

HOMEOWNER X

ISSUES
CONCERN OF

A Look at Problems within the Association
of the
El Mirador Subdivision

elmiradorhomeowners.com

info@elmiradorhomeowners.com

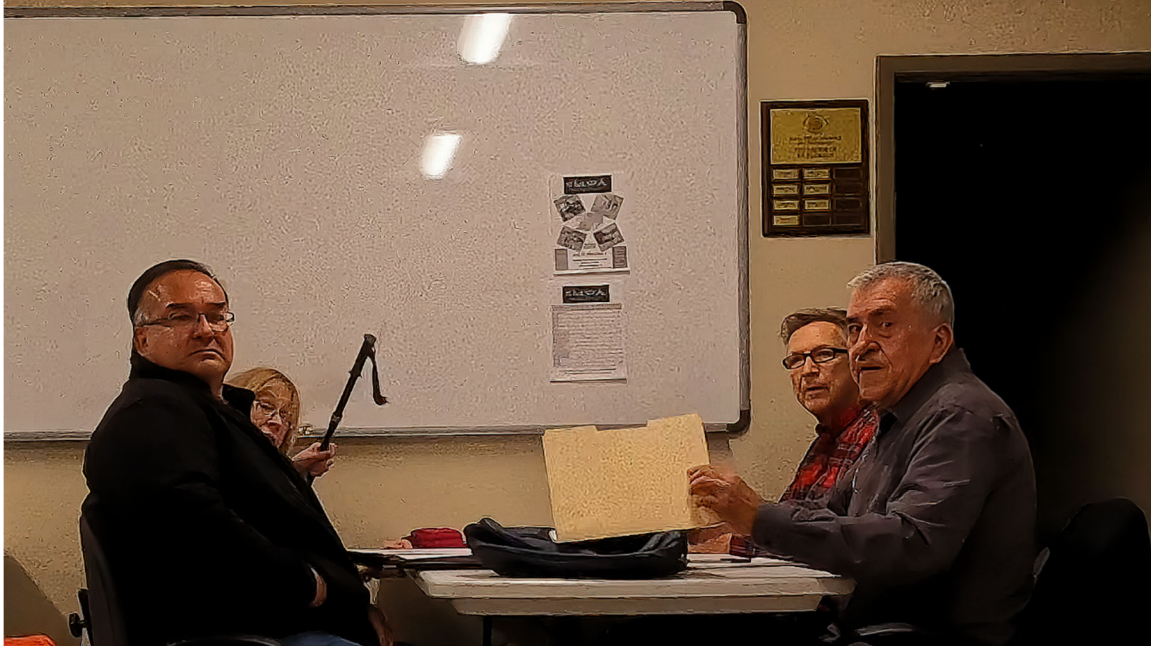
We should never forget that everything Hitler did in Germany was legal and everything the Hungarian freedom fighters did in Hungary was illegal.

Martin Luther King, Jr., Letter from Birmingham Jail (1963)

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Members of the Board of Directors, El Mirador Homeowners Association, Inc. Regular Meeting August 2020

Issues of Concern

The Board of Directors

The Board of Directors for the El Mirador Homeowners Association, Inc. ("Association") has been comprised largely of the same people for years.

With the recent exception of Margaret Bosse and Luis Chavez, the Board has remained the same for more than a decade. Prior to that it was largely the same people in different positions.

Domination of the Corporation

Put another way, the Board of Directors for the El Mirador Homeowners Association, Inc. is a group of people who have managed to dominate the corporation for almost the entirety of its existence.

This group of like-minded people strictly control the finances, election process, and all regular, director and special meetings of the Association. Almost no act of the Board in the last 5 years has been properly enacted or recorded in accordance with the community documents and the law.

They have formed a *faction*, a problem discussed in *Federalist No. 10*.¹

1. James Madison, *The Federalist No. 10* (1787), *The Federalist Papers*, ed.; also, regarding factions "*The essence of Government is power; and power, lodged as it must in human hands, will ever be liable to abuse.*" – James Madison 1787

Duty of Ordinary and Reasonable Care

“[R]easonable care. ...[T]he degree of care that a prudent and competent person engaged in the same line of business or endeavor would exercise under similar circumstances. “²

The State of New Mexico imposes this standard of care upon officers and members of the board.³

Over the last several years I have gathered a great deal of evidence demonstrating that the Board breaches their duties in various ways.

The nature of the Board tends toward authoritarian, which is apparent in its handling of Association affairs. Seemingly everything within the subdivision is prohibited unless and until they allow it.

These are not acts of good people, but rather more like bullies.

They evade responsibility while receiving benefit at the expense of homeowners. We are denied even basic considerations, such as a reasonable and fair enforcement process and a system of reasonable fines.

Almost no decision of the Board in the last several years benefits members in any way. They gave Henry Trost the contract that was Francis Jankel's and raised dues to pay Trost more money. A lot went to legal fees.

Community Documents

The 2013 New Mexico legislature defined community documents⁴ as:

...all documents governing the use of the lots and the creation and operation of the association, including the declaration, bylaws, articles of incorporation and rules of the association

For the Association, the community documents are specified in the Declaration of Covenants, Conditions and Restrictions (“Declaration”) as being (in order of importance):

Declaration of Covenants, Conditions and Restrictions
Articles of Incorporation
Bylaws
Design Guidelines
Association Rules

2. Reasonable Care, BLACK'S LAW DICTIONARY (9th ed. 2009).

3. Homeowner Association Act, NMSA 1978, § 47-16-7 A (2019) (ordinary and reasonable care)

4. § 47-16-2 G (2019) (community documents).

In order to be effective upon members of the Association, certain community documents, such as the Articles of Incorporation, Declaration and Design Guidelines (“Guidelines”), must be recorded in the office of the Doña Ana County Clerk (“County Clerk”).⁵

The Bylaws are not required to be recorded, but amendments to the Bylaws are.⁶

Amendments to the Declaration or Guidelines must be *properly adopted* and *properly recorded* before becoming effective upon Association members.⁷

The Board is required to meet in order to transact business⁸ of the Association, but may act without meeting if:

“a consent in writing, setting forth the action so taken, is signed by all of the members entitled to vote with respect to the subject matter thereof, or all of the directors, as the case may be.”⁹

We know that, in order to be legally binding upon members, the community documents are subject to specific requirements, and that the Board, individually or severally, cannot impose their will via whimsical assertion. They must act reasonably and in accordance with the law and the community documents.

Regular Assessments

A perfect illustration of improper enactment or mistake of the Board is the matter of Regular Assessments (“Assessments” or “Dues”), which are the annual dues paid by members to the Association as their share of the common expenses.

Depending upon where you look, it might be understood that the Assessments are \$35, \$40, \$56 or even \$60 per month. These are actual dollar amounts from various Association documents we have received in the last 5 years.

Legally, the only documents that matter are what have been properly enacted or amended and properly recorded with the County Clerk.

5. § 47-16-6 C (2019) (recording of declaration)

6. Bylaws of El Mirador Homeowners Association, Inc. Art. V (2001) (amendment, recording)

7. Declaration of Covenants, Conditions and Restrictions for El Mirador Subdivision § 16.1 (2004) (amendment to declaration, recording)

8. § 53-8-22 (2021) (directors' meetings).

9. § 53-8-97 (2021) (action without meeting).

Primary information regarding Assessments can be found in the Declaration §§ 1.3 (definition), 5.2 (purpose), 5.3 (regular assessments), 5.3.2 (determination of amount) and 5.3.4 (amount assessed to members).

Secondary information (remember, the Bylaws are subordinate to the Declaration) can be found in Bylaws Article III § 10 and Art. IV § 5.

I am not sure what your Declaration says in § 5.3.4, but mine says \$35.00 per month. I also have a set that says \$56.00 per month.

The county clerk has a set on file that says \$35.00 per month as well, and that is the only set that matters, although it is different from mine.

By quoting it, I am not stipulating that the Declaration on file¹⁰ with the county clerk is appropriate with respect to the community documents.

There are a number of problems with this document:

1. It is not the same document that the Association provides members as being the up-to-date version of the Declaration
2. It purports to be an Amendment to Declaration, but is improperly constructed, and no previous Declaration exists for it to amend
3. It also contains Bylaws and Design Guidelines, which should be recorded separately

It is, however, the only complete copy of the Declaration recorded.

Considering that no subsequent Amendment to Declaration has been recorded affecting the amount, it can be reasonably determined that the monthly Assessment for the Association is \$35.00 per month.

But, wait! The January 2023 newsletter says that Dues are \$60 per month, and it came from the Secretary!

The newsletter is not a community document. Anything contained within it is not legally binding upon members. The Board uses the newsletter to promote misinformation, some of which, if relied upon, effectively disenfranchises members of important rights regarding their property.

The Board has never properly amended the Declaration to increase Assessments. I notified them of this in 2019. Rather than correct their mistake, they chose to ignore me and improperly assess higher amounts than they are entitled to collect from members.

10. Doña Ana County Clerk's Office Instrument No. 0518526, Book 615, Covenants, Conditions and Restrictions June 8, 2005

Apparently, the last time the Declaration was properly amended was in 1992, by the Declarant, Herbert J. Louis.¹¹

Committees

The next best example of incompetence or ineffectiveness by the Board is the matter of committees.

