

**VENTURA PENA RESIDENCE
356 AVENIDA MIRADOR
SANTA TERESA, NM 88008**

356 Avenida Mirador Aerial 1

Self dealing by the El Mirador HOA Board and Committee.



Photo taken July 2019, two months prior to the secret modification of Design Review Guidelines. This is a serious violation.

Design Review Guideline § 2.2.16
2.2.16 Driveways. Concrete shall be the only material allowed in constructing driveways in the Subdivision.

**VENTURA PENA RESIDENCE
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356 Avenida Mirador Aerial 2

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2.2.13 **Service Yard.** Walls are required as screening for a service yard, if any, to enclose all above-ground garbage and trash containers, and other outdoor maintenance and service facilities.

2.2.14 **Foundations.** All exterior wall materials must be continued down to finish grade thereby eliminating unfinished foundation walls.

2.2.15 **Additional Construction and/or Exterior Changes.** Any changes to the approved plans before, during, or after the construction of an improvement must first be submitted to the Design Review Committee for approval.

2.2.16 **Driveways.** Concrete shall be the only material allowed in constructing driveways in the Subdivision.

3. DESIGN REVIEW PROCEDURES

3.1 **Submission of Plans.** Plans and specifications shall be submitted to the Design Review Committee in accordance with the following submittal and Review procedures.

3.2 **Review of Plans.** The Design Review Committee shall conduct reviews of plans during its regular meetings or at such other times as it is deemed appropriate. Owners, architects, or builders shall have no right to attend any meeting of the Design Review Committee unless specifically requested by the Design Review Committee. Plans submitted will be marked "APPROVED" or "DISAPPROVED," whichever the case may be, by the Design Review Committee, and dated as of the date of approval or disapproval. At least one copy of such plans shall be returned to the submitting Owner within 10 working days after the review (but no later than 30 days after a submittal is complete), provided that the plans are in accordance with the requirements outlined in these Design Guidelines. 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.

3.3 **Pre-Design Meeting.** Prior to preparing preliminary plans for any proposed improvement, each Owner and/or his or her architect shall meet with a Design Review Committee member to discuss proposed plans, identify the location of the Lot on which construction is planned, and explore and resolve any questions regarding building requirements.

3.4 **Preliminary Submittal.** Preliminary plans, including all of the materials outlined below, are to be submitted to the Design Review Committee after the Pre-Design meeting.

3.4.1 All preliminary plans shall be dated and clearly marked with the name of the Owner submitting such plans and with the address of the Lot for which such plans are being submitted. Additionally, all preliminary plans shall be submitted in duplicate and shall include:

(a) Site plan showing the location of the residence and all buildings or other structures and improvements, driveway and parking areas, the location of all existing utility lines and proposed utility hook-ups and tap-ins, a grading plan, including existing and proposed topography, and specifying elevation at the top of the curb at the midpoint between the Lot's side property lines and showing areas to be landscaped.

(b) Survey prepared by a licensed surveyor or civil engineer showing the Lot boundaries and dimensions, topography on a scale standard in the industry for similar projects, major terrain

Minutes EMHA Board of Directors Meeting February 2017

EL MIRADOR HOMEOWNER'S ASSOCIATION BOARD OF DIRECTORS MEETING – Santa Teresa Volunteer Fire Station – February 7, 2017 - Minutes

Board of Directors President Richard Doyle called meeting to order at 7:17 pm.

Board of Directors in attendance: David Chavez, Jr., Richard Doyle, Linda Corley, Ventura Pena, John Reich and Judith Okelberry. Absent: Joaquin Tadeo

Homeowners in attendance were: F. Charles Jankel, Teddie and Elmer Ford, Lanny Okelberry, Norma and Bill Scheller, Henry Trost and Tim Navrkal.

Minutes of December 6, 2016 meeting were presented and reviewed; Motion by John Reich to approve minutes, Second by Linda Corley. Approved unanimously.

REPORTS

- Treasurer David Chavez, Jr., presented Financial Report for the period January 1, 2016 through December 31, 2016. The Association had a net loss of \$11,021.07 for the period ending December 31, 2016.

Mr. Chavez presented the Board with a list of Delinquent Accounts as of 02/07/17. Two (2) liens have been filed; two (2) liens in progress and two (2) will be filed after April 1, 2017; two (2) other accounts are being monitored for possible filing of liens.

- Common Area Oversight Chair Linda Corley reported that the Request for Proposal for Common Area Maintenance is ready. Copies are available for those interested in submitting RFP.

- Design Review Committee Chair John Reich reported that approval was granted for request to install solar panels at 328 Avenida Mirador.

Request for approval of parking in front yard at 32 Trevino was denied.

Mrs. Hahn has sold 16 Trevino Road; a request to build a home has been submitted and approved.

- Neighborhood Watch Committee Chair Ventura Pena reported that he continues to monitor the Neighborhood and that violations of the **NO PARKING** ordinance have vastly diminished.

OLD BUSINESS

- Nine (9) homes are for sale in the Community.
- Four (4) homes are rental properties. Lease on file for 116 Avenida Mirador; 116 Puesta Mirador, 312 and 316 Avenida Mirador are vacant.
- Letter from Attorney Robert A. Skipworth regarding drones was read and made a copy of the minutes. The lack of federal, state and local laws regarding drones makes it impossible for the Association to enact regulations at this time.
- Update on status on Request for Proposal covered under Common Area Oversight report above.
- David Chavez, Jr. reported that he is still in talks with Tennis West regarding discounted memberships for EMHA residents.
- Letter was sent to Greg Collins regarding concerns of Linwood Carr at 252 Avenida Mirador.

Minutes EMHA Board of Directors Meeting February 2017

NEW BUSINESS

Treasurer David Chavez Jr presented Proposed Budget for 2017-2018. He noted that the Budget would most likely need to be adjusted once the new Common Area Maintenance Contract was finalized. Judith Okelberry moved, seconded by Linda Corley to approve proposed budget. Budget was approved unanimously.

- Candidates for Board of Directors for the election to be held on March 7, 2017 at the Annual Meeting are: Richard D. Doyle; David Chavez Jr; John Reich; Linda Corley; Judith Pierce; Ventura Pena; Joaquin Tadeo and Elmer Ford.
- Property Owner of 101 Avenida Mirador requested that the BOD consider his request to trade a portion of his property for the \$9070.82 owed to EMHA. John Reich moved, seconded by Linda Corley to deny said request. Motion passed unanimously.

PUBLIC COMMENT

- Mr. Elmer Ford stated that he was appealing the denial of his request to install a driveway in his front yard. Discussion followed the request; the main argument against the request was that it would set a precedent where Owners with many vehicles would request to do the same. After discussion, the DRC once again declined the request.

