

March 27, 2018 Homeowner Meeting Minutes Cimarron Foothills Estates

Board Member Attendees: Peter Lincowski, Tom Botchie, Bob Linsell, Francis Morgan, Margaret Weinberg, Chris Pappas, Mike Carsten, Karen Egbert

Visitor: none

Upcoming Dates:

June 2019 renegotiate trash service
Security dates to be submitted by Mike Carsten
Domain renewal May 2018
Sept: Send nomination letter in Sept.
November review the security service

President – Larry Lewis

The meeting was called to order by Larry Lewis at 6:02 p.m.

Secretary – Margaret Weinberg

Minutes taken by Margaret Weinberg.

Bob Linsell to review the minutes. Francis Morgan seconded the motion. The minutes were approved without corrections.

In Favor: Peter Lincowski, Tom Botchie, Bob Linsell, Francis Morgan, Margaret Weinberg, and Opposed:
None
Motion carried.

Homeowner Business Before the Board

Vice President – Karen Egbert & Communications Director – Francis Morgan

Report back on meeting with our attorney of record, Jason A Smith Esq.

3 board members met with the lawyer. He provided a book with information. 2:00 pm meeting Karen Egbert Francis Morgan and Larry Lewis were in attendance.

Karen Egbert sent him the questions in advance. He had a lot of knowledge of how to handle short term rentals. He also provided additional documentation. Basically if it is not in our CR and Rs we can't enforce it. We need a change to CR and Rs to enforce anything. We would need to poll to get interest in short term rentals to see if we want to introduce potential changes.

Time to consider is at the annual board meeting. We can poll the neighbors before we send out notice for the board meeting with any possible changes proposed. If 75% vote affirmatively the law can change. Any existing rentals scheduled would move forward if they were booked in advance of a vote to change the current rules. We can fine the owners if we find evidence of any current rules broken. Bob Linsell

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said Notice of violation is necessary by our own rules. We can also watch the parking situation, but we can't enforce it. The police would be necessary for nuisance violations.

The BOD approved up to \$2,500.00 to seek legal opinions regarding our short-term rental issue and the creation of rules and regulations for the HOA. The preliminary "fact finding" meeting was held at 2:00PM Tuesday, March 27, 2018. In attendance was Larry Lewis, President; Karen Egbert VP and Francis Morgan. Here are the questions that were presented to the attorney. The opinions and legal advice for the following questions will be shared at our HOA board meeting.

SHORT TERM RENTAL / BUSINESS RUN FROM HOME

1. How does AZ State SB 1350, affect our HOA ability to restrict short term rentals? FROM OUR BRIEF CONVERSATION ON THE PHONE, YOU ADVISED WE ARE UNABLE TO USE OUR CR&R RESTRICTION OF NOT RUNNING A BUSINESS OUT OF A HOME.

A: It doesn't affect us.

2. Is this law written to NOT restrict municipalities, rather than HOAs?

A: Leasing of a property for single use purposes is authorized under our CR&Rs, however, we do not have specific time limits stated as required SB 1350. This is our concern, we don't have the right because we don't have a limit.

3. Can we consider someone who is advertising and renting their residence on a short-term basis as running a business and therefore a violation?

A: No, but only if they are renting for one night only and it would be difficult to prove. If they provided more services that would possibly

4. Bob asked can we ask them to register as an Air BNB?

A: Probably not. We can ask for info from renters such as license plate info etc, and fine them if it isn't provided.

5. Does where an owner declares residence matter? If they consider their Cimarron Home their residence and do short term rentals when you of town, different than someone who lives out of state?

A: Short answer is no.

6. Can we define what is a short-term rental vs. single family leasing option? Traditionally we have said anything under thirty days is forbidden. Do we have the right to do that per our CR&Rs?

A: We would have to change the CR & Rs. No grandfather clause would apply. Any change we make would apply to all moving forward.

