

## DCCR Discussion for May 12, 2014 meeting

### Background:

The current DCCRs were created in 1992 to allow the formation of the HOA Board, with complete control and responsibility of the HOA. The requirements of build out have been met. The 90% passage rate to amend the DCCRs is no longer required. The 65% stated is sufficient. The state 67% is not required as the lesser amount, 65%, is stated in the legal document.

### HOUSEKEEPING:

Some of the changes relate to changes in Federal, State, and Local laws and ordinances. These include:

- References to a water-wise planting and landscaping document (state law)
- Inability to enforce some things such as satellite antennae placement (Federal law)
- A growth of local government ordinances addressing issues that the HOA had to address earlier. Also, the HOA was not in the city limits when the current DCCRs were written.

### EXISTING DCCRS BEST HANDLED THROUGH MUNICIPAL COURT

Discussion: The subdivision was annexed in the mid-1990s, after the developer no longer controlled the interests of the development. While houses were still being built, most of the subdivision was built out. Also since that time, the city has created, and/or revised, ordinances that would have normally been reflected as DCCR issues when the city was not enforcing ordinances in an unincorporated area. The task force suggests the following be left to municipal enforcement.

- Dog barking, other animal noise, farm animals in city limits (Animal control ordinance)
- General noise (Noise ordinance)
- Use of home as business (City ordinance limiting use residential property as businesses, including day cares)
- Signs in the yard (Sign ordinance)
- Removal of trees (Tree Protection ordinance).
- Weedy lawns (Weedy lawn ordinances). However, forced mowing may still occur, charged to the homeowner, on land that is not fenced in.
- Inviting groups to one's home publicly, whether or not one is selling something (Ordinance on inviting a broad population through public media, and related ordinances to inappropriate use of residential property)
- Parking in yards, on street (City ordinances on abandoned vehicles, cars parked in yards)

All of this limited the HOA to enforcing the existing DCCRs, in good faith, when Federal, State, or City laws, regulations, or ordinances take precedence. The following areas warrant DCCR requirements and related enforcement:

1. New construction: In the event of fire/weather damage, new construction would follow the guidelines for size of building, lot size, setbacks, and % masonry requirements.
2. Additions to existing buildings: Follow existing guidelines as to appropriateness of the neighborhood, materials used on the exterior.
3. Existing homes: Quality of repair, compatibility with the rest of the community, encroachment of setbacks.
4. Minor aesthetic issues: Garbage can placement, outside structures (both permanent and non-permanent)
5. Lawn appearance: Traditional setting, new water wise landscape guidelines as required by the state, working sprinkler systems if appropriate (required in construction)
6. Fences: Type, level of repair. The proposal includes wrought iron appearing and picket type fencing made of wood.
7. Other permanent structures: Veneer requirements, setbacks (focus on buildings & swimming pools)

8. Temporary structures visible from street: For example, mailboxes and jungle gyms that exceed the 6 foot height of privacy fences, the latter addressing privacy and safety issues. There was no support by the task force for notifying people about torn or damaged basketball hoops/structures, which are temporary and less visible in the “big picture” of one’s home.
9. Number of trees on front lawn: original requirement- 3. Group wanted to enforce the presence of 3 trees on the front lawn.
10. Collecting assessments (ties in with Bylaws language—should probably be in one location, Bylaws or DCCRs— may also be some changes in state law)

**Fee structure:**

The group began a fee structure, but decided to generalize it to fees of \$25-\$100 per day depending on infraction as a general statement, with the board possibly reviewing the schedule annually, but keeping fees within that range. Currently, there is a flat \$100 per day fee for infractions, which the task force felt was excessive in many cases.

**Enforcement guidelines:**

Though it was not within the scope of this task force, there was often discussion of arbitrariness of enforcement of standards. When is a falling fence a violation? When is a building dirty enough to be fined? When are plantings dead for too long and should be removed? How is vegetation (or lack thereof) addressed under huge shade trees? Some form of guidelines, shared with HOA members, should be developed and posted so everyone can understand what is expected and feel a bit more assured that everyone follows the same rules going forward.

**Legal descriptive elements:**

There is significant verbiage before the listing of DCCRs and toward the end as the document is wrapped up. Legal would need to reword these areas.

**Replatted property, where two lots are replatted into one lot:**

The group also recommends that adjoining lots