Meeting adjourned at 7:54pm

Next Meeting: Annual Meeting 03/07/17

Prepared by
David Chavez, Jr., Secretary/Treasurer

2019 Amendment to Design Guidelines

EXHIBIT D

DESIGN REVIEW GUIDELINES

**EL MIRADOR HOMEOWNERS
ASSOCIATION, INC.**

EFFECTIVE OCTOBER 1, 2019



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COVENANTS

SEP 18, 2019 01:28:46 PM PAGES: 18

Deputy: Laiza Rodriguez

Amanda López Askin, County Clerk, Dona Ana, NM

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Exhibit D

DESIGN GUIDELINES FOR EL MIRADOR SUBDIVISION

These Design Guidelines are effective as of October 1, 2015. They are promulgated pursuant to Section 10 of the Declaration of Covenants, Conditions and Restrictions for El Mirador Subdivision (the "Declaration"), first recorded November 22, 1988, as Instrument No. 2100, in the official records of Doña Ana County, New Mexico, and thereafter amended from time to time. Except to the extent otherwise indicated herein, the initially capitalized terms used in these Design Guidelines shall have the meanings assigned to them in the Declaration.

1. GUIDELINES BINDING

These Design Guidelines are binding upon all persons who at any time construct, reconstruct, refinish, alter or maintain any improvement upon the Property, or make any change in the natural or existing service, drainage, or plant life thereof. These Design Guidelines are administered and enforced by the Design Review Committee in accordance with the Declaration and the procedures herein and therein set forth. These Design Guidelines may be amended from time to time, and it is the responsibility of each Owner or other person to obtain and Review a copy of the most recently revised Design Guidelines.

2. LANDSCAPE AND ARCHITECTURAL DESIGN STANDARDS

2.1.1 **Lot Restrictions.** No more than one single family residence together with a garage and such accessory buildings as shall be permitted by the Design Review Committee, may be constructed on any Lot. No multi-family residences, and no building used for non-residential purposes shall be permitted.

2.1.2 **Parking Spaces.** Each Lot shall contain parking space for at least two automobiles in an enclosed garage either attached to or detached from the main structure of the residence. Additional parking is encouraged to accommodate guest parking. No parking of any vehicle as defined in **MOTOR VEHICLE** below shall be allowed outside of driveways as approved by the Design Review Committee; parking in landscaped areas is strictly prohibited. Violation of the aforementioned is subject to fines as allowed by the Declaration of Covenants, Conditions and Restrictions for El Mirador Subdivision. No overnight on street parking will be permitted. Vehicles parked in violation of this restriction will be towed after being issued appropriate warning.

(a) **Vehicles.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ABANDONED Any motor vehicle that does not display a current license plate and is left unattended for a period exceeding 72 consecutive hours.

DISMANTLED Any motor vehicle that has been disassembled to any degree, which renders it inoperable.

INOPERABLE or INOPERATIVE Any motor vehicle incapable of operation upon any street or highway in compliance with the laws of this jurisdiction.

MOTOR VEHICLE Any vehicle that is designed to be self-propelled and travel along the ground and includes but is not limited to automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, recreational vehicles, and motor homes.

WRECKED Any motor vehicle that is disabled or in a state of ruin or dilapidation which renders it inoperable.

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1. No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind which is abandoned, or which is in a wrecked, dismantled, partially dismantled, or inoperative condition, whether attended or not, or parts of any such vehicle, upon any property within the Subdivision for a period of time in excess of 72 hours. The presence of an abandoned, wrecked, dismantled, partially dismantled, or inoperative vehicle or parts thereof on any property within the Subdivision in violation of this article is declared a public nuisance.

2. Exceptions.

(a) The prohibitions in this section shall not apply to any vehicle or parts thereof within an enclosed area and out of public view.

(b) Responsibility for removal; notice.

The owner of an abandoned, wrecked, dismantled, partially dismantled, or inoperative vehicle parked, stored, or left in violation of this article, and the owner or occupant of any Property on which such vehicle is located, either, or all of them, shall be presumed responsible for parking, storing, or leaving such vehicle in violation of this shall be presumed responsible for parking, storing, or leaving such vehicle and shall be responsible for its removal from the Property.

2.1.3 **No Visible Storage Tanks.** All fuel tanks, water tanks, or storage facilities shall either be constructed or shielded from view by walls or structures, or shall be installed or constructed underground and must be approved by the Design Review Committee.

2.1.4 **Site Drainage and Grading.** Necessary cut and fill slopes shall have a maximum slope of 4 horizontal to 1 vertical and must be landscaped with erosion control vegetation within 30 days of being cut or filled. Site grading shall not cause drainage to adjoining Lots, except as established by previously existing natural drainage patterns, nor cause a condition that could lead to soil erosion on open spaces.

2.1.5 **Setbacks.** Lots shall have minimum twenty-foot setback from all streets. Side yards shall have a set back of 10% of the Lot width on each side measured at the front setback line. Additionally, Lots with back yards abutting the Golf Facility shall have minimum thirty-foot rear setbacks from said Golf Facility. Other lots shall have a twenty-foot (20') rear setback.

2.1.6 **Natural Drainage.** Natural drainage easements have been established, they must remain unaltered and unobstructed. As with any wash, improvements designed and constructed to bridge these easements are generally permitted, but must be accompanied by a backwater flood analysis prepared by a licensed civil engineer ensuring the safety and feasibility of the design, subject to review and approval of a civil engineer retained by the Design Review Committee.

2.1.7 **Swimming Pools.** Swimming pools are allowed but may not be constructed above ground level. All improvements must be constructed according to laws, ordinances and regulations of applicable municipalities and must be approved by the Design Review Committee.

2.1.8 **Signage.** Non-lighted address identification signs for each Residence must conform to the design approved by the Design Review Committee and must be installed by each Lot Owner. No additional signage will be permitted, except temporary construction signs, real estate signs, or others as permitted by the Declaration and approved by the Design Review Committee.

2.1.9 **Mail Boxes.** No individual mailboxes are permitted. Cluster boxes are located in the Subdivision.

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2.1.10 **Flag Poles.** No flagpoles shall be erected in any front yard. Flags may be flown from hangers attached to walls.

2.1.11 **Trash Receptacles.** No garbage/trash cans/receptacles should be visible from the Private Streets. Garbage/trash cans shall be removed from the Private Streets on the same day that garbage is picked up.

2.1.12 **Drones**

- a) The use of any Model Aircraft, as that term is defined in Section 336(c) of the FAA Modernization and Reform Act of 2012, or any small unmanned aircraft system (UAS) that is governed by Federal Aviation Administration (FAA) rules now or hereafter in effect (collectively, "Drones") and the operator of a Drone (the "Drone Operator") within the Association are governed by this Drone Resolution and Policy. (This policy applies to all drones or model aircraft.)
- b) Lots in this policy are defined as a lot owned by a private person or parties located in Dona Ana County, New Mexico in an area defined as El Mirador Subdivision, and where the El Mirador Homeowners Association has covenants and other rules applicable to these properties.
- c) Drone Operators operating Drones on any EMHA Lots are solely responsible for ensuring their own compliance with all federal, state and local laws, regulations, and rules including but not limited to ensuring that all Drones do not operate over 400 feet above ground level, remain within the Drone Operator's line of sight as per FAA Regulations now or hereafter in effect regarding Visual Line of Sight Aircraft Operation.
- d) Use of a Drone for nuisance and unlawful purposes on any EMHA lot, or on any EMHA Common Areas (including the greens and Streets) including but not limited to voyeuristic purposes is expressly prohibited.
- e) Due to the potential for injury to persons, pets, real property and personal property, operation of Drones within the EMHA Common Areas (as detailed in paragraph b above) is prohibited, without written approval by the EMHA Board of Directors or its designees.
- f) The operation of Drones over or within 50 feet horizontal radius of unprotected persons and pets (that are not involved with operation of the Drone and who have not expressly consented to said Drone operation) and Association improvements is prohibited.
- g) Drone Operators may not operate Drones on any EMHA lots prior to sunrise and after sunset due to the potential for Drone noise to be a nuisance. The Board reserves the right to determine whether the noise from a Drone is a nuisance.
- h) Without the express permission of the surrounding Lot Owners or residents, a Drone may not be operated over any EMHA Lot, except for the Lot where the Homeowner resides. Additionally, any resident, who is not the lot owner, shall receive the lot owners, and surrounding neighbors, express permission before operating a drone on the lot.