[T]he board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees each of which shall consist of two or more directors.¹²

The Association claims the existence of several committees, which, if properly designated or appointed^{13,14} would “assist in the conduct of the Association's affairs” and “shall have and exercise all the authority of the board of directors”.

These committees are listed in a variety of newsletters:

- Design Review
- Common Area Oversight
- Neighborhood Watch
- Fines Appeal Review
- Proposed Fines Hearings

Of this listing, only the Design Review Committee (“Design Review”) has been properly enacted and recorded with the county clerk. It was created in the original community documents.

In order to be valid committees, the others should have been created by the Board in a meeting(s), or by using signed consents in lieu of meeting. Records of these committees would exist if the Board acted properly. Nothing in writing exists for any of the committees except Design Review.

In order to be useful, these committees would also need a purpose, and guidelines governing their operation. They might also need rules.

Ask yourself a question, “How does anyone on the Neighborhood Watch Committee (“Neighborhood Watch”) know what their duties are if nothing is written down?”

11. Doña Ana County Clerk’s Office Instrument No. 921405, Book 271, Amendment to Declaration January 24, 1992

12. § 47-16-7 A (2019).

13. Nonprofit Corporation Act, NMSA 1978, § 53-8-21 (2021) (committees).

14. Bylaws Art. IV § 3 (2001)

Absent proper creation, a purpose, guidelines or rules, Neighborhood Watch has no authority to act on behalf of the Board. The same is true for the other named committees. They are wish-fantasies of the Board.

Negligence of the Board

The Board has everything they need to properly enact rules, create committees, and raise Assessments. They just do not seem to care enough to do the job. For whatever reason, their performance is sub-par.

I would like to address the gross negligence of the Board with respect to the behavior of its Design Review Committee ("DRC") and its delegates.

For example, let's examine the outstanding Design Review Request ("Request") of Homeowner X regarding landscaping of their yard. It has been longer than three years since the Association even allowed the *mention* of this Request in Association meetings.

Not everyone reading this may be aware of the issue or perhaps have been provided an alternative explanation by the Association. To make a long story short, we purchased a residence here in August 2018. Shortly thereafter we made a series of Requests, almost all of which were approved, with the exception of a flagpole for the front yard.

Life was good, until one day Henry Trost appeared, demanding to speak to the "owner of the property" about a "compliance issue". She identified herself to him and he said, "No, really. I need to speak with the homeowner!" as if he did not believe she was or could be the owner.

The manner and tone of Trost was insulting, and she told him to leave her yard.

Trost had never identified himself. Even if he had, he was merely an appointee to the Design Review Committee, and never should have entered the property unannounced. He had no authority to act on behalf of the Board in the manner he was asserting.

Trost, being a big crybaby, went straight to Richard Doyle, Association President, and John Reich, Design Review Committee Chair 2018 ("DRC Chair"), whining about being told to leave the property of Homeowner X.

Apparently, they struggled to fabricate a reason to withdraw our approved Requests, which apparently took about one and a half hours. It is for this reason that I describe Doyle as being scheming and petty.

John Reich called about one and a half hours later, demanding that we explain our marital relationship.

We could hear other people in the background, whom I assume were Trost and Doyle, maybe also Joaquin Tadeo.

Nevertheless, they devised a bizarre legal theory based on our property deed that is still apparently an official Association position. I won't go into the details here, other than to say that they are wrong, and their actions were and are wrongful.

Fast forward one year. Timothy Hinker is the new DRC Chair, and Trost is still a DRC appointee. We submit a landscaping plan, including landscape lighting to the "new" DRC.



Timothy Hinker and Henry Trost, DRC Committee, tell Homeowner X he must comply with National Park Service regulation

Hinker and Trost ultimately deny our submitted plan for a variety of reasons, none of which were in writing.¹⁵ For more than a year Hinker refused to

15. Design Review Guidelines for El Mirador Subdivision § 3.2 (2015) (detailed explanation for disapproval)

provide any written explanation at all, despite the requirement in the Declaration that:

“...Each set of plans that has been disapproved shall be accompanied by a detailed explanation of the reason or reasons for disapproval and, where appropriate, suggestions for revisions necessary for obtaining approval.”

Instead, they gave me a printed set of pages for the *Salinas Pueblo Missions National Monument* located in Mountainair, New Mexico. It is a complex of three Spanish missions built between 1622 and 1635.

The documents were the Monument's Lighting Management Plan,¹⁶ developed by the U.S. National Park Service to preserve the historic monument.

According to Hinker and Trost, “this development adopted that”, and we were required to comply with the same lighting standard as the high-altitude federal park.

If that doesn't sound ridiculous enough, in the same meeting I was told that our rock wall height “determined grade” for our yard. Hinker asserted that, since we raised our side walls, we would have to raise the “grade” of our yard by three feet.

If that still isn't ridiculous enough, Hinker also told me I needed to add “4-to-1 slope from your house out” to my Request in order to get it approved.

The requirements from the DRC Committee were completely absurd.

4-to-1 grading refers to the slope of land being 4 inches of rise for every 1 foot of distance. It is a very extreme slope, being the maximum slope allowed within the subdivision.¹⁷ This would equal 25%. To put that in perspective the steepest portion of Transmountain Road is 7.4% slope.

We appealed to the Board, in writing, and were summarily ignored.

There's obviously more to the story than that, but for now it is sufficient to note that our landscaping Request has been “disapproved pending” while the Association waits for me to add 4-to-1 grading and agree to raise the level of my back yard by three feet.

16. New Mexico Night Sky Protection Act The Monument's ...;

https://www.darksky.org/wp-content/uploads/2016/08/SAPU_LMP.pdf

17. Guidelines § 2.1.4 (2015) (maximum slope of 4 to 1)

Of course, I refuse to submit to such an outrageous demand, and so we are in a stalemate of sorts.

Either they are, individually and collectively, incapable of understanding fence height and 4-to-1 grading, or they are trying to get me to submit a written request for nonsense that they would be justified in refusing, i.e., they are ridiculously stupid or just regular stupid. I suppose they could be both.

My preference would be for the Association attempt to enforce their nonsense. Until they do my hands are mostly tied, as I am unlikely to prevail in court unless and until they actually do something. As it is, all they have done is posture, calling us names, making threats, which is not particularly actionable, providing a small return for its legal investment.

The Board is also negligent in other ways. One example is their refusal to monitor and control the behavior of their vendor, Henry Trost.

This document is not intended to be an exhaustive list of wrongs committed by the Association; it merely exposes the tip of the iceberg. As I write this, we are only 4 days away from the next Association meeting, Saturday January 28, 2023. I want to put this in as many hands as possible by Thursday afternoon at the latest. It may be a complete waste of time.

Misinformation and Lies

If you have attended a Regular Meeting of the Association or received a newsletter you have been subjected to misinformation by the Board.

The Association routinely makes false claims and assertions regarding the budget, spending, the Common Area, acts of the Board, etc. You name it, and it probably is an outright lie or a prevarication of some sort.

It is for these reasons that I record each meeting. Having a record of Board and Committee lies, refusal to act, efforts to generate discord and ill-will against us within the community, etc. will ultimately be useful in some way.

Let's look at an example of misinformation by the Board.

By now, each member should have received a first quarter invoice from the Association that includes a January 2023 newsletter. On the 2nd page, under REMINDERS, it states:

● **Section 11.1 Residential Use.** Each Lot may be used only for residential purposes and none other. No business or commercial building may be **constructed** on any Lot and no business or commercial enterprise or other non-residential use may be **conducted** on any part thereof. This includes short term rentals such as Airbnb, VRBO etc.

January 2023 Association newsletter misstating and misrepresenting Declaration § 11.1

This paragraph professes to quote Declaration § 11.1, but the first highlighted word, “constructed”, is not in the text “quoted”. The actual word is “erected”, which is fundamentally different. Words matter and changing text you are supposed to be quoting is bad form.

The bigger issue here is the last line, “This includes short term rentals such as Airbnb, VRBO etc.” [sic], which is not at all part of what they are quoting.

In fact, there is nothing within the community documents which forbids rentals of any type, much less short-term rentals.

This is simply false information put forth by the Board to deter members from short-term rentals. Put another way, the board is effectively disenfranchising Association members of substantial property rights by deliberately misinforming them about what the rules are. They are lying to you.

In fact, the Association cannot stop a member from renting property within the subdivision in any manner that is legal within the state.

The only requirement for renting property is that a member “shall deliver to the Association a copy of the lease.” The Board has no veto power, and members simply need to include wording in the lease to the effect that the lessee must follow the Association rules. ¹⁸

On the front page of the newsletter, it states:

18. Declaration § 11.17 (2004) (rental of lots)

EMHA Dues

Regular HOA dues for EMHA are \$180.00 per quarter (\$60.00/month). **Late payments are charged a 10% fee as per Section 5.8 Time and Matter of Payment: Late Charge and Interest:** “Assessments shall be due

January 2023 Association newsletter misrepresenting the amount of Regular Assessments

No *Amendment to Declaration* has been properly adopted by the Board, attested by the Secretary, or recorded by the County Clerk that sets Regular Assessments at \$60 per month.

Publishing in a newsletter is neither proper adoption nor amendment and does not constitute recording pursuant to Declaration § 16.1. The Board has had three years to correct this issue and have chosen not to do so.

