

From: **Ryan Spiegel** <spiegelrs@gmail.com>
Date: Thu, May 14, 2015 at 5:30 PM
Subject: ARC proposed guidelines
To: "Timothy M. Mulford" <timothy.mulford@pmpbiz.com>

Dear Members of the Board and ARC Committee,

First let me say that I truly appreciate the efforts undertaken to improve our architectural review and approval process. I know firsthand that volunteer service to one's community is often a thankless job requiring countless hours of time and work and stress. And I know that despite some disagreements, the folks involved in this effort all have good intentions.

After eight years on the city council, I know a thing or two about trying to strike an appropriate balance among the residents in our community between, on the one hand, necessary regulation to maintain the quality of life and, on the other hand, giving folks the personal freedom to make their own choices within reason.

I also understand the somewhat nuanced point that the proposed new guidelines are intended to give some specific guidance to homeowners and that, technically, the Board has had the authority under the Covenants all along to approve or reject virtually any exterior change to a home. I also understand that the draft includes some caveats and disclaimers that will technically allow for some variations from the guidelines, if such variations are justified and approved at the discretion of the committee. But the practical reality is that these guidelines are likely to become a bible of sorts for future ARC decisions that will rely heavily and rigidly on the precise language of the document to determine what is, and what is not, approved.

While I generally think our own HOA does a very good job, I have long had philosophical concerns with the imbalance of power between HOA boards and individual homeowners under state law. Unlike many other corporate interests subject to the shareholder/board model, a person's home is their most personal space and possession and often their largest investment in their lifetime. As such, I think it is appropriate to incorporate some respect and deference to the individual homeowner when crafting and enforcing policies and procedures that affect them. Indeed, while the law treats HOAs as *corporations*, they often function more like neighborhood *governments*, assessing fees, managing large budgets, imposing sanctions on those who break the rules, and being directed by a very small percentage of our community that has the time and ability to be on the Board in the first place. But HOAs are not subject to many of the important checks and balances that restrain governments. While people are theoretically free to move to neighborhoods without HOAs, that argument doesn't hold much water with me, since most neighborhoods in our area have them and it's practically impossible to avoid given the many other priorities and needs of homebuyers.

Given all of this, HOA Boards have a special responsibility to wield their authority carefully, and to focus on the truly important issues in the community as opposed to wasting valuable time, energy, and money on the trivial. In that regard, I echo and incorporate the comments submitted by Jeff Ellinport. I have been intimately involved in local economic development efforts over the better part of a decade, and I have never seen any indication of any correlation between strict enforcement of rigid architectural guidelines and property values. A comment was made at the annual meeting that Kentlands has higher property values than us due to tougher architectural guidelines, but with all due respect I do not believe this to be true, and I have never seen any evidence of it. Kentlands has many different assets that we do not have, including proximity to retail and cultural venues as well as different public schools, which are the likely drivers of property value differences.

Sometimes when folks spend many months working hard on something, they can develop a subconscious institutional bias against any changes when the time comes for input from others. I encourage you not to fall into that trap of becoming too defensive of the existing draft. Instead, as the body elected to represent all of the homeowners in our neighborhood, I hope that you will carefully consider the thoughts, questions, and concerns presented by those who have attended meetings and those who have submitted written comments.

It is not sufficient, in my view, to simply say that “this is how other HOAs do it.” As a community leader and as a practicing attorney, I have seen many other HOAs act heavy-handedly, alienating their members, generating unnecessary hostility, and expending countless dollars litigating disputes over what really amount to insignificant matters (dollars which are paid from members’ own pockets and could be used for more productive projects). HOAs also risk undermining their own authority if they over-regulate and then lose a lawsuit that results in a finding that some or all of their rules are unenforceable.