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- i) Drone Operators are personally and solely responsible for any and all legal claims related to their use of a Drone, on any EMHA Lot, or Common Areas, including but not limited to trespass to property claims, nuisance claims, injury to persons and claims alleging damage to personal property (including pets) and real property.
- j) Drone Operators operating Drones on any EMHA Lot are encouraged to obtain a \$1 Million Dollar Liability insurance policy that covers at a minimum injury to persons, pets, real property and personal property.
- k) The Board of Directors shall have the authority to enforce the provisions of this Drone Resolution and Policy in any manner as provided by applicable law and the Association's governing documents, specifically, but not exclusively, Article 11.5 Nuisances and Article 11.20 Enforcement of the Declaration of Covenants, Conditions and Restrictions for El Mirador Subdivision.

2.2 Architectural Standards.

2.2.1 **No Reflective Finishes.** No highly reflective finishes (other than glass, which may not be mirrored) shall be used on exterior surfaces (other than surfaces on hardware fixtures), including without limitation the exterior of any of the following: roofs, all projections from roofs, retaining walls, doors, trim, fences, pipes, equipment and mailboxes.

2.2.2 **Height of Structures.** Residences of not more than two stories shall be permitted on all Lots except 2 through 7 in Block 8, all Lots in Block 9, and Lots 1 through 8 in Block 10, where single story residences only are permitted. Height limits of 34 feet and 17 feet shall apply to two story and single story structures respectively.

2.2.3 **Building Size.** No Residence shall be approved for construction with less than 1,700 square feet of living space which shall not include garages, porches or patios, exterior storage areas, or similar Improvements.

2.2.4 **Roofs.** All roofs shall be of material, color, and texture approved by the Design Review Committee. Roofs should be predominately flat or low pitch to reinforce the traditional horizontal desert architecture which emphasizes walls instead of roofs. Tile is preferred where sloped roofs are used. The overall appearance of the residence will be an important consideration. The color of the roofs must be approved by the Design Review Committee. Reflective roof surfaces which cause excessive glare are not permitted.

2.2.5 **Color.** The color of external materials must generally be subdued to enhance the colors of the natural landscape. Earth tones, generally muted, are recommended, although occasionally accent colors which are used with restraint may be permitted.

2.2.6 **Materials - Exterior Surfaces.** Exterior surfaces will generally be of natural materials that blend and are compatible with the natural landscape. Masonry, stucco, or traditional adobe are to be painted surfaces, particularly wood will not weather well in the desert conditions and will not be approved. Resident exteriors should reflect southwestern styles and materials and must be approved by Design Review Committee.

2.2.61 **Maintenance of Exterior Surfaces.** Exterior surfaces, including but not limited to stucco, paint, glass and any other materials utilized in constructing residence shall be maintained. All peeling paint, damaged stucco, broken windows etc. shall be repaired. Owner must make repairs

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within 30 days of being notified by the Association. Maintenance affects the visual character and economic values of the property and neighborhood and, in some cases, safety.

2.2.7 **Building Projections.** All projections from a residence or other structure including, but not limited to chimney flues, vents, gutters, down spouts, utility boxes, porches, railings, and exterior stairways shall match the color of the surface from which they project, or shall be of approved color.

2.2.8 **No Antennae.** There shall be no installation or maintenance of any antennae of any sort or any device for the reception or transmission of television, radio, microwave or other similar signals. 20" satellite dishes that are not visible from the street.

2.2.9 **Patios and Courtyards.** Patios and courtyards should be designed as an integral part of the architecture of the residence and must be approved by the Design Review Committee.

2.2.10 **Energy Conservation Devices.** No unsightly finishes, reflective surfaces (which cause glare to the Common Area or other Lots) or unsightly exposed piping and wiring shall be permitted on any solar energy collector panels or attendant hardware or other energy conservation equipment constructed or installed on any residence or other structure or improvement thereon.

2.2.11 **Landscaping.** Within thirty (30) days of completion of any residence or any other building, structure or improvement, each Lot shall be landscaped, and such landscaping shall be restored an/or maintained following any reconstruction, alteration or maintenance of any such residence, building, structure or improvement. Approved landscape changes shall be completed within 30 days of approval being granted by Design Review Committee. Any and all extensions to this time frame must be approved by Design Review Committee. If any residence is not landscaped within 30 days of such completion, the Homeowners Association shall have the right to install acceptable landscape thereon and shall bill property owner for the cost thereof. Each Owner shall install an underground irrigation system on his or her Lot which shall be adequate to maintain vegetation planted thereon. Landscape shall be of desert variety with allowance for up to 35% of front yard areas planted in grass. Where grass is absent preapproved gravel or "chat" must be used with proper weed barriers. Retaining prominent existing plant materials such as mesquite and greasewood bushes in front yards is encouraged where possible. Landscape plan must be approved by the Design Review Committee.

It is the Owner's responsibility to ensure that front yard is kept free of weeds and debris at all times. If Owner fails to make necessary cleanup after being notified by the Association, the Association may contract with a cleanup crew. All costs incurred in this process will be charged to the Owner as a Special Assessment as per Section 5.4 Special Assessments of the Declaration of Covenants, Conditions and Restrictions.

2.2.12 **Walls.** Walls of stucco or stone, if used as an accent detail, may be used for privacy and screening for cars and service areas of the residence. The color of the walls, if any, must conform to the same color standards as described above.

(a) Walls adjacent to the common area/golf facility must be constructed of stone and wrought iron as approved by the Design Review Committee.

(b) Walls shall be party walls if placed on the common property line between two (2) Lots, and shall not be removed by either property owner without the written consent of the other party and the Architectural Review Committee.

(c) Party walls may be constructed on the lot property lines such that rear yards and side yards are enclosed, subject to other limitations contained herein and in the zoning

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ordinance. The party walls shall be no more than four and one half (4 ½) feet in height, or as approved by the Architectural Review Committee so as not to restrict views.

(d) All party walls built on the common property line between two (2) Lots shall be built at the joint and equal expense of the two (2) Lot Owners. In the event a Lot Owner builds at his own expense a party wall between his Lot and an unsold Lot, one-half of the cost of said wall shall be chargeable to the purchaser of said unsold Lot at the closing of the transaction to purchase the previously unsold Lot.

(e) Proper weep holes or drainage shall be provided in all retaining walls.

(f) No fence or wall shall be erected or allowed to remain nearer the street than the front of the dwelling unless specifically approved by the Architectural Review Committee.

(g) No fence or wall may be erected, placed, altered, relocated or removed without the express written consent of the Architectural Review Committee.