Another issue the Board routinely misinforms members about are *legal fees*.

In the March 3, 2020 Regular Meeting of the Association, Richard Doyle falsely stated that:

“The budget approved for 2021 projects, projects a loss of over \$20,000 that’s mostly due to a \$15,000 expenditure for street repairs, and a substantial increase in budget for legal fees to deal with compliance issues with one owner.”¹⁹

Association legal expenses for 2021 were only \$632, whereas in 2017 they were \$3,046.74. There was a *substantial decrease* in legal fees for 2021, at least when compared to 2017.

Further, the Association’s attorney Robert Skipworth has never made contact with us regarding any “compliance issue.”

Richard Doyle lied in an apparent attempt to create hostility against us among the members of the Association. I have documented a pattern of similar *rumormongering* by the Board, including Joaquin Tadeo and David Chavez, Jr.

If your default approach in life is to tell lies, as Richard Doyle does frequently in his role as President, there is a high likelihood you are a pathological liar.

19. HOASUX, EMHA Board of Directors Meeting March 3, 2020 (video clip)
<https://vimeo.com/hoasux>



Richard Doyle, President of the El Mirador Homeowners Association, Inc. photographing my security camera

Richard Doyle, President

Richard Doyle is the current President of the Association. He is also anti-Christian, anti-capitalism, anti-military/law enforcement, anti-gun, anti-poor people, and anti-conservative. Intolerant and narcissistic seems to describe him adequately.

For a number of years Doyle hate-posted on his social media accounts, primarily Facebook and some Twitter. He is, by any standard, a hateful person, intolerant to others in ways I have rarely seen in my lifetime.

As he is a local Democrat representative, I contacted state and national Democrat Party officials and asked them how someone so vile and disgusting could represent the Party.

Within a few days the most vitriolic of his posts had been removed.

Doyle has labeled me and my family as being “low-income” claiming we have engaged in a “constant assault” on the Association. In meetings of the Association, he often laments “low-income people” living nearby.

 **Richard Doyle**
November 30, 2018 · 🌐



CHURCHANDSTATE.ORG.UK

3 Ways Christianity Was Largely Responsible For The Holocaust

While Christianity wasn't the sole catalyst for the Holocaust, there is no dou...

Richard Doyle anti-Christian Facebook post, November 30, 2018

Richard Doyle is a bigot: ¹⁹

big ot /'bigət/ *noun*

: a person who is obstinately or intolerantly devoted to his or her own opinions and prejudices

especially: one who regards or treats the members of a group (such as a racial or ethnic group) with hatred and intolerance

The Nazi Party did not practice Christianity, they were Socialists whose beliefs largely involved the Occult. His post is literal nonsense.

The first time I spoke with Doyle on the phone he said something about us probably being "Catholic", which I thought was strange at the time. Obviously, it mattered to him more than I could understand at the time.

 **Richard Doyle**
December 29, 2018 · 🌐



DUFFELBLOG.COM

Coast Guard begins reselling seized cocaine amid government shutdown

Richard Doyle anti-military Facebook post, December 29, 2018

Richard Doyle has apparently harbored ill-will towards U.S. service members for quite some time. Anti-military and -police sentiment is certainly at an all-time high, but at his age it seems strange to be so naive.

I am confident that the U.S. Coast Guard is not in the business of selling drugs, confiscated or otherwise.

I won't pretend to understand how any person can live in the U.S., enjoy all the benefits that it has to offer, yet hate just about everything that makes it the United States of America. I love my country, warts, and all.

Doyle's hate-posts read more like an angry, woke college student newly introduced to Marx than a 74-year-old man living in an HOA.

He describes himself as a "social justice monster," but his virtue signaling rings false in light of his actual words and deeds.



Richard Doyle shared a memory.



September 2, 2018 · 🌐

Why we celebrate Labor Day. Oh! And it was May 1st with the rest of the World but Capitalists didn't want to compete philosophically with the Labor Movement

 **6 Years Ago** 
See Your Memories >



Teamsters added a new photo — with Jonathan Hatfield and 5 others.

 Like Page

August 30, 2013 · 🌐



Richard Doyle anti-capitalism Facebook post, September 2, 2018

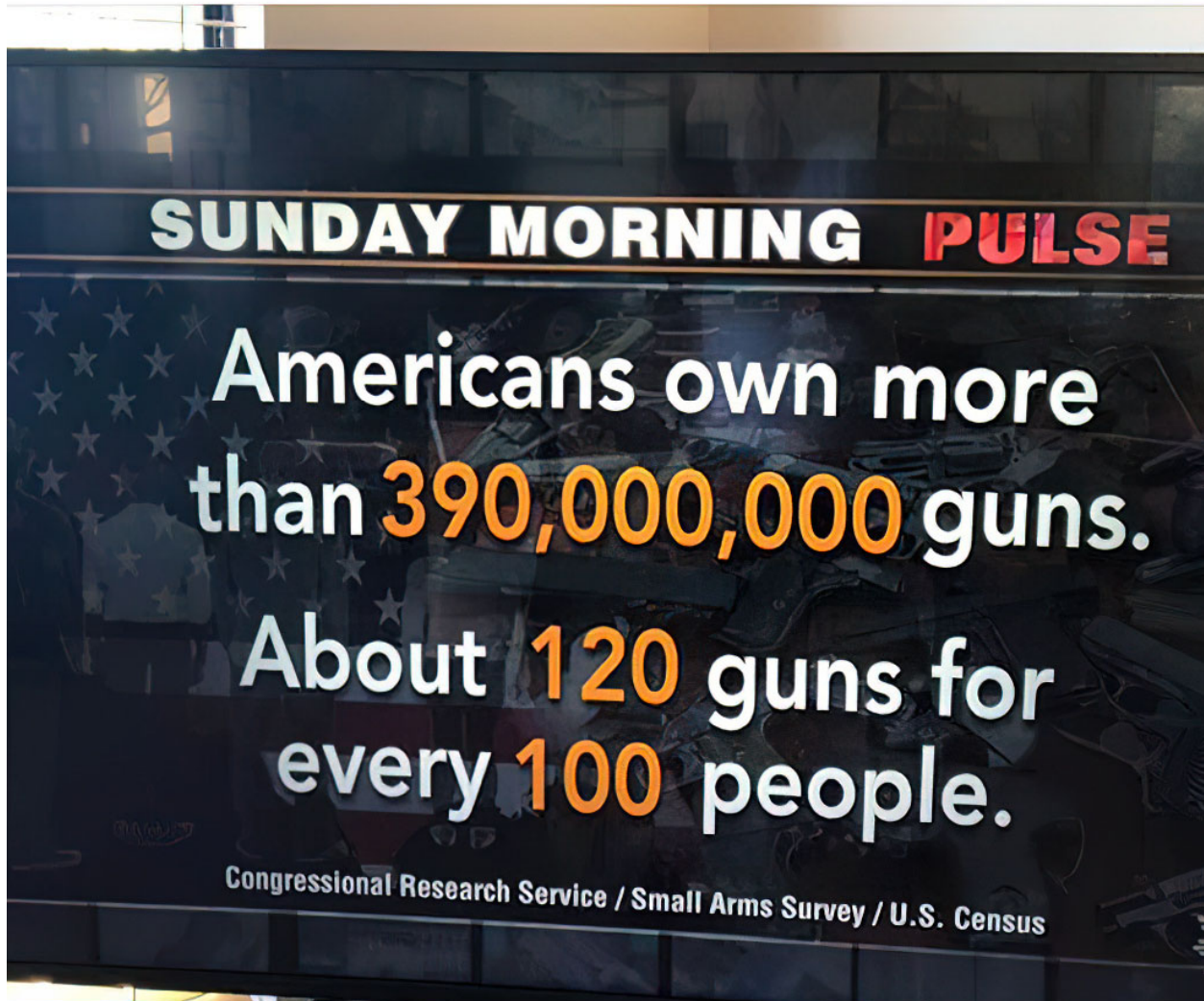


Richard Doyle

November 11, 2018 · 🌐



Gun loving USA



Richard Doyle anti-gun Facebook post, November 10, 2016

Anti-capitalism, anti-gun and anti-military sentiment is most intense among Socialist and Communist groups within the U.S. I suspect Richard Doyle is a Socialist, if not an outright Communist, based on his numerous public postings and comments.

These apparent philosophies of Doyle explain why the Association celebrates Oktoberfest and not the 4th of July or Cinco de Mayo.

The Association should make the 4th of July an annual celebration.



Richard Doyle

November 10, 2016 · 🌐



Why Poor And Middle Class Republicans Vote Against Their Own Interests

“IF YOU CAN CONVINC THE LOWEST WHITE MAN HE'S BETTER THAN THE BEST COLORED MAN, HE WON'T NOTICE YOU'RE PICKING HIS POCKET. HELL, GIVE HIM SOMEONE TO LOOK DOWN ON AND HE'LL EMPTY HIS POCKETS FOR YOU.

