



Matiko HOA

Joint Board and ACC Meeting

July 11, 2019



Agenda

- What are CC&Rs for?
- What do the CC&Rs actually say?
- Do we wish to enforce CC&Rs? How?
- What changes are needed for the CC&Rs to be enforceable?
- What role is mandated for the Board/ACC and is it something they can/will do?
- Preparation for meeting with attorney
 - CC&R enforcement
 - CC&R changes (75% or 23 lots must approve)

CC&R Structure

- Article I Definitions
- Article II Property Rights
- Article III Membership and Voting Rights
 - Only Class A after 12/31/92
- Article IV Covenant for Maintenance, Dues and Assessments
- Article V Exterior Maintenance
- Article VI Design and Architectural Control
 - Section 2B
- Article VII Use Restrictions
 - Sections 1-23 detail what is allowed
- Article VIII Common Areas & Facilities
- Article IX Rights of Lenders
- Article X Administration and Enforcement of These Covenants
 - Role of Board and any members
- Article XI Insurance
- Article XII Amendment
 - 75% to modify or disband
- Article XIII Severability
- Article XIV Indemnification

I also think there is a possible lack of understanding by all of us on all or parts of what the CC&Rs and By-Laws actually say and do not say. The current controversy seems to be trailers, vehicles and exterior maintenance and paint color. I'll address each item here. In summary, I think we may be able to enforce the trailer issues when parked and unused in driveways but not without some controversy and definition of the word stored. See below.

Trailers

Article VI, I Section 15 is the single paragraph dealing with storage. It does say you can't store on the lots, driveways, streets or common areas. If stored on the lot it must be invisible from the street. It does not state a definition for storage and it specifically does not give a time frame for what constitutes storage. Many of us believed that there was a restriction on boats or RV's being actively worked on in front of our houses but that is not part of the CC&Rs. So the conflict comes to what we mean by storage. Is storage something that implies not moving a trailer or RV for some specified time? What time period? We may need some additional definition in these areas to allow uniform enforcement.

Vehicles

Article VII, Sections 7 and 11 deal with vehicles and vehicle storage areas respectively. Section 7 states that inoperable vehicles may not be stored on the lots in view of the roads or homes. It does not say anything about operable vehicles being excluded from driveways or roadside parking. Section 11 states that garages must have space for two vehicles but it does not say that vehicles can not be parked on the driveway or on the road.

Exterior Maintenance

Article V, Section 1 states in part “All building and other structures shall be maintained in good condition and kept properly painted or stained, and all landscaping shall be cultivated and maintained.” It does not say what that means except in the sentence following where it mentions mowing and watering applied to unoccupied lots. It should also be noted that the paint color is not specified in this section nor any other.

ACC

Article VI deals with the ACC and its purpose. To boil it down to its simplest terms it is a design review on new and exterior changes in structures and landscaping. Section 2 B requires the publication “of the ACC rules, regulations and criteria from time to time adopted”. We have failed to do that as far as I am aware and as a result it appears we may not be able to enforce any restrictions on paint color. There is nothing related to paint color that I can find in the CC&Rs. Maybe some of the longer term folks can help me understand where the paint color requirements have come from?

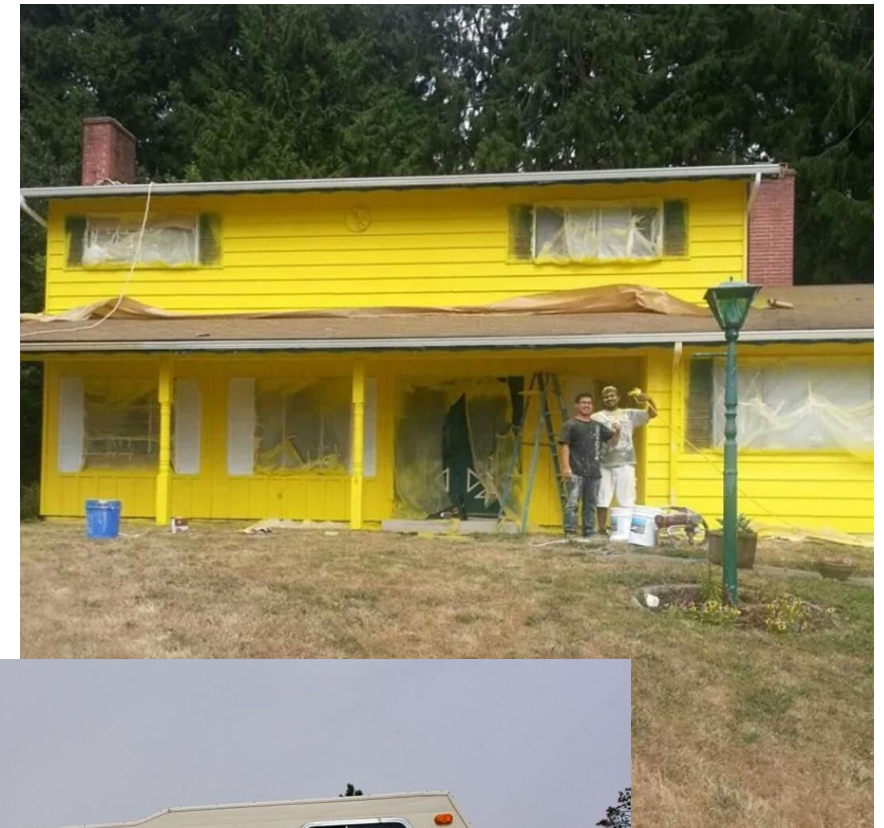
Perhaps we can specify some specifics by publishing the ACC rules, regulations and criteria. Something to talk to the attorney about also.

Do we want to risk these in our neighborhood?

If not, we may want to change the CC&Rs if necessary or publish ACC rules, regulations and criteria if appropriate in the attorney's opinion.

Potential additional regulations:

- Duration of RV on property
- What constitutes “storage” of RV, trailers, work trucks, etc.
- Additional descriptions of yard maintenance, cultivation, etc.
- Additional detail of “maintained” and “painted”



Big Decisions

Should we continue the approach suggested here? Write ACC document!

OR

Change CC&Rs? Rewrite/modify CC&Rs!

OR

Terminate the HOA?

Changes to CC&Rs or termination of the
HOA require 75% approval (23 Lots)

OR

Do nothing?

Getting Ready for Attorney Discussion

- Strategy to use ACC Article VI Section 2 B to add specificity to CC&Rs
- Failure to enforce – Article X review considering new state regulations
- Other modifications required by state law
- Development of enforcement protocols
- Advice on how to add specificity to:
 - Storage
 - Maintained in good condition
 - Properly painted
 - Paint and color palette
 - Regularly cultivated