I have no objection to a general set of principles to steer the look and feel of the neighborhood, but the specificity reflected in the proposed guidelines concerns me. I personally do not care if my neighbor paints his door a color that is unapproved. I would prefer to have the same sort of basic freedoms with my own property so long as it stays within reason. In fact, I think we do a great disservice to our neighborhood’s property values by having overly strict architectural standards, because, ironically, we can end up *discouraging* folks from investing in their properties. If we make the administrative process too onerous or the options too costly, fewer people may even bother to try to invest in maintaining and upgrading their homes. While that is certainly not the intent of the well-meaning volunteers who drafted these proposed guidelines, I do think it is a serious unintended consequence.

The Board should also do some soul searching over one of the apparent primary motivations of the proposed guidelines as expressed by supporters: the notion of preserving the exact look and feel of the homes when they were first built. I am not sure why this is considered to be an inherently desirable thing.

Neighborhoods, along with materials and options for home maintenance and renovation, evolve. Products become less expensive, higher quality, more energy efficient and environmentally friendly, and tastes change. And while there should be some basic safeguards against extreme and garish alterations, I do not understand the inherent value in attempting to freeze the world in time, especially when it comes to replaceable parts such as garage doors and windows. In my own home, we removed a significant portion of the back wall of our house to install a sliding door from our sun room to our deck. We sought and obtained ARC approval beforehand, but that was a number of years ago, and I wonder whether it would have been approved under the proposed guidelines, given that it was a pretty significant change to the exterior of our home. It is, in my view, certainly a significant upgrade that adds value to the property and also adds to my family's enjoyment of our home. Why should we put rules in place that essentially prevent that sort of thing? The door has a nice appearance and does not bother anyone else (and it faces our backyard, away from the façade of the home and the street).

But even if preserving the precise original look was valid justification for these guidelines, it seems that there is some discrepancy in what the original look was. In the case of Centex home windows, drawings on file at City Hall do not show any grids in the side or rear windows when the plans were approved. Unlike renderings found in marketing materials, these plans filed with the city are official records. And as someone who has dealt with marketing renderings quite a bit, I can tell you that they are often not an accurate reflection of the final product but rather an estimated vision. When I bought my Centex home in 2008 there was no indication that grids had ever been in any of the side or rear windows. With ARC approval, I replaced some of the side and rear windows without grids. If I were to replace the remaining side and rear windows in the future, a grid requirement would leave me with mismatched windows! Moreover, there is a very real cost to requiring grids. For those on a tighter budget, it can mean the difference between investing in higher quality, more efficient windows that raise a home's property value, or deferring that investment indefinitely. It would be naïve and insensitive to assume that everyone in the neighborhood has unlimited resources to pursue these sorts of upgrades and will not be deterred by regulations that increase the cost. Don't we want to encourage such investment? Some might say "if you can't afford to comply with our rules then you shouldn't have moved here." This, too, is an unfair statement, as it fails to account for changes in personal financial circumstances, changes in community standards over time, and changes in technology.

This submission is intended less as a comment on individual, specific sections of the proposed guidelines, and more as a broader expression of concern about

unnecessary overregulation and rigidity. Our neighborhood is not a designated historic district, nor is it a class project for architecture students. I do think there is an important role for the HOA to play in preventing blight and dilapidation, ensuring reasonable upkeep of yards and landscaping, investing in common areas and social events for the community, and reviewing any truly significant changes to properties. But I really think we need to be careful about not micromanaging the way that people care for and enjoy their own private homes, so long as they are operating within a broad range of reasonableness. To do so will cause unnecessary tension among neighbors, unnecessary work and expense for the Board and the residents, disincentives against investment in properties, and barriers to more energy efficient and environmentally friendly practices.

Again, I know that those who have worked hard on the proposed guidelines have done so with good intentions, but I ask that these comments and those submitted by other residents be considered carefully and incorporated into any final decisions about architectural guidelines. In my view, there is no reason to rush this discussion. If a significant reconsideration of the proposed draft is warranted, which I believe it is, the Board should take it's time to get it right. Even better would be to put it to a vote of the entire membership.

Thank you very much for your consideration.

Respectfully submitted,

Ryan Spiegel
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