~ Lyndon Johnson



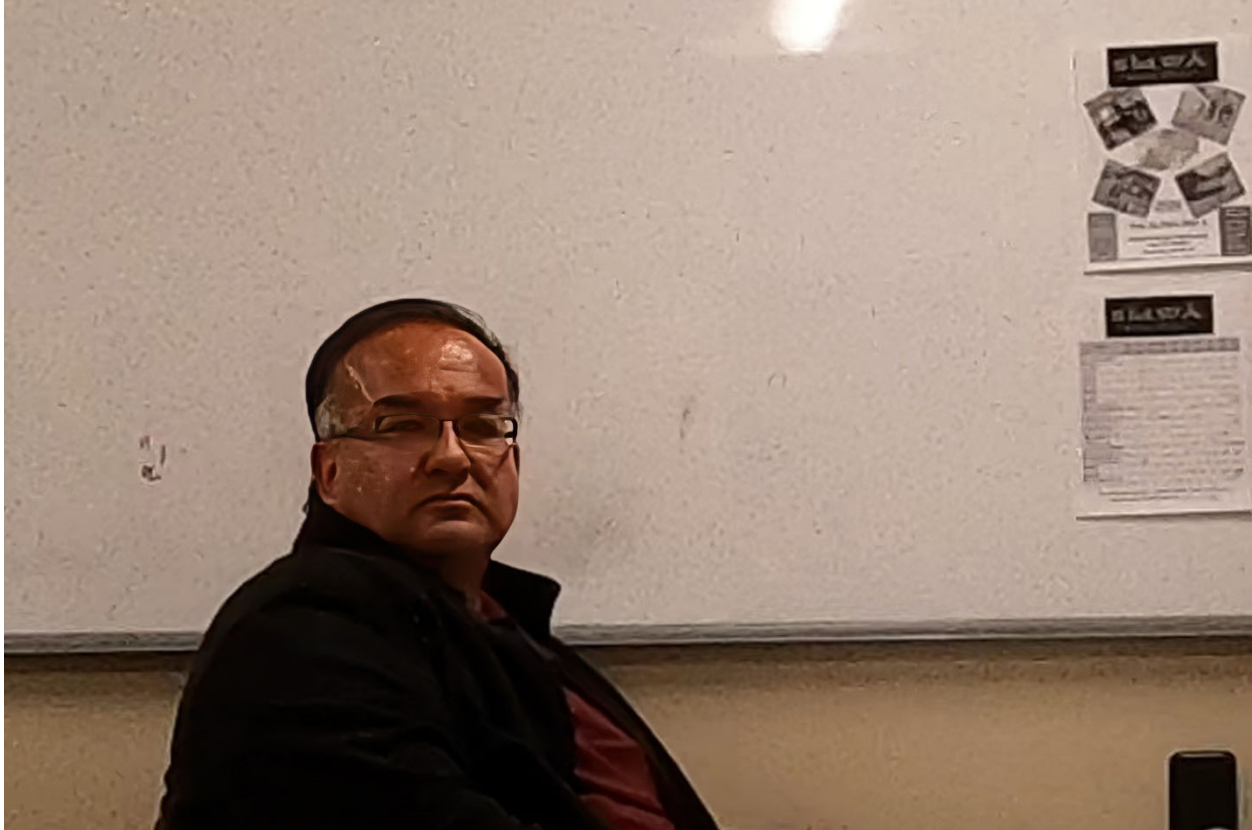
K
The Knowledge Movement
On Facebook

Richard Doyle anti-conservative Facebook post, November 10, 2016

Doyle's political intolerance is not at all surprising.

It does not seem rational to consider that people who know Doyle and enjoy his company not also share at least some of his beliefs. The English proverb, "*birds of a feather flock together*" is as true today as it was nearly 500 years ago. Doyle and his circle of friends act in unison, in natural support of each other.

"The real division is not between conservatives and revolutionaries but between authoritarians and libertarians." - George Orwell ²⁰



Joaquin Tadeo, Vice President

Joaquin Tadeo is not a smart person, and he is a liar. I am of the opinion that he is generally not a good person.

The best way to illustrate Tadeo's lack of intellectual capacity is by using his own words and "logic":

Joaquin Tadeo: And just as the laws of each state and municipality regulates the alcohol content that a person can have when they are driving a vehicle, we also have the ability to limit the height that a drone can fly.²¹

We shall examine this statement through two lenses, *applicability*, and *honesty*:

1. The Association's Board is not a legislative body and cannot regulate alcohol or driving. Tadeo is inferring that the Board has the same authority as state and federal government.
2. A homeowner association has zero ability to limit the height that a drone can fly.²²

21. Transcription of Audio Recording, Board of Directors Meeting, EMHA (August 12, 2019)

22. 49 United States Code § 40103 (a)(1) (2022) (sovereignty and use of airspace)

Tadeo's application of "logic" is seriously flawed. It is complete nonsense for him to consider the Board as having the same authority as state and federal government when it comes to restricting the behavior and activities of people.

He dishonestly claims the Board has the "ability" to restrict the flight of aircraft.

The federal government doesn't allow homeowner associations to limit the height at which aircraft can fly:

§40103. *Sovereignty and use of airspace*

(a) Sovereignty and Public Right of Transit.

The United States Government has exclusive sovereignty of airspace of the United States.

For a federal law, that is as clear as it gets, and there is no homeowner association exception.

Drones are classified as Unmanned Aircraft Systems ("UAS"), and most owners are required to register with the Federal Aviation Administration ("FAA"). Aircraft registered with the FAA are not subject to homeowner association regulation, with the sole exception of takeoff and landing. ²³

The Association *can* make a rule saying drones cannot takeoff from or land in the Common Area. Once a drone is off the ground and in the air it is within the domain of the federal government.

There are a lot of misconceptions about drones. For example, it is a violation of federal law to shoot down a drone. The same law that forbids shooting down small aircraft protects UAS. ²⁴

The entire section of the Association's "drone policy" referenced as Guidelines § 2.1.12 Drones is *meaningless drivel*.

The Board will not even admit who wrote the drone policy.

That Tadeo has some issues relating to flawed thinking doesn't stop with hobbyist drones:

23. Federal Aviation Administration, FAA Issues Fact Sheet on State and Local UAS Laws
<https://www.faa.gov/newsroom/faq-issues-fact-sheet-state-and-local-uas-laws>

24. Title 18 U.S. Code § 32 Destruction of aircraft or aircraft facilities

Joaquin Tadeo: My other question is, it says this policy applies to personal drones and model aircraft and does not apply to commercial aircraft or drones. I would like that explained.

David Chavez, Jr.: I don't know necessarily what that means, but I guess when Amazon starts delivering ...

Joaquin Tadeo: Okay. Maybe we can change that to commercial delivery drones?

Tadeo's logic on this subject is absurd. The Association has no authority whatsoever to regulate commercial aircraft or airspace.

He stretches reality further by comparing drone ownership to gun ownership:

Homeowner X: ... but, I guess my point would be, is that drone ownership is legal and to automatically assign ill intent to anybody that wants to have a drone seems somewhat specious.

Joaquin Tadeo: Gun ownership is also, until the person pulls the trigger, that gun ownership is legal. And after they pull the trigger to shoot someone, with the intent to kill, maliciously, then it's illegal.

Again, he's wrong. Sometimes shooting a person is legal, and sometimes it is illegal. I suppose a person could even "maliciously" shoot an intruder in their home, which would still be self-defense.

However, the act of shooting someone is completely independent of the gun's ownership.

Tadeo's argument is fallacious, lacking honesty, substance, and logic. He asserts a false claim as if it is true, then argues its existence establishes something else that is equally untrue

Even if it were true, an HOA Board is not a legislative body. Next, he will want to build a jail in the Common Area.

If you are still inclined to give Tadeo the benefit of doubt, consider this exchange:

Homeowner X: ... I guess I am just saying that y'all are also assigning a nefarious nature [to] just the simple ownership of a drone, ownership and use of a drone becomes nefarious, their [they] become voyeurs, and I resent that.

Joaquin Tadeo: Again, the voyeurism is due to past incidents where homeowners, residents, they've complained to the board and stated that that was ...

Homeowner X: But those are already violations of law. Why don't they just call the police, and say, hey, somebody's doing that? There are already procedures in place for people that do that.

Joaquin Tadeo: Because police say that they have to be caught in the act to prosecute.

Homeowner X: Okay...? (Questioning tone)

Joaquin Tadeo: As a board we are now writing covenant, covenant that specifically addresses the issue that has plagued our association in the past.

Again, Tadeo asserts that the Board has lawmaking authority. He even refers to the drone policy as a "drone ordinance" twice. Richard Doyle also calls it a "drone ordinance" in the same meeting.

*The Board can enact and adopt rules and policies for the subdivision, but has **zero authority to enact, adopt or enforce ordinances.***

Also, Tadeo is offended by the idea that police might require a person's guilt to be indicated somehow, i.e., caught in the act, before being charged. He equates the presence of a drone as evidence of a crime.

"It is a cardinal principle of our system of justice that every person accused of a crime is presumed to be innocent unless and until his or her guilt is established beyond a reasonable doubt. The presumption is not a mere formality. It is a matter of the most important substance."²⁵

That the entire Board considers themselves lawmakers, acting in unison to deprive members of substantial personal and property rights is extremely troubling. Who votes for these people, and why?

25. Presumption of Innocence; Proof Beyond a Reasonable Doubt
<https://www.mad.uscourts.gov/resources/pattern2003/html/patt4cfo.htm>



David Chavez, Jr., Treasurer

David Chavez, Jr. is a liar. He tells lies in public meetings of the Association, and I have been told he tells lies about us behind our backs.

