

Architectural Standards Committee (ASC)

The ASC is covered in Article XI of the Master Declaration of Covenants, Conditions and Restrictions. Article XI.2(a) defines the responsibility of the Committee and the qualification of members. It also states the members' compensation, if any, shall be established from time to time **by the board**. It goes on to say that **the board may establish reasonable fees** for review of applications and may require such fees to be paid in full prior to review.

Article XI.2(b) specifies the number of members of the Committee and states that, until 100% of the Properties have been developed and conveyed to owners other than builders, the declarant has the right to appoint members of the Committee. This the only right of the declarant with respect to the ASC that is covered by the Master Declaration of Covenants, Conditions and Restrictions other than providing the initial design standards as provided for in article XI.3.(a).

Article XI.3(b) Allows the Committee to make changes to the Design Standards, **subject to the approval of the Board of Directors**.

In order to confuse things, the Bylaws include the ASC in Article VII.2. Article VII.5 Organization of Committees states: "Such committees, other than the ASC, shall at all times be subject to the control of the Board of Directors." This may be why ORMA board have not exercised control over the ASC. However, the point of this article is to define the appointment of committee chairs and members and makes the President an ex-officio member of all committees. I believe what they are missing is that the Bylaws cannot change a requirement of the Master Declaration. In all other aspects, the board has a duty to control the ASC as called out in the Master Declaration. In any event, the Bylaws cannot change a requirement of the Master Declaration.

Based on the Master Declaration provisions mentioned above, it is clear to me that the ASC is a committee of the Association and, outside of the declarant's right to appoint the members, is subject to control by the Board of Directors. The ASC charges fees for review of applications for review of initial design plans as well as for modifications to those plans as defined in the Design Standards. Per the Master Declaration, only the board has the power to set these fees. It follows that these fees should be payable to the Association, not to the developer as they were initially and continue to be today.

The Design Standards state that the ASC is to meet twice per month and is to record minutes of these meetings. I have seen no data to indicate that this is happening. As of now, the ASC does not even provide periodic reports to the board regarding its activities.

I recently pointed all of this out to the board and asked them to identify the members of the ASC and to provide copies of the minutes of the twice monthly meetings of the ASC. The response was that this a contentious issue and is being worked with legal. While I stated in my interview in response to the question about developer relations that we need to have cooperative relationship with the declarant, this is one area where we need to go after what is owed to us. The declarant thought nothing of suing the Association to recover assessments that were collected over several years on property that was exempt to the payment of assessments. I see no reason why the Association should not reciprocate over the declarant's improper charging of ASC fees that rightfully belong to ORMA. While we're at it, we might as well include all of the outstanding reimbursements for repairs to the storm water system which are the declarant's responsibility.