(h) In the event any such party wall which does not form a structural part of a dwelling or garage is damaged or destroyed by some cause (including ordinary wear and tear and deterioration from lapse of time), other than the act of one of the adjoining owners shall proceed forthwith to rebuild or repair the wall to as good condition as formerly at their joint and equal expense, and each property owner shall maintain adequate insurance to protect against damage to said party wall.

(i) The rights and responsibilities of any owner to or from any other owner under this article shall be appurtenant to the land and shall pass to such owner's successors in title.

(j) In addition to meeting other requirements of these Restrictive Covenants and of any building code or similar regulations or ordinances, any owner proposing to modify, make additions to, or rebuild his party wall in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining owner.

(k) In the event of a dispute between owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the costs thereof, the matter shall be submitted to three arbitrators, one chosen by each of the owners and the third by the two so chosen. A determination of the matter signed by any two of the three arbitrators shall be binding upon the owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said party shall have the right and power to choose both arbitrators.

2.2.13 **Service Yard.** Walls are required as screening for a service yard, if any, to enclose all above-ground garbage and trash containers, and other outdoor maintenance and service facilities.

2.2.14 **Foundations.** All exterior wall materials must be continued down to finish grade thereby eliminating unfinished foundation walls.

2.2.15 **Additional Construction and/or Exterior Changes.** Any changes to the approved plans before, during, or after the construction of an improvement must first be submitted to the Design Review Committee for approval.

2.2.16 HAS BEEN IMPROPERLY DELETED

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3.1 **Submission of Plans.** Plans and specifications shall be submitted to the Design Review Committee in accordance with the following submittal and Review procedures.

3.2 **Review of Plans.** The Design Review Committee shall conduct reviews of plans during its regular meetings or at such other times as it is deemed appropriate. Owners, architects, or builders shall have no right to attend any meeting of the Design Review Committee unless specifically requested by the Design Review Committee. Plans submitted will be marked "APPROVED" or "DISAPPROVED," whichever the case may be, by the Design Review Committee, and dated as of the date of approval or disapproval. At least one copy of such plans shall be returned to the submitting Owner within 10 working days after the review (but no later than 30 days after a submittal is complete) provided that the plans are in accordance with the requirements outlined in these Design Guidelines. 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.

3.3 **Pre-Design Meeting.** Prior to preparing preliminary plans for any proposed improvement, each Owner and/or his or her architect shall meet with a Design Review Committee member to discuss proposed plans, identify the location of the Lot on which construction is planned, and explore and resolve any questions regarding building requirements.

3.4 **Preliminary Submittal.** Preliminary plans, including all of the materials outlined below, are to be submitted to the Design Review Committee after the Pre-Design meeting.

3.4.1 All preliminary plans shall be dated and clearly marked with the name of the Owner submitting such plans and with the address of the Lot for which such plans are being submitted. Additionally, all preliminary plans shall be submitted in duplicate and shall include:

(a) Site plan showing the location of the residence and all buildings or other structures and improvements, driveway and parking areas, the location of all existing utility lines and proposed utility hook-ups and tap-ins, a grading plan, including existing and proposed topography, and specifying elevation at the top of the curb at the midpoint between the Lot's side property lines and showing areas to be landscaped.

(b) Survey prepared by a licensed surveyor or civil engineer showing the Lot boundaries and dimensions, topography on a scale standard in the industry for similar projects, major terrain features, including rock outcroppings and washes and the location of any drainage easements. Any Owner submitting plans for approval to the Design Review Committee shall be responsible for the verification and accuracy of all Lot dimensions, grade, elevations, and the location of the key features of the natural terrain and drainage easements. Each Owner shall certify to the accuracy thereof before the Design Review Committee will undertake its review.

(c) Roof plan and floor plans (at no less than 1/8" = 1'0"), which shall include a summary of calculations of square footage with limitations prescribed in section

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2.2.3 of these Design Guidelines, and a construction cross section showing floor and elevation at highest point of roof.

(d) Exterior elevations (all) with both existing and proposed grade lines in same scale as floor plans.

(e) Indication of all proposed exterior materials and colors.

(f) Any other drawings, materials, or samples requested by the Design Review Committee.

3.4.2 To assist the Design Review Committee in its evaluation of the preliminary plans, the Owner shall provide preliminary staking at the locations of the corners of the residence or major improvements and at such other locations as the Design Review Committee may request.

3.5 **Preliminary Review** After the posing and comment period, and the staking of the Lot, the preliminary submission of the Owner, as specified in Section 3.4.1 will be deemed complete. The Design Review Committee will then review the preliminary plans together with any comments submitted by the Owners and provide a written response to the Owner as provided in Section 3.2.

3.6 **Final Submittal and Review** After preliminary approval is obtained from the Design Committee, final plans shall be submitted for final approval.

3.6.1 Final plans shall be dated and clearly marked with the name of the Owner submitting such plans and with the address of the Lot for which the plans are being submitted.

(a) Site plan (at a scale of no less than 1" = 20") showing the residence and all building or other improvements, driveway and parking areas, a grading plan, including existing and proposed topography, showing all elevations and cut and fill slopes, and direction and point of discharge of all drainage following completion of construction, utility depth, locations and connections, and finished floor elevations, including garage.

(b) Roof plan and floor plans (at a scale of no less than 1/8" = 1'0").

(c) Samples of all exterior materials and colors.

(d) Exterior elevations (all) with both existing and proposed grades shown.

(e) Complete landscape plan, showing: areas to be landscaped; proposed irrigation and drainage systems; proposed plants and size thereof; driveway, retainage, decorative features, etc., if not shown elsewhere on architectural plans.

(f) Planting plans.

(g) Cross section of structure indicating existing and proposed grade lines on the site.

3.6.2 Exterior building corners of the proposed residence and other improvements, including the driveway location if requested by the Design Review Committee, shall be staked on the site for the Design Review Committee's inspection.

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3.6.3 Final approval by the Design Review Committee shall be issued as set forth in Section 3.2. However, at least three days prior to commencement of construction, or any other site work, the Owner shall notify the Design Review Committee so that it can make a visual inspection of the Lot to ensure that the final building layout and staking is in accordance with the final plans approved by the Design Review Committee.

3.6.4 Obtaining all applicable governmental certifications and permits including, without limitation, engineering certification of foundations, necessary building permits and, upon completion of construction, an occupancy permit, is the responsibility of the Owner. Construction documents (working drawings and specifications) are to be in accordance with the final design and plans approved by the Design Review Committee. Construction shall not commence until all of the above requirements are satisfied.

3.7 **Subsequent Changes.** Additional construction, landscaping, or other improvements to a residence, other building or structure, or Lot, and/or any changes after completion of an approved structure must be submitted to the Design Review Committee for approval prior to making such changes and/or additions.

3.8 **Resubmittal of Plans.** In any event of disapproval by the Design Review Committee of either a preliminary or final submission, a resubmission of plans should follow the same procedures as the original submittal.

3.9 **Work in Progress Inspection.** The Design Review Committee may inspect all work in progress and give notice of non-compliance. Any such non-compliance shall be promptly remedied by the Owner at his or her sole expense. Absence of such inspection and notification during the construction period does not constitute either approval of the Design Review Committee with work in progress or compliance with these Design Guidelines or the Declaration.