The most significant fact about Chavez is that he has been part of the Board longer than most others. He, as President, and Francis Jankel signed a copy of the Bylaws in March 2001, 21 years ago.

EL MIRADOR HOMEOWNERS ASSOCIATION, INC.

David Chavez Jr
/s/ David Chavez, Jr.
President

Vicki Harder
/s/ Vicki Harder
Secretary

STATE OF NEW MEXICO)
COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me this 5th day of March, 2001, by David Chavez, Jr., President of El Mirador Homeowners Association, In. For an on behalf of said nonprofit corporation.

F. Charles Jankel
/s/ F. CHARLES JANKEL
Notary Public
My Commission expires: 7/26/2004
OFFICIAL SEAL
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 7/26/04

The Association claims that Chavez, as Treasurer, does not have to pay Association dues (emphasis added):²⁶

“Mr. Chavez reported that contrary to misinformation being circulated via e-mails, the office of Secretary of the Board of Directors is not a salaried position. The dues of the Treasurer are abated as per changes to the Declaration of Covenants, Conditions and Restrictions for El Mirador Subdivision enacted in August of 2006. This change was voted on by a majority of the Owners.”

There is no evidence anywhere of an *Amendment to Declaration* abating Treasurer responsibility to pay Regular Assessments.

I do not know how many years Chavez has not paid Regular Assessments, but he is supposed to pay them just like everyone else. My guess is that he owes the Association around \$ 7,800, given the 2006 reference.

Maybe he deserves his dues to be abated. That is certainly a conversation worth having. However, the Association's fondness for filing liens and threatening members precludes sympathy or consideration for their own recklessness and failure to follow the rules.

If they want to abate Treasurer dues, they need to do it properly, and members get to vote on it.

Chavez should likewise not receive retroactive forgiveness of what he owes for nonpayment. The Association is extremely unforgiving, and so they should be treated EXACTLY as they treat others.

Besides, he is only the half-owner of his property. Francis Jankel, who owns the other half, should have *always* paid his share of annual Assessments, but he didn't.

Remember also that Jankel was the recipient of the largest Association payouts for years through Common Area maintenance.

I would be very interested to know the total amount of Association dollars Chavez and Jankel have received while not paying dues over the years.

Being Treasurer certainly has its privileges.

We need an audit of the Association's finances and spending.

26. Board of Directors Meeting, El Mirador Homeowner's Association [sic], August 4, 2015



Richard Doyle and David Chavez, Jr. engaging in "enforcement" July 21, 2022

Absence of a Fair and Reasonable Enforcement Process

Turnover, a significant event for every homeowner association, occurred 26 years ago for the El Mirador subdivision.

That the Association has never adopted a system of reasonable fines or even a single rule regarding enforcement in 26 years is **grossly negligent**.

Who is in charge of enforcement?

How is "guilt" determined?

Who decides the amount of fine(s), using what criteria?

Is there a hearing? Are members allowed to participate or observe?

What are member's rights?

None of this is written down anywhere.

The enforcement process for the El Mirador subdivision is a whimsical, ad-hoc process that no one on the Board or the DRC Committee will discuss or reveal.

Declaration § 3.12 Association Rules

The Association has neglected its responsibility to create rules regarding fines and penalties (emphasis added), from the Declaration:

3.12 Association Rules. The Board shall be empowered to adopt, amend or repeal such rules and regulations it deems reasonable and appropriate (the "Association Rules") binding upon all Persons, subject to this Declaration and governing the use and occupancy of the Common Areas or any other part of the Project. The Association Rules may include the establishment of a system of fines and penalties enforceable as Special Assessments. The Association Rules shall govern such matters in furtherance of the purposes of the Association including, without limitation, the use of the Common Areas provided however that the Association Rules may not discriminate among Owners and Members except as expressly provided or permitted herein and shall not be inconsistent with this Declaration, the Articles, Bylaws or Design Guidelines. A copy of the Association Rules as they may from time to time be adopted, amended or repealed or a notice setting forth the adoption, amendment or repeal, shall be available at the principal office of the Association to each Owner, Member or other Person reasonably entitled thereto, upon request. In the event of any provisions of this Declaration, or the Articles, Bylaws or Design Guidelines, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles, Bylaws or Design Guidelines to the extent of any such conflict.

Not a single Association Rule has been created by the Association.

Despite having never created a system of fines, the Association has fined a great many persons and recorded liens against many properties. This is unreasonable and unfair.

For example, each year the Board is required to provide members with "a statement included with a copy of the annual budget listing all fees and fines that may be charged to a lot owner by the association".²⁷

I find no evidence that the Association has ever complied with this statutory requirement.

27. § 47-16-7 F (2019) (listing all fees and fines)

Incompetence vs. Willful Misconduct

When examining the totality of behavior and actions of the Board or its committee members, it is reasonable to consider the reasoning behind the various acts.

For example, in 2015 when David Chavez, Jr., Treasurer, announced that his responsibility to pay Association dues had been “abated” in 2006, his statement is completely self-serving. He was responding to members who had developed a belief that he held a “salaried position.”²⁸

Let’s examine the facts:

1. Not requiring Chavez to pay Regular Assessments is the same as compensating him. Compensation for Directors and Officers of the Association is prohibited in Bylaws Article III § 9 *Compensation; Expenses; Indemnity*.
2. Chavez, as an Owner, is required to pay his “proportionate share of Common Expenses” in the form of annual Regular Assessments. Declaration § 5.3 *Regular Assessments*.
3. Chavez is half-owner of his property yet has received a full abatement of dues for years. Francis Jankel, who was not Treasurer, is responsible for paying his half of the Regular Assessment, even if Chavez’ portion was abated.
4. No evidence exists that an amendment occurred abating Treasurer dues. There is no wording in the Declaration or Bylaws to that effect, and no Amendment to Declaration has been provided stating anything to support an abatement. Nothing is on file with the County Clerk to the effect that any such abatement exists.

Examining the facts, we have to ask the question, “Can Chavez honestly claim he is of the belief that an amendment made in 2006 abated his responsibility to pay Regular Assessments?”

Nothing in the community documents support the claim of Chavez, and so it is difficult to understand how he could believe he is legitimately allowed to forego payment of dues.

In fairness to all members, especially those who have been fined or had liens recorded against their property, Chavez needs to pay is past-due

28. Chavez, supra note 24, p. 23

Regular Assessments, including the 10% late fee they enforce against other members of the Association for making late-payments.

It would be unreasonable and unfair for the current Board to abate Chavez' dues or to make any abatement retroactive to 2006. That would represent compensation of the type specifically prohibited in the Bylaws.

It would be equally unreasonable for the Board to attempt to amend the Declaration using documents they claim are from 2006. If they seek to amend the Declaration in 2023, they need to provide notice and put the matter to a member vote.

Selective Enforcement

“Selective enforcement is when the homeowners' association enforces a particular rule against only one homeowner, or possibly against a small group of homeowners, but does not enforce that same rule against the entire community.”²⁹

Not making Chavez pay annual dues is a form of *selective enforcement*, because the Association punishes others for the same behavior. See Declaration § 5.3 and Bylaws Article III § 9.



Timothy Hinker, DRC Chair 2018, violating Declaration § 11.6 Boats and Motor Vehicles

29. Tamra Ferguson, Esq., Facts About Selective Enforcement By An HOA, HOPB
<https://www.hopb.co/blog/facts-about-selective-enforcement-by-an-hoa>

Timothy Hinker, DRC Chair 2018, modified his driveway to accommodate his camper, yet he told other members they were not allowed to park campers or trailers on their property. See Declaration § 11.6.

Of course, these examples directly involve members of the Board, demonstrating the abject hypocrisy of the Association in its arbitrary and capricious enforcement of rules.

Probably the best example of selective enforcement in the El Mirador subdivision involves Henry Trost, who is the most prolific and serial violator of Association rules in the history of the Association.

What action was taken by the Board in response to Trost's years-long history of multiple violations?

They appointed him Chair of the Design Review Committee.

He has been rewarded by the Board for his behavior, placing him in charge of enforcing rules he refuses to follow personally.



Henry Trost, 104 Puesta Mirador, Violating Declaration § 11.6; Guidelines § 2.1.2

For a number of years Trost has had numerous junk vehicles stored in his driveway, as you can easily see using Google Maps.

These two examples of successive DRC Chairs violating Association rules should upset every member of the Association.

Except it doesn't. Members vote for these people to run the Association every year.

Of course, the Board finds the issue of selective enforcement acceptable.

Nonenforcement and Favoritism



Timothy Hinker explains to Homeowner X that the Association is not concerned about dirt his neighbor dumped in his yard

The rules have existed since 1988. Every Director of the Association is required to certify that they have read and understand the community documents.

And so, it is a mystery how the Board expects members to believe they don't see things right in front of them, almost as if they are laughing at us.

In the above photograph, Timothy Hinker, DRC Chair 2018, is explaining to Homeowner X that the association is not concerned about the pile of dirt that David and Judi Pierce, 229 Avenida Mirador, dumped in our yard during their driveway expansion of January 2019. Technically it was their workers, but they knew it had occurred and were responsible.

