne has has done is that what you are trying to address ONA? Okay, you know, so that is it's not planted anymore with the

plants that were originally placed by the developer for those plants were removed and replaced and plants are going in and out of that area. Which I know is you know; it's been brought to that that question. So, we do have to make comments on that right now. The plants have all been removed and its winter, come spring. Plants are going to go back in there so that we do have to address.

Ms. Applebaum agreed that it was too late it was this year, but she agrees with Mr. Friedman about compromise. Also wanted to add she agrees with Mrs. Marshall that some of the owner's décor does make the community look bad.

Mrs. Marshall again wanted to reiterate that her complaint are only pertaining to commons areas not private property. "This has nothing to do with this has to do multiple items. Placed. Lady ovals and many additional height and time times many of them there. So my complaints and my concerns are not about holiday lights. They're not about planters in someone's front area right outside their door. These are common areas that are shared by all and we need to differentiate. And then, Rachel, what you were saying about the back, that's me that's a new area. That's an incursion into combinator that has been altered. Recently, in the last, I don't know, maybe month or five weeks or so. That means you're digging up the grass or changing that area that you planted in, is it okay? For me to go right outside my lower patio and dig up all the grass and place items in that area and create a garden and what would happen if we allowed people to do that? And we allow people to have an infinite number of items that they place in the family are not right outside? We need to care about differential. You keep mixing."

Ms. George stated that the board was trying to maintain community cohesiveness and respect for all homeowners. She went on to speak about new Colorado laws allowing for hanging of cloths line and planting food as protected now. She also poke to the fact that there are some owner whose plots in the community who do own there backyards and are allow to alter.

Mr. LaSalle wanted to clarify that he was offering to represent the association, he was offering his free expert legal advice, and he would always recommend outside counsel for representation. He then explained the difference between limited common spaces and general common spaces.

Ms. George then presented a bullying clause too the board be added to the community manual with an amended fine policy.

Mr. Simecek commented that the clause should be amended to match the existing fine policy.

Ms. George agreed that the clause should be amended to match the existing fine policy. She then gave an example of when a homeowner yelled at a contractor doing work last year causing the company to walk off the job.

Ms. George motioned to vote to add the bullying clause. Mr. Reisman 2nd the motion. The motion passed vote 3-1. 6:34 pm MST

8. Schedule next meeting

Ms. George motioned to set the next meeting for 11/30. Mr. Reisman 2nd the motion. Ms. Wymer asked for the motion to be table so she may check her availability. 6:37 pm MST

Mr. Yeiser asked if there were any more questions or comments from homeowners.

Mr. Friedman asked for a status update on a complaint he made about objects installed outside of the homes (satellite dishes, solar panels, etc.)

Ms. George addressed Colorado laws about homeowner rights as pertains to satellite dishes.

Mr. Simecek added the per SEC guidelines associations are allowed to restrict where dishes are installed but not if they can be installed.

Mr. Friedman stated the per the community manual all additions to the outside of homes must got through board approval.

Ms. George agreed but stated that the board has not enforced this in the past.

Mr. Friedman wanted to express that he feels these additions lower the community standards.

Mrs. Marshall commented that Mr. Friedman's complaint go hand in hand with her own.

Mr. Yeiser again asked if there are any more comments for owners.

9. Executive Session (If Needed)

Ms. George then motioned to move into executive session to discuss possible ligation. Mr. Reisman 2nd the motion. Motion carries unanimously. 6:42 pm MST

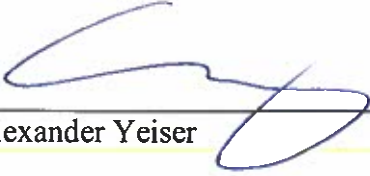
Ms. George motioned to close the executive session. Mr. Reisman 2nd. Motion passed unanimously. 7:04 pm MST

After Executive Session concluded the BOD advised TRG to proceed with Altitude Law as per session's discussion.

10. Adjournment

Ms. George moved to adjourn. Ms. Wymer 2nd. Motion passed unanimously. 7:05 pm MST

12/18/23
Date


Alexander Yeiser