3.10 **Non-Waiver.** The approval of the Design Review Committee of any plans, drawings, or specifications of any work done or proposed, or in connection with any other matter requiring the approval of the Design Review Committee under these Design Guidelines or the Declaration, including a waiver by the Design Review Committee pursuant to Section 3.11.

3.11 **Right of Waiver.** The Design Review Committee reserves the right to waive or vary any of the procedures or standards set forth herein at its discretion.

3.12 **Commencement of Construction.** Upon receipt of final approval from the Design Review Committee, the Owner shall as soon as practicable, satisfy all conditions thereof, if any, and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing, alterations, and excavations pursuant to the approved plans. The Owners shall satisfy all conditions and commence the construction, reconstruction, refinishing, alteration, or other work pursuant to the approved plans within one year from the date of such approval. If the Owner shall fail to commence construction within the time period herein provided, any approval given shall be deemed revoked unless, upon the written request of the Owner made to the Design Review Committee prior to the expiration of said on-year period, the time for such commencement is extended in writing by the Design Review Committee. Such extension

2019 Amendment to Design Guidelines

may be granted or denied at the sole discretion of the Design Review Committee. The Owner shall in any event complete the construction, reconstruction, refinishing or alteration of the foundation and all exterior surfaces (including roof, exterior walls, windows, and doors) of any improvement on his or her Lot within one year after commencing construction thereof, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fire, national emergencies, or natural calamities. If any Owner fails to complete construction as set forth herein, the Design Review Committee shall notify the Association of such failure, and the Association, at its option, shall either complete the exterior in accordance with the approved plans or remove the improvement, and the Owner shall reimburse the Association for all expenses incurred in connection therewith.

4. DESIGN REVIEW COMMITTEE

4.1 **Design Review Committee Membership Organization.** The Design Review Committee shall consist of three (3) members appointed by the Board of Directors. The outgoing Chair of the Design Review Committee may serve in an advisory capacity as a non-voting member.

4.2 **Appointment of Members**

4.2.1 The right from time to time to appoint and remove members of the Design Review Committee shall be reserved to and vested in the Board of Directors.

4.3 **Resignation of Members.** Any member of the Design Review Committee may resign at any time from the Design Review Committee upon written notice delivered to the Association, which then has the right to appoint and remove members.

4.4 **Duties.** It shall be the duty of the Design Review Committee to consider and act upon such proposals or plans from time to time submitted to it pursuant to these Design Guidelines, to perform such other duties from time to time delegated to it by the Association, and to amend the Design Guidelines when, and in the manner, deemed appropriate or necessary by the Design Review Committee.

4.5 **Meetings.** The Design Review Committee shall meet from time to time as necessary to properly perform duties hereunder. The vote or written consent of a majority of the members shall constitute an act by the Design Review Committee unless the unanimous decision of its members is otherwise required by the Declaration or these Design Guidelines. The Design Review Committee shall keep and maintain a record of all actions from time to time taken at such meetings or otherwise. The New Mexico Homeowner Association Act of 2013 requires that such minutes and records be kept and maintained for a period of five (5) years.

4.6 **Compensation.** Unless authorized by the Association, the members of the Design Review Committee shall not receive any compensation for services rendered. All members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Design Review Committee function or duty. Professional consultants retained by Design Review Committee shall be paid such compensation as is agreed to by the Design Review Committee. Such compensation shall be a Common Expense of the Association.

2019 Amendment to Design Guidelines

4.7 **Amendment of Design Guidelines.** The Design Review Committee may, from time to time and in its discretion, adopt, amend, and repeal majority vote, rules, and regulations, to be incorporated into, or amendments of these Design Guidelines, which, among other things, interpret, supplement, or implement the provision of these Design Guidelines. Said amendments are subject to approval by the Board of Directors prior to being promulgated. All such rules and regulations or amendments, as they may from time to time be adopted, amended, or repealed, shall be amended to and made a part of the Design Guidelines and shall thereupon have the same force and effects as if they were set forth in an were part of the Declaration. Each owner is responsible for obtaining from the Design Review Committee a copy of the most recent Design Guidelines.

4.8 **Non-Liability of the Design Review Committee and Declarant.** Neither the Design Review Committee nor any member thereof shall be liable to the Association or to any Owner or other person for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of plans, drawing, and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawing, and specifications, © the development, of any property within the Project, or (d) the execution and filing of an estoppel certificate whether or not the facts therein are correct; provided, however, that such member or, where applicable, the Declarant, has with the actual knowledge possessed by him or her, acted in good faith.

4.9 **Enforcement.** These Design Guidelines may be enforced by the Design Review Committee or the Association as provided herein or in the Declaration.

5. **CONSTRUCTION REGULATIONS**

The following construction regulations shall be enforced during the construction period. These regulations shall be made part of the construction contract document specifications for each residence or other improvements on a Lot and all builders, Owners, and other Persons shall be bound by these regulations. Any violation by a builder shall be deemed to be a violation by the Owner of the Lot.

5.1 **Pre-Construction Conference.** Prior to commencing construction, the builder must meet with a representative of the Design Review Committee to review construction procedures and coordinate his activities n the Project.

5.2 **Occupational Safety and Health Act Compliance (OSHA).** All applicable OSHA regulations and guidelines must be strictly observed at all times.

5.3 **Construction Trailers, Portable Field Offices, Etc.** Any Owner or Builder who desires to bring a construction trailer, field office, or the like to the Project shall first apply for and obtain written approval from the Design Review Committee. Such temporary structures shall be located only in a location approved by the Design Review Committee and shall be removed upon completion of construction.

5.4 **Debris and Trash Removal.** Owners and builders shall clean up all trash and debris on construction site at the end of each day. Trash and debris shall be removed from each construction site at least once a week to a dumping site located off the Subdivision. Lightweight material, packaging, and other items, shall be covered or

2019 Amendment to Design Guidelines

weighted down to prevent wind from blowing such material off construction site. Owners and builders are prohibited from dumping, burning, or burning trash anywhere on the Lot or in the Subdivision, except in areas, if any, expressly designated by the Design Review Committee. During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming a public eyesore, or affecting other Lots or the Common Areas. Any cleanup costs incurred by the Design Review Committee or the Association in enforcing these requirements will be billed to the Owner. Dirt, mud, or debris resulting from activity on each construction site shall be promptly removed from public roads or Private Roads, open spaces, and driveway or other portions of the Subdivision.

5.5 **Sanitary Facilities.** Each Owner and builder shall be responsible for providing adequate sanitary facilities for his or her construction workers. Portable toilets or similar temporary toilet facilities shall be located only on the site itself or in areas approved by the Design Review Committee.

5.6 **Vehicles and Parking Areas.** Construction crews will not park on, or otherwise use, other Lots or the Common Areas. Private and construction vehicles and machinery shall be parked in areas only designated by the Design Review Committee. All vehicles will be parked as not to inhibit traffic, and within designated areas so as not to damage the natural landscape.

5.7 **Excavation Materials.** Excess excavation materials must be hauled away from the Subdivision.

5.8 **Blasting.** If any blasting is to occur, the Design Review Committee must be informed far enough in advance to allow it to make such investigation as it deems appropriate to confirm that all appropriate measures, including protective actions, have been taken prior to the blasting. No blasting or impact digging causing seismic vibrations may be undertaken without the approval of the Design Review Committee. Applicable governmental regulations should also be reviewed prior to any blasting activity, and must be complied with.