There are rules regarding trash, trash receptacles and construction debris.

Hinker, however, is unconcerned about the construction debris and trash piled along the side of the Pierce's property. See Declaration § 11.9; Guidelines §§ 2.1.11, 5.4.

This is a perfect demonstration of the Association's policy regarding nonenforcement when their friends are involved.

Some people in the subdivision can do whatever they want without fear of enforcement: park campers and vehicles in the street overnight, park trailers in their driveway, dump dirt in their neighbor's yard, shine a spotlight in their neighbor's bedroom window, etc. Others cannot.

Favoritism is a serious problem here and it needs to stop:

"With power, of course, comes the potential for abuse. Therefore, the Association must be held to a high standard of responsibility: "The business and governmental aspects of the association and the association's relationship to its members clearly give rise to a special sense of responsibility upon the officers and directors.... This special responsibility is manifested in the requirements of fiduciary duties and the requirements of due process, equal protection, and fair dealing." ³⁰

The Board for our subdivision is in significant breach of its duties to members; due process, equal protection and fair dealing are nonexistent within the El Mirador subdivision:

"When a homeowners' association seeks to enforce the provisions of its CCRs [Declaration] to compel an act by one of its member owners, it is incumbent upon it to show that it has followed its own standards and procedures prior to pursuing such a remedy, that those procedures were fair and reasonable and that its substantive decision was made in good faith, and is reasonable, not arbitrary or capricious." ³¹

Given the amount of time the current Board has been in power it does not seem reasonable to expect them to suddenly stop acting in self-interest and begin putting the welfare of the Association and its members ahead of their own wants and needs. It would be unrealistic to expect the current Board of Directors to somehow develop into good leaders.

30. Cohen v. Kite Hill Community Assn. (1983) 142 Cal. App.3d 642, 650-651 [191 Cal. Rptr. 209]; (See Raven's Cove Townhomes, Inc. v. Knappe Development Co.)

31. Ironwood Owners Assn. IX v. Solomon (1986) 178 Cal. App. 3d 766, 772, 224 Cal. Rptr. 18



Henry Trost, Association Vendor and Design Review Committee Chair 2020-2023

The Curious Case of Henry Trost

Henry Trost, for reasons that have never been explained to me, is the sole vendor of the Association. He receives tens of thousands of dollars each year while being unsupervised and not required to prove he has accomplished any of the work he is paid to perform.

Officially, he was “awarded” the Common Area Maintenance Contract after Francis Jankel, the significant other of Association Treasurer David Chavez, Jr., “retired” from being the sole vendor of the Association.

The Board has a long history of giving Association monies to each other, and they do not like answering questions about it. **This needs to change.**

In the minutes of an April 2017 Special Meeting, it is falsely claimed that Henry Trost submitted the “only bid” to a Request for Proposal for a Common Area Maintenance Contract. Even Doyle admitted this is untrue.

Trost was allowed to take part in the Association's RFP creation, giving him a tremendous advantage over any outside contractor.

When competitive bidding, a common sense of fairness precludes competitors from being involved in the creation of the bid or of the bid process itself. By having access to information unavailable to other bidders, and in knowing what others have bid, Trost had an unfair advantage over everyone else.

Trost was allowed to insert things into the Proposal that caused outside bids to drastically inflate their costs. In this way his "bid" could be lowest while remaining costly to members. This is indicated by available evidence.

The Association's Request for Proposal was fundamentally dishonest. The goal of the Board was for Trost, and only Trost, to be awarded the contract.

The Board has a duty of ordinary and reasonable care to members that it breached in its efforts to ensure Trost received the contract for common area maintenance. Afterward, the Board continues to breach its duty as fiduciary by not requiring Trost perform many of the agreed obligations of the contract for common area maintenance.

The Board's loyalty is to *Henry Trost*, not to the Association or its members.

After awarding Trost the contract, the Board raised Regular Assessments in order to pay the increased fees to Trost and not for the purposes of the Association. **On average, Common Area expenses paid to Trost annually amount to 67.01% of the total expenses for the Association.**

Common Area repairs are rarely accompanied by information regarding what was repaired, only vague explanations, i.e., "Irrigation Phase 1" for \$13,873.73. The Board's financial irresponsibility is patently negligent.

We are paying full price for substandard work. We deserve to know what we are buying and should receive warranties for our investment.

Association Payments to Trost 2017 - 2021

2017: Common Area expenses **paid to Trost**, either as an expense due to his contract or as a separate Common Area repair: **\$ 31,838.65**, equaling **67.98%** of the total annual expenses for the Association.

2018: Common Area expenses **paid to Trost**, either as an expense due to his contract or as a separate Common Area repair: **\$ 36,634.17**, equaling **74.67%** of the total annual expenses for the Association.

2019: Common Area expenses paid to Trost, either as an expense due to his contract or as a separate Common Area repair: **\$ 34,870.26**, equaling **68.46%** of the total annual expenses for the Association.

2020: Common Area expenses **paid to Trost**, either as an expense due to his contract or as a separate Common Area repair: **\$ 30,182.51**, equaling **50.29%** of the total annual expenses for the Association.

2021: Common Area expenses **paid to Trost**, either as an expense due to his contract or as a separate Common Area repair: **\$ 43,588.67**, equaling **73.65%** of the total annual expenses for the Association.

Design Review Committee Chair

In 2020 the Association's Board appointed Henry Trost as Design Review Committee Chair. No records exist of the meeting in which the appointment was made, and no explanation was given for why they considered him to be a good choice for the role.

Trost's appointment was to replace the previous Chair, Timothy Hinker, and was improperly made pursuant to Declaration § 10.1 *Appointment of Design Review Committee* and Bylaws Article II § 3 *Special Meetings*.

Hinker abruptly sold his home and moved from the subdivision after only a few years.

Trost has a history of petty and vindictive behavior against members who dare to criticize or cross him. He has used his position in the Association against me and my family, but there have also been others.

The Board allows Trost to use his committee assignment to act against people who question his performance as the Association's vendor.

Prolific and Serial Violator of Association Rules

Trost is undoubtedly the single most prolific and serial violator of Association rules in the history of the El Mirador subdivision. The hypocrisy is astounding.

He doesn't even pretend to follow the rules, and the Board does not care. They don't enforce the rules against each other or their friends.

Rules are for everyone else. **This needs to stop.**

The amount of hypocrisy involved in the Board's decision to make Trost DRC Chair is immeasurable. No Association purpose is served by this decision.

The issue is compounded by Trost's apparent incomprehension of the rules. That, or he intentionally misconstrues them against Association members.

Let's examine the Association's fondness for claiming everything is prohibited. Under the law, unless something is expressly prohibited by rule, it is generally allowed:³²

"Thus, the court explained that the construction of a covenant will not preclude any property use that is "not plainly prohibited" by the restriction's clear language. (Quoting Bear v. Bernstein, 251 Ala. 230, 36 So.2d 483, 484 (1948))."

If no rule prohibits, for example, flag poles in back yards, then members can install flag poles in their back yards.

If the Association does not want flag poles in back yards, it needs to create a rule *prohibiting* them.

However, that would not apply to flag poles in existence *prior* to the rule.



104 Puesta Mirador, this aluminum ladder was left in place for more than 14 years, Jan 2008 – November 2022

32. Sporn v. Overholt, 175 Kan. 197, 262 P.2d 828, 830 (1953).



104 Puesta Mirador, Multiple Violations Declaration §§ 11.1 Residential Use, 11.5 Nuisances, 11.9 Garbage, 11.12 Fires



104 Puesta Mirador, Violations of Declaration §§ 11.1 Residential Use, 11.5 Nuisances, 11.9 Garbage , 11.11 Safe Condition

Henry Trost's residence, 104 Puesta Mirador, is the site of multiple rule violations that have existed for more than a decade.

No fewer than seven major violations exist there: Declaration §§ 11.1 *Residential Use*, 11.5 *Nuisances*, 11.9 *Garbage*, 11.11 *Safe Condition*, 11.12 *Fires* and Guidelines §§ 2.1.3 *No Visible Storage Tanks*, 5.4 *Debris and Trash Removal*.

The Board is well aware of these many violations. Years ago, I sent them an official complaint about Trost's long-term, multiple rule violations, which they summarily ignored.

They didn't need me to tell them, they've always known about his violations.

According to one member of his family, it took Trost more than ten years to build his residence, which is an additional violation, Guidelines § 3.12 *Commencement of Construction*.

Each member essentially has two years to complete any approved project, such as the construction of a new residence.

From the date of approval, you are allowed one year in which to commence construction. After commencement, you have one year to complete the project.

Of course, you can ask for an extension of time, but probably won't get nine extensions. Trost is special, and I'd bet he never asked for any extension, anyway.

The irony of this is that Trost and Hinker accused me of violating that very Guideline. They both have an affinity for accusing others of things they have done. Hypocrisy is clearly a virtue with the Board and Committees.

At any rate, Trost has stacks of bricks and other construction debris from when his house was built, as well as scaffolding, ladders and other contractor equipment stored and strewn about his lot. All violations of rule.

He operates a contracting business from his residence in violation of Declaration § 11.1 *Residential Use*.

Of course, the Association is aware, the Board is his customer.