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7. When all else fails, do we need to amend our CR&Rs? If so, are they retroactive or do existing owners have exemption from the new rules?

A: Probably a good idea, and worth pursuing. Maybe pick 4 or 5 items to present to the homeowners in a poll to see what their interest would be in changing the rules. Short term rentals, RVs, (stick to verbal exemptions) Remember any letter with complaint needs 14 days to meet the expectations. Best to keep RV approval on a case by case basis unofficial (currently they are not allowed.)

OTHER QUESTIONS REGARDING THE CREATION OF HOA RULES AND REGULATIONS

1. Recreational vehicle parking and visitation restrictions?
2. Driveway maintenance requirements
3. Lamppost and mailbox requirements and restrictions
4. "junk" car restrictions and removal
5. Home repair and maintenance requirements including landscaping
6. Barking dog's nuisance procedures
7. Fencing specifications
8. Define what neighbors should be requesting for architectural review/approval forms

Action Items:

Poll on interest on changing of CR and Rs

Write what we think the CR and R would read like

Pull a list of any other items we want to poll about.

Turn it over to lawyer to correct wording

informal poll right away.

Send out the ballot 50 days before the annual meeting

The possible amendments would go out with the annual meeting notice.

The amendment wording would be the same for all 5 phases, but the results would vary according to the phase results.

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CR&R – Bob Linsell

- Creation of Rules and Regulations? Attorney said we can't change the rules and regulations, but we can make proposed amendments. Tom Botchie provided some possible wording for proposed changes. Guidelines can be suggested. There are room for clarifications.
- Lot 194 – DB – Junk Truck in driveway – next step (Larry Lewis to handle) Currently can't do much because his house is falling apart. Board can't force him.
- Lot 209 – MA – report back on letter and fine for exceeding six months construction limit. Bob Linsell sent out a letter. Talked to the homeowner (he responded via email) His general contractor had health issues and he had to let him go and took over himself. He is working on it again. He has done landscaping work and painting and other progress. Our understanding is that if currently there are ACs on the roof, they can remain on the roof. Planning on wrapping up exterior construction by May 1st. Interior work will finish up in the fall. Bob Linsell told him he'd get the boards approval. Progress is being made. Karen Egbert suggested to write a letter back with everything agreed upon to put it in writing. Fines are an amendment to the bylaws and can be more easily changed.
- Lot 95 – storage lockers still in drive way – they are not responding to Bob Linsell. Larry Lewis says to issue a letter of violation. We need to follow the bylaw rules. If we move quickly we can get notice to them to have a response by the April meeting. Lot 95 owner died. The daughter is now responsible. She took over the property and business and may lose the house to the bank. Storage pod is an eyesore for the neighbors. If it goes back to the bank, then the bank will be responsible for cleaning it up and/or paying the fine. Bob Linsell will copy Pat Stoll about the action.
- Lot 117 – 5945 Paseo Cimarron – white roof will send them a notice of violation to finish the painting. Had a fire and when they redid the house the repaired part is the correct color but the old portion of the roof is white. A Lot 255 Canoe and motorcycle in his driveway. Motorcycle is fine but canoe and junk should be removed.
- Lot 351 Dog barking complaint (renters occupy the house.) Bob Linsell hand delivered a letter to the homeowner and spoke to her in person. She doesn't believe the dog barking is a problem. Bob Linsell told them they need to do something about the dog barking. The dogs are large and imposing. The renters said they are moving by Feb 15.
- Lot 226 Neighbor has had a storage trailer parked in their driveway for the last year. Bob Linsell will follow up the complaint.

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Karen Egbert, Vice President/Community Relations

- Trash dumping behind neighbors homes 251 and 252. Neighbor thought it might be AAA Landscaping Co., board doesn't believe it is. Electric company made an access back there, and someone went back there and dumped clipping trash. Neighbor would like a no dumping sign. Karen Egbert suggested calling the sheriffs dept. Larry Lewis believes because it is the electric company's easement they should put a chain across the access to prevent dumping
- Community relations Karen Egbert suggests getting neighbors together to meet with common interests. Larry Lewis suggested mentioning in the midyear newsletter for interest.