5.9 **Restoration or Repair of Other Property Damaged.** Any damage to property, including, but not limited to, open space, other Lots, roads, driveways, and/or other Improvements must be repaired and/or restored promptly at the expense of the Person causing the damage or the Owner of the Lot. Upon completion of construction, each Owner and builder shall clean his construction site and repair all property which was damaged, including but not limited to restoring grades, planting shrubs and trees as approved or required by the Design Review Committee, and repair of streets, driveways, drains, culverts, ditches, signs, lighting, and fencing.

5.10 **Miscellaneous and General Practices.** All Owners will be absolutely responsible for the conduct and behavior of their agents, representatives, builders, contractors, and subcontractors. The following practices are prohibited:

5.10.1 Changing oil on any vehicle or equipment on the site itself or other than at a location designated for that purpose by the Design Review Committee.

5.10.2 Allowing concrete suppliers and contractors to clean their equipment other than at locations designated by the Design Review Committee.

2019 Amendment to Design Guidelines

5.10.3 Removing any rocks, plant material, topsoil, or similar items from any other property of other within the Project, including construction sites.

5.10.4 Carrying any type of firearms on the Property.

5.10.5 Using disposal methods or units other than those approved by the Design Review Committee.

5.10.6 Careless disposition of cigarettes and other flammable material. At least one 10-pound ABC-rated dry chemical fire extinguisher shall be present and available in a conspicuous place on the construction site at all times.

5.11 **Construction access.** The only approved construction access during the time a Residence or other Improvements are being built will be over the approved driveway for the Lot unless the Design Review Committee approves an alternative access point.

5.12 **Dust and Noise.** The contractor shall be responsible for controlling dust and noise from the construction site.

5.13 **Signage.** Temporary construction signs shall be limited to one sign per site not to exceed six square feet of total surface area. The sign shall be free standing and location of such a sign shall first be approved by the Design Review Committee.

5.14 **Daily Operation.** Daily working hours for each construction site shall commence not earlier than 30 minutes after sunrise and end not later than 30 minutes after sunset.

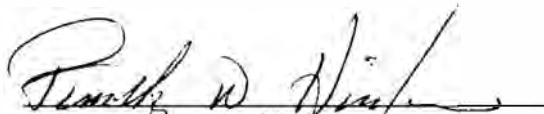
2019 Amendment to Design Guidelines

CONSENT OF THE DESIGN REVIEW COMMITTEE EL MIRADOR HOMEOWNER'S ASSOCIATION, INC.

WHEREAS, under the Declaration of Covenants, Conditions and Restrictions for El Mirador Subdivision made and entered into as of the 21st day of November, 1988 by El Mirador Associates Limited Partnership, an Illinois limited partnership, and subsequently amended which Declaration affects the real property legally described in Exhibit A attached hereto, the El Mirador Homeowners Association, Inc. is required to have a Design Review Committee consisting of three (3) persons, and the Board of Directors of the Association retained the right under the Declaration to appoint, augment or replace all members of the Design Review Committee as of the Turnover Date; and

WHEREAS, under Section 4.7 of the Design Review Guidelines, the Design Review Committee has the authority, from time to time in its discretion adopt, amend, repeal majority vote, rules, and regulations, to be incorporated into, or amendments of these Design Guidelines. Said amendments are subject to approval by the Board of Directors prior to being promulgated. The Design Review Committee voted to amend and restate the Design Guidelines in the form attached hereto;

NOW, THEREFORE, the undersigned members of the Design Review Committee of El Mirador Homeowners Association, Inc., do hereby adopt the amended and restated Design Guidelines for El Mirador Subdivision attached hereto as and for the Design Guidelines of the Association, binding on all Owners, Members, or other Persons (as such terms are defined in the Declaration) as if expressly set forth in the Declaration. Such amended and restated Design Guidelines shall be substituted for the Design Guidelines amended on October 1, 2015.


Timothy Hinker

STATE OF NEW MEXICO)

)SS.

COUNTY OF DONA ANA)

The foregoing instrument was acknowledged, before me this 6 day of September, 2019 by Timothy William Hinker a member of the Design Review Committee of El Mirador Homeowners Association.



OFFICIAL SEAL
TRACY SCHAEFFER
NOTARY PUBLIC - STATE OF NEW MEXICO
My commission expires: 10-14-21


Notary Public

My commission expires

10-14-21

2019 Amendment to Design Guidelines

F. Charles Jankel

F. Charles Jankel

STATE OF NEW MEXICO)

)SS.

COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me this 9th day of September, 2019 by F. Charles Jankel, a member of the Design Review Committee of El Mirador Homeowners Association.



OFFICIAL SEAL
RONALD J. COLDREN, JR.
NOTARY PUBLIC - STATE OF NEW MEXICO

My commission expires: 6/12/23

[Signature]
Notary Public

My commission expires

JUNE 12, 2023

[Signature]

Henry Trost

STATE OF NEW MEXICO)

)SS.

COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me this 6 day of September, 2019 by Henry M. Trost, a member of the Design Review Committee of El Mirador Homeowners Association.



OFFICIAL SEAL
TRACY SCHAEFFER
NOTARY PUBLIC - STATE OF NEW MEXICO

My commission expires: 10-16-21

[Signature]
Notary Public

My commission expires

10-16-21

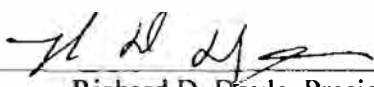
2019 Amendment to Design Guidelines

APPROVAL OF THE BOARD OF DIRECTORS EL MIRADOR HOMEOWNER'S ASSOCIATION, INC.

WHEREAS, under the Declaration of Covenants, Conditions and Restrictions for El Mirador Subdivision made and entered into as of the 21st day of November, 1988 by El Mirador Associates Limited Partnership, an Illinois limited partnership, and subsequently amended which Declaration affects the real property legally described in Exhibit A attached hereto, the El Mirador Homeowners Association, Inc. is required to have a Design Review Committee consisting of three (3) persons, and the Board of Directors of the Association retained the right under the Declaration to appoint, augment or replace all members of the Design Review Committee as of the Turnover Date; and

WHEREAS, under Section 4.7 of the Design Review Guidelines, the Design Review Committee has the authority, from time to time in its discretion adopt, amend, repeal majority vote, rules, and regulations, to be incorporated into, or amendments of these Design Guidelines. Said amendments are subject to approval by the Board of Directors prior to being promulgated. The Design Review Committee voted to amend and restate the Design Guidelines in the form attached hereto;

NOW, THEREFORE, the undersigned Officers of the Board of Directors ascertain that the Board of Directors unanimously approved the amended and restated Design Review Guidelines as amended by the members of the Design Review Committee of El Mirador Homeowners Association, Inc., attached hereto as and for the Design Guidelines of the Association, binding on all Owners, Members, or other Persons (as such terms are defined in the Declaration) as if expressly set forth in the Declaration. Such amended and restated Design Guidelines shall be substituted for the Design Guidelines amended on October 1, 2015.