Judith Pierce shining a spotlight into the bedroom window of Homeowner X while giggling into her phone

Hostile Environment

The Federal Housing Administration uses a 'reasonable person standard' under which hostile environment harassment is assessed: ³³

"Whether unwelcome conduct is sufficiently severe or pervasive as to create a hostile environment is evaluated from the perspective of a reasonable person in the aggrieved person's position."

In the image above, our neighbor Judith Pierce can be seen shining a very bright spotlight into our bedroom window. What is not evident in the photo is that she is giggling on the phone with her brother-in-law, Richard Pierce, who gave her the spotlight as a gift.

How very *white trash* of Judi, she did a happy dance and everything.

I am not sure about any of you, but I have never done anything like this, even as a child. I suspect that you would have to find a trailer park in a seedy part of town to find other people who enjoy this type of behavior.

Her conduct is certainly unwelcome, and there is much more to this story than this single incident, but it is a perfect illustration of her irrational behavior and the hostile environment our Association fosters against us.

33. 24 CFR § 100.600 (a)(2)(i) (hostile environment harassment, totality of the circumstances)



David Pierce parking in Homeowner X's driveway, leaving his car overnight

David and Judith Pierce

David and Judith Pierce, from all outward appearances, look like the All-American couple.

David is an attorney with a law practice in El Paso, Texas, and Judi is a karen who practices in New Mexico, Texas and Maryland.

You might be asking yourself, "What causes a successful karen to transform into someone who shines bright lights into people's windows at night?"

The simple answer to that question: a sense of entitlement combined with a natural talent for being obnoxious.

In a previous section I mentioned that we purchased a property within the subdivision in August 2018. It sat empty for the previous 5 years, and its sale was a short topic for discussion in this somewhat sleepy neighborhood.

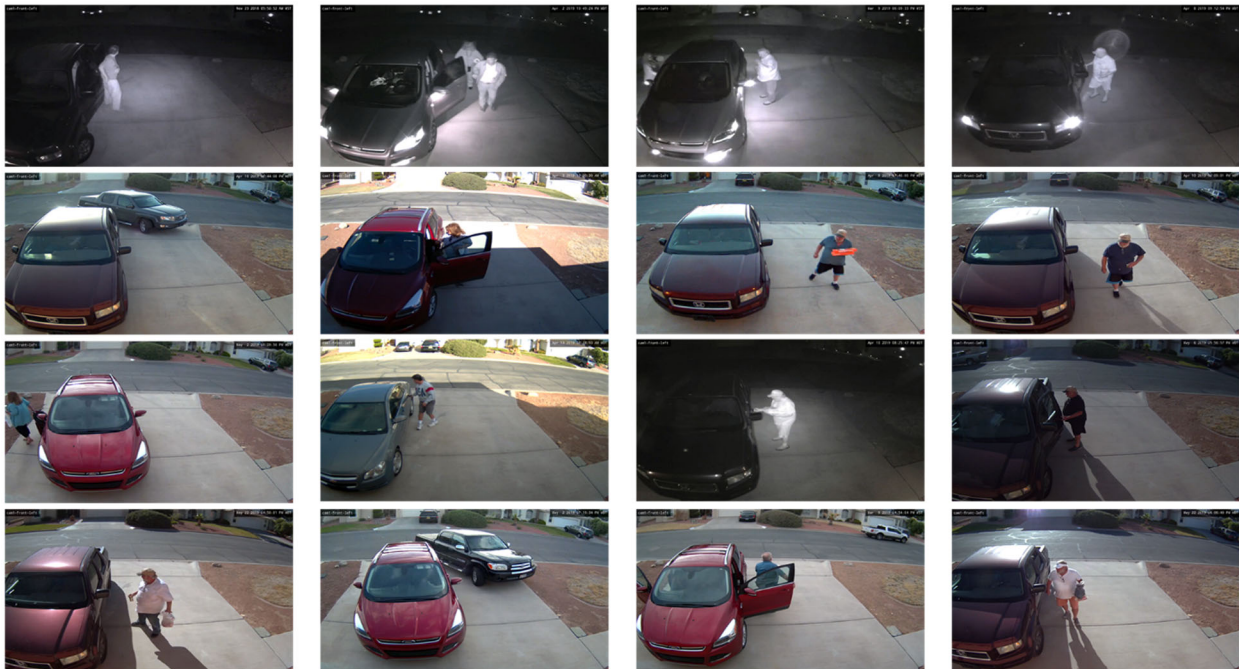
After our purchase, we made a number of changes. One of which was raising the rock walls on each side, which required the permission of neighbors on each side.

Needless to say, everyone knew the house was no longer vacant. That, however, did not discourage the Pierce's from using our driveway.



Vehicle belonging to Richard and Debra Pierce parked in Homeowner X' driveway, blocking entry

The Pierces and their guests parked in our driveway hundreds of times, often overnight and at times for days, for almost a year.



David and Judi Pierce, and their guests, parking in Homeowner X's driveway, often overnight, for almost an entire year

Often, we could not park in our own garage or driveway.

In addition to using our driveway as if it were their own, the Pierce's expanded their driveway in January 2019, dumping the dirt and debris from their project into our yard. Despite expanding their driveway, they continued parking in our driveway for another five months.



Judi Pierce upset about being asked to remove dirt they dumped in Homeowner X's yard 7 months earlier

Finally, we had to ask the Pierce's to stop using our driveway and quit dumping dirt and debris into our yard. This became a contentious issue.

Judi Pierce began a smear campaign. Suddenly we were bad people, and the Association was all too eager to join forces with the Pierces.

A hostile environment resulted that continues to this day.

While the Pierce's did ultimately stop parking in our driveway, they instead began blocking it with their vehicles.

Notice in the picture above that it is 30 days after discussing the matter of the Pierce's many violations with Timothy Hinker, DRC Chair 2018.

The Association would not enforce against any rule violations of the Pierces. The debris in the photo had been there for six months already.



Richard Pierce blocking the driveway of Homeowner X after being asked to stop parking there

The Association willingly allowed the Pierces to dump debris in our yard, park in our driveway, block our driveway, etc. for more than a year.

On the day of the Walmart Shooting, Judi called the Doña Ana County Sheriff's Office ("DACSO") over a drone flight occurring two days prior.



Doña Ana County Sheriff's department responding to Judi Pierce's complaint about a drone, August 3, 2019

DACSO responded *en masse* to a civil complaint that required no action.



Richard Doyle photographing license plate of visitor to Homeowner X after Judi Pierce complained

Judi complained about our visitor and Doyle photographed their plates.



David Pierce bringing their dog to urinate in Homeowner X's yard

The Pierce's made it a habit to bring their dog into our yard to urinate.



An apparently intoxicated Judi Pierce taking photos of Homeowner X's lights and cameras, dancing and yelling "illegal lights"



An apparently intoxicated Judi Pierce taking photos of Homeowner X's lights and cameras, dancing and yelling "illegal lights"

In an apparently drunken tirade, Judi laments "illegal lights."



Judi Pierce taking photos of Homeowner X license plate and camera



Judi Pierce takes photos of Homeowner X residence and camera

Judi's hobby is photographing Homeowner X's residence.



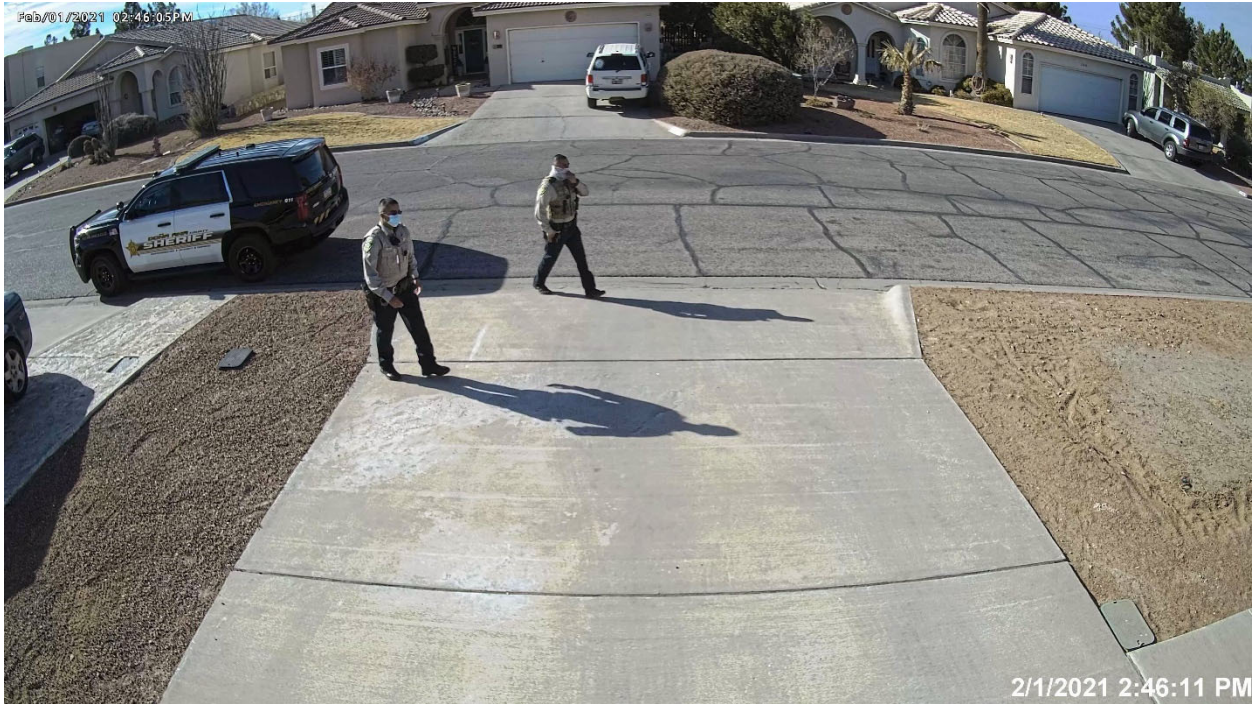
Henry Trost, DRC Chair, visiting Pierces the same day they install new shed in violation of Guidelines § 2.1.3

Trost assured Judi during his visit on Sep 25, 2020, that any complaint from Homeowner X to the Association would fall on deaf ears.