Lot 344: Trash business: we are allowed an extra 10 bags. One homeowner put out 60 bags in 4 weeks. Larry sent a letter telling him not to put out that number of bags. Larry Lewis spoke with them and they apologized and will no longer routinely put out that many bags.

Construction down the same street. Garbage trucks couldn't get through. Numerous reports of trash not being picked up. Trash company had a problem with a truck which has since been fixed.

Treasurer – Peter Lincowski:

Bookkeeper Pat Stoll first year performance and salary review. Peter Lincowski and the board is thrilled with her performance. A motion was made to raise her rate from \$17 to \$20 per hour after book review. Shooting for Apr 1. Peter Lincowski met with Pat Stoll and told her about her salary increase.

Taxes have been sent in. Peter received our annual financial statement from the tax accountant via Pat Stoll.

Corp commission filing is due June 19th.

Architecture – Tom Botchie:

Review of ongoing and new projects from Tom Botchie's worksheet.

Lot 293 In work: Garage construction and setback variance has conditional approval. Construction in progress.

Lot 67: In Progress: Back yard remodel in work moving along.

Lot 345 Solar panel installation (probably complete)

Lot 126 In Progress: New addition to home.

Lot 209: Delayed construction. Neighbors are angry because it has been under construction for 2 years. Bob Linsell and Andy Gaudet will work together to compose the letter and be reviewed by the board. Bob Linsell will inform him of the infraction and fines and the date of his hearing to appear before the board. (April 24, the April board meeting.)

Lot 238: Solar panels approved to start in December. Was completed. Tom Botchie took photos of his solar panels. Tom Botchie noted his roof was white.

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Lot 281: Building a new garage. Collected the money for new construction approval. Received board approval. Check was sent to Pat Stoll.

Owner is complaining that they paid \$150 for paint approval but there is no fee for paint approval. It needs to be reimbursed. Pat Stoll offered that she can write a letter informing neighbors that are owed a refund for completed, approved work. She will arrange to refund money to those due a refund.

Lot 40 Fence project on hold

Tom Botchie expresses concern with the 6 month deadline for construction. He believes it is too short to be realistic.

Lot: 345: In Progress: Solar panel installation.

Safety and Security Mike Carsten

One suspicious person reported. Security noticed an open house with the key in the lock. Mike Carsten couldn't find the homeowner.

Roads and Medians – Chris Pappas

Update regarding ongoing median maintenance

Median maintenance, waiting to hear back on next step. Median maintenance work is still being done. It isn't finished yet, although it is slow going. Nothing is guaranteed whether or not the work is done or not. Chris Pappas will continue to request work.

Webmaster – Francis Morgan

Lawyer mentioned that we don't have to have all the neighbors sign off on proposed Architecture Review changes. Neighbors don't have veto power. Board considers it common courtesy. Need to add that they is just a courtesy not a request for approval. This is info for neighbors only, and an opportunity to express concern.

Pat Stoll has been updating the neighborhood database. She needs to get the most recent updates to Francis Morgan. Francis Morgan will contact her to get the latest.

Old Business: Question of board roles. Everyone decided to stay in their current role.

New business:

Bob Linsell received 36 quotes for the driveway refresh. One woman was upset that she was on the list because her husband wanted to be on the list and he passed away.

Bob Linsell proposes that we make a motion that we to develop formal standard operating procedures/ rules to supplement the CR and Rs. Karen Egbert seconds it. The board approved. Send your suggestions to Bob Linsell. Goal is to vote on standards in May 22.

A motion was made by Karen Egbert to close the meeting at 7:19 p.m., it was seconded by Francis Morgan. The board unanimously approved.