Richard D. Doyle, President

STATE OF NEW MEXICO)

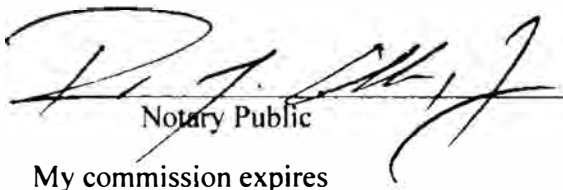
)SS.

COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me this 9th day of September, 2019 by Richard D. Doyle, President of the Board of Directors of El Mirador Homeowners Association.

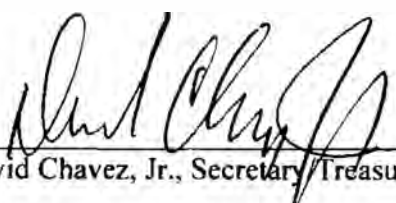


OFFICIAL SEAL
RONALD J. COLDREN, JR.
NOTARY PUBLIC - STATE OF NEW MEXICO
My commission expires 6/12/23


Notary Public
My commission expires

June 12, 2023

2019 Amendment to Design Guidelines



David Chavez, Jr., Secretary/Treasurer

STATE OF NEW MEXICO)

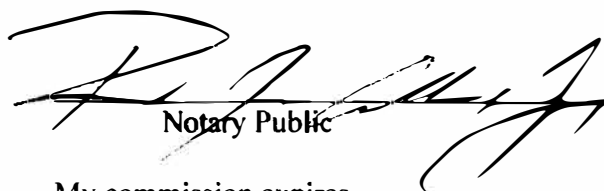
)SS.

COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me this 9th day of September, 2019 by David Chavez, Jr. Secretary/Treasurer of the Board of Directors of El Mirador Homeowners Association.



OFFICIAL SEAL
RONALD J. COLDREN, JR.
NOTARY PUBLIC - STATE OF NEW MEXICO
My commission expires: 6/12/23



Notary Public

My commission expires

June 12, 2023

Agenda EMHA Board of Directors Meeting August 2019

El Mirador Homeowner's Association

◆◆◆ AGENDA

August 12, 2019 - 7:00PM – Santa Teresa Fire Station

- I. Welcome
- II. Roll Call
- III. Approval of Minutes for 03/25/19 Meeting
- IV. Reports
 - Financial Report David Chávez, Jr. Secretary/Treasurer
 - Design Review Committee Timothy Hinker, DRC Chair
 - Neighborhood Watch Ventura Pena, NW Chair
 - Common Area Linda Corley, CA ChairHomes for Sale:
 - 325 Avenida Mirador (Azzam) 23 Ocaso Mirador (Ferdetta)
 - 52 S. Trevino (R Garcia) 240 Avenida Mirador (Gough)
 - 12 S. Trevino (Hahn) 225 Avenida Mirador (Ludwig)
 - 337 Avenida Mirador (Wegner)
- V. Old Business
 - RV parked on Trevino Road
- VI. New Business
 - a. Set aside a portion of funds in checking account in separate account for street repairs or other emergencies. Current balance in checking account is \$33,570. How much should we set aside now? What kind of account?
 - b. **Vote on Drone policy as approved by Design Review Committee as part of change to Design Review Guidelines.**
 - c. Enforcement actions, backyards on Trevino Road, etc.
 - d. Other
- VII. Public comment/questions
- VIII. Adjourn

NEXT MEETING: February 2, 2020

OKTOBERFEST: Sunday, October 27, 2019

IN ORDER TO HAVE AN ORDERLY MEETING, PLEASE OBSERVE THE FOLLOWING:

1. If you wish to speak, you must be recognized by the Chair.
2. Two (2) minute limit on comments/questions.
3. Only one (1) person speaking at a time.
4. Please do not monopolize the dialogue.
5. Be courteous and respectful.

Agenda EMHA Board of Directors Meeting August 2019

El Mirador Homeowner's Association Financial Statement For the Seven Months Ending July 31, 2019

	<u>Budget</u>	<u>Actual</u>
<u>Income</u>		
Quarterly Dues	\$66,960	\$36,905.34
Late Fee Income		1,084.88
Recoupments		100.46
Special Assessments		320.70
Checking Acct Income		1.61
Investment Income		<u>229.72</u>
Total Income	\$66,960	\$38,642.71
<u>Expenses</u>		
Bank Charges	50	24.00
Investment Acct Charges	150	-0-
Legal Expenses	3,000	601.07
Statutory Representation	450	408.96
Insurance	1,550	1,573.00
NM PRC	10	10.00
County Recording Fees	100	-0-
Property Taxes	450	-0-
Accounting Services	400	340.00
NM Income Tax	150	50.00
Federal Income Tax	100	
Miscellaneous	300	-0-
Office Supplies	700	349.33
Office Equipment	500	-0-
Postage	350	178.70
Post Office Box Rental	100	80.00
Oktoberfest	1,900	-0-
Electric	500	245.49
Water	10,000	3,037.16
Supplies & Parts	7,500	1,908.64
Auto Expense Reimburse	100	-0-
Equipment	1,500	-0-
Equipment Rental	500	300.00
Equipment Repair	2,000	136.00
Contract Labor	30,000	15,691.62
Street Signs/Stickers	500	-0-
Street Repair/Maintenance	500	-0-
Common Area Maintenance	1,000	-0-
Common Area Repairs	<u>1,000</u>	<u>2,581.51</u>
Total Expenses	\$65,360	\$27,515.48
Net Income	\$ 1,600	\$11,127.23
Wells Fargo Checking Account (as of 07/31/19)		\$33,570
Wells Fargo Investments (as of 07/31/19)		<u>14,265</u>
Total Assets		\$47,835

Agenda EMHA Board of Directors Meeting August 2019

El Mirador Homeowner's Association Delinquent Accounts as of 07/31/19

Reyes, Omar	236 Avenida Mirador	\$11,521.86	Lien
Quintanilla, Elizabeth	324 Avenida Mirador	780.34	Lien
Valadez, Salvador	245 Avenida Mirador	987.85	File lien after 10/01/19
Loya, Daniel	317 Avenida Mirador	723.00	File lien after 10/01/19
Garcia-Sanchez, Roberto	112 Avenida Mirador	683.00	File lien after 10/01/19
Sein, Jesus	308 Avenida Mirador	683.00	File lien after 10/01/19
Hahn, Valentine	12 Trevino Road	660.91	File lien after 10/01/19