Henry Trost, DRC Chair, delivered confidential Association documents of Homeowner X to the Pierces more than once

Through Trost, the Association breaches its duty of confidentiality.



Doña Ana County Sheriff's department responding to Pierce complaint regarding website, elmiradorhomeowners.com



Doña Ana County Sheriff's department responding to second Pierce complaint regarding website, elmiradorhomeowners.com

The Pierce's complained twice more to DACSO about a website. Despite law school and a career in law, David lacked knowledge and understanding of the 1st Amendment to the United States Constitution.



Judi Pierce complaining in Association meeting that she cannot “stargaze” because of Homeowner X’s “illegal lights”



Pierce’s camper and vehicle parked on street overnight for 5 consecutive days

Obviously, a lot of water has flowed under the bridge separating Homeowner X and the Pierces. This is just a small sample.

Timothy Navrkal

Henry Trost has recently expanded his efforts to promote and support a hostile environment against us in recruiting Timothy Navrkal.

Some background on Navrkal would be appropriate:

For years, there was a young couple living at 232 Avenida Mirador who had three minor children, all girls. This house is directly across from ours, and over time our surveillance system had alerted me to a pattern. Using AI (Artificial Intelligence) is invaluable in alerting to things like gunshots, screams, behavioral patterns, facial recognition, people falling or running, etc., unless you just have time to watch your camera feeds continuously.

At any rate, a male had a pattern of turning his head to look at that house each time he went by, sometimes more than once in a day. I sent the flagged video clips to the father of the young girls. I was able to identify the male as being Timothy Navrkal.

In a conversation with the mother of the young girls she said that Navrkal “was known to them” and related that, more than one time, he had been watching her young girls in their back yard from the street running behind their property.



Timothy Navrkal acting suspiciously, leaving the yard of 232 Avenida Mirador January 30, 2020



Timothy Navrkal acting suspiciously, observing 232 Avenida Mirador two hours later after changing clothes January 30, 2020



Timothy Navrkal acting suspiciously, peering into 232 Avenida Mirador February 6, 2020

In these photos Navrkal demonstrates an unnatural obsession with 232 Avenida Mirador. Without any doubt, Mr. Navrkal deserves a high level of attention if he takes an interest in your children or property.



Timothy Navrkal acting suspiciously, intently observing 232 Avenida Mirador April 5, 2020

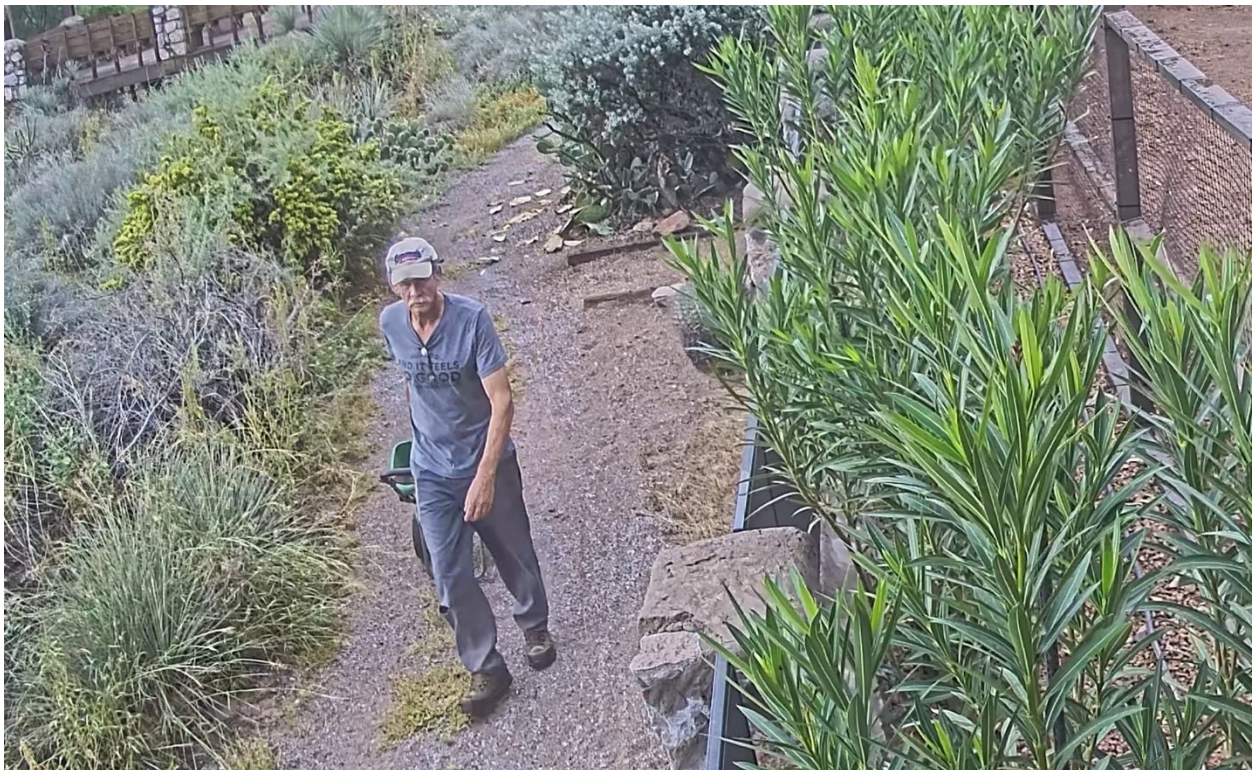


Timothy Navrkal acting suspiciously, reconnoitering the rear property of Homeowner X, Sep 25, 2022

I was recently alerted about Navrkal, this time observing our property.



Timothy Navrkal acting suspiciously, reconnoitering the residence of Homeowner X, Sep 25, 2022



Timothy Navrkal dumping approximately 22 lbs. of granular pesticide along the rear property of Homeowner X, Sep 26, 2022



Henry Trost, 20 minutes later with granular pesticide and spreader used by Navrkal, Sep 26, 2022

20 minutes after Navrkal dumped the granular pesticide on the walking path along our rear fence line, Henry Trost drove by in the Association's ATV with the pesticide and applicator used earlier by Navrkal.

Apparently Trost wanted to send a message. The problem is, he uses Association resources and his role as DRC Chair to commit wrongful acts against a member of the Association and has made effort to enlist Timothy Navrkal's assistance to commit wrongful acts.

And people wonder why Association legal fees are so high. If this continues, they will become astronomical.

We are all paying good money for the bad behavior of the Board and Henry Trost. No work on the streets has occurred in years. Infrastructure will be a very large cost at some point in the near future.

But at least David Chavez, Jr. doesn't pay Regular Assessments and Henry Trost gets a check every month.

It seems their needs are being met, to the detriment of ours.

Solutions

I think the solutions to our Association problems are very simple:

1. **Elect an entirely new Board of Directors.** The current Board has been in charge for years, many for a decade or longer, and the Association is in terrible shape. The Common Area is in poor condition and gets worse every year while costing more and more to “maintain”. These are simple problems to resolve yet seem insurmountable by the existing Board. They seem incapable of simple honesty and fairness.

If the Association is even anything we want to continue, it needs new rules, reasonable and fair ones that apply to everyone. There should be an enforcement process, a system of reasonable fines and a process for appealing decisions of the Board and Committees.

Or dissolve the Association and create an entity for maintenance of the streets and common areas, leaving the homes out of it.

2. **Enforce the rules fairly, or not at all.** Personally, I am done with the Board and its Committee's continuous harassment. Expect high legal bills in the future if things remain the same.
3. **The Common Area.** Why does it cost so much to maintain yet is in such terrible shape? The walking paths are rutted ATV tracks, the gazebos are in poor condition, essentially dry rotting, and most of the Common Area is ignored in favor of the putting greens. Hardly anyone uses the greens. Almost everyone might use the walking paths if they were maintained well enough to walk on, according to contract.

The Common Area should be more than Henry Trost's personal ATV course and his shortcut to other parts of the Association. In fact, the continuous use of the ATV has destroyed the walk paths to the extent it should no longer be allowed in the Common Area at all.

4. **Repeal Declaration § 5.10 Homestead Waiver.** No homeowner should worry about losing their home to dishonest, disreputable people who manage to secure a position on the Board or Committee. There is no excuse for this section of the Declaration to remain in 2023.