Agenda EMHA Board of Directors Meeting August 2019

Section 2.1.12 Drones

- a) The use of any Model Aircraft, as that term is defined in Section 336(c) of the FAA Modernization and Reform Act of 2012, or any small unmanned aircraft system (UAS) that is governed by Federal Aviation Administration (FAA) rules now or hereafter in effect (collectively, "Drones") and the operator of a Drone (the "Drone Operator") within the Association are governed by this Drone Resolution and Policy. (This policy applies to personal drones or model aircraft and does not apply to commercial aircraft or drones.)
- b) Lots in this policy are defined as a lot owned by a private person or parties located in Dona Ana County, New Mexico in an area defined as El Mirador Subdivision, and where the El Mirador Homeowners Association has covenants and other rules applicable to these properties.
- c) Drone Operators operating Drones on any EMHA Lots are solely responsible for ensuring their own compliance with all federal, state and local laws, regulations, and rules including but not limited to ensuring that all Drones do not operate over 400 feet above ground level, remain within the Drone Operator's line of sight as per FAA Regulations now or hereafter in effect regarding Visual Line of Sight Aircraft Operation.
- d) Use of a Drone for nuisance and unlawful purposes on any EMHA lot, or on any EMHA Common Areas (including the greens and Streets) including but not limited to voyeuristic purposes is expressly prohibited.
- e) Due to the potential for injury to persons, pets, real property and personal property, operation of Drones within the EMHA Common Areas (as detailed in paragraph 3 above) is prohibited, without written approval by the EMHA Board of Directors or its designees.
- f) The operation of Drones over or within 50 feet horizontally of unprotected persons and pets (that are not involved with operation of the Drone and who have not expressly consented to said Drone operation) and Association improvements is prohibited.
- g) Drone Operators may not operate Drones on any EMHA lots prior to sunrise and after sunset due to the potential for Drone noise to be a nuisance. The Board reserves the right to determine whether the noise from a Drone is a nuisance.
- h) Without the express permission of the surrounding Lot Owners or residents, a Drone may not be operated over any EMHA Lot, except for the Lot where the Homeowner resides. Additionally, any resident, who is not the lot owner, shall receive the lot owners, and surrounding neighbors, express permission before operating a drone on the lot.
- i) Drone Operators are personally and solely responsible for any and all legal claims related to their use of a Drone, on any EMHA Lot, or Common Areas, including but not limited to trespass to property claims, nuisance claims, injury to persons and claims alleging damage to personal property (including pets) and real property.
- j) Drone Operators operating Drones on any EMHA Lot are encouraged to obtain a \$1 Million Dollar Liability insurance policy that covers at a minimum injury to persons, pets, real property and personal property.
- k) The Board of Directors shall have the authority to enforce the provisions of this Drone Resolution and Policy in any manner as provided by applicable law and the Association's governing documents, specifically, but not exclusively, Article 11.5 Nuisances and Article 11.20 Enforcement of the Declaration of Covenants, Conditions and Restrictions for El Mirador Subdivision.

Minutes EMHA Board of Directors Meeting August 2019

EL MIRADOR HOMEOWNER'S ASSOCIATION BOARD OF DIRECTORS MEETING MINUTES Santa Teresa Fire Station – August 12, 2019

Board of Directors President Richard Doyle called meeting to order at 7:04 pm.

Board of Directors in attendance: David Chávez, Jr., Linda Corley, Richard Doyle, Isaac Harder, Ventura Peña and Joaquín Tadeo. Absent: Timothy Hinker

Homeowners in attendance were: Luis Chávez, Timothy Navrkal, Henry Trost, John Reich, F. Charles Jankel, Leticia Treviño and her representative Ronald Perkins.

Minutes - Minutes for Meeting of March 25, 2019 were presented by Secretary/Treasurer David Chávez, Jr. It was noted that there was an error listing Linda Corley as present. Motion made by Joaquín Tadeo, seconded by Linda Corley to accept minutes with correction showing Ms. Corley as absent. Minutes approved unanimously.

Reports –

Financial – David Chávez, Jr., Secretary/Treasurer presented Financial Report for the period January 1, 2019 to July 31, 2019. Mr. Chávez also presented the Board of Directors with a list of delinquent accounts. There were no comments or questions.

Design Review Committee – Timothy Hinker, Chair of the Design Review Committee (DRC) was absent, hence no official report was given. Mr. Ronald Perkins, representative for Leticia Treviño at 233 Avenida Mirador questioned why his requests to the DRC had been denied. David Chávez, Jr., responded that his understanding was that the requests had not been denied, they had not been approved pending resolution of some issues. There was further discussion with no action taken by the Board of Directors.

Neighborhood Watch – Ventura Peña, Neighborhood Watch Committee Chair, reported that he continues to monitor the Community. He stated that several vehicles with out of state plates have been tagged for violations of the no overnight street parking restriction.

Common Area Oversight – Linda Corley, Common Area Oversight Committee Chair reported that there are many volunteers assisting with repairs to the Common Area. John Reich was recognized for his assistance with repairs to the irrigation system. Timothy Navrkal and Daryl Medlock were recognized for their assistance with Common Area repairs and maintenance.

Homes for Sale – There were seven (7) properties for sale as of the date of the meeting.

Old Business – RV parked on Treviño Rd – The RV parked on Treviño Rd has been moved.

New Business

a. Set aside a portion of funds in checking account in separate account for street repairs or other emergencies. Current balance in checking account was \$33,570 as of 07/31/19. Joaquín Tadeo moved to approve the set aside of \$15,000 for street repairs or other emergencies and authorize the Treasurer to make the decision as to type of account and Financial Institution. Motion seconded by Linda Corley. Motion approved unanimously.

b. Draft drone policy was presented to the Board of Directors as approved by the Design Review Committee. After review by the Board of Directors, Joaquín Tadeo made a motion to approve the proposed Drone Policy with the following changes:

Section a. – Change “(this policy applies to personal drones or model aircraft and does not apply to commercial aircraft or drones.)” to (“this policy applies to all drones or model aircraft.”)

Section e. – Change (“as detailed in paragraph 3 above) to (“as detailed in paragraph b above”)

Minutes EMHA Board of Directors Meeting August 2019

Section f. – Change “The operation of Drones over or within 50 feet horizontally of unprotected persons and pets) that are not involved with operation of the Drone and who have not expressly consented to said Drone operation) and Association improvements is prohibited.” to “The operation of Drones over or within 50 feet horizontal radius of unprotected persons and pets (that are not involved with operation of the Drone and who have not expressly consented to said Drone operation) and Association improvements is prohibited.”

David, Chávez Jr. seconded the motion. Chairman Doyle then opened the floor for discussion of the Drone policy. Mr. David, Chávez Jr. stated that the Board of Directors has been working on such policy for at least two (2) years after a request was made by several residents concerned that drones were hovering over their windows, pools and hot tubs. They felt that their right to privacy was being violated. Since that time a drone has crashed into a back yard in El Mirador and one crashed into the roof of a residence in El Mirador.

There was much discussion regarding this matter. Mr. Ronald Perkins, representative for Leticia Trevino at 233 Avenida Mirador expressed opposition to the Drone Policy.

After the discussion, the Board of Directors approved the Drone Policy, with changes as proposed by Joaquin Tadeo, unanimously. The policy will become effective October 1, 2019, after being filed with the Dona Ana County Clerk's Office.

c. Enforcement actions, backyards on Treviño Road, etc.

There was discussion on what action to take on the backyards on Treviño Road specifically 16 and 20 S. Treviño. Suggestion was made that they be given a deadline by which to submit plans for said landscaping.

d. Other – Oktoberfest scheduled for October 27 - Isaac Harder is in charge, John Reich do the cooking.

Public comment/questions

Discussion continued on Design Review Committee approval/denial of requests. In addition, several comments regarding the Drone Policy that was approved were made.

Adjournment – David Chávez, Jr. moved, seconded by Joaquin Tadeo to adjourn the meeting. The Board unanimously approved adjournment. The meeting adjourned at 8:18 pm.

Prepared by

David Chávez, Jr., Secretary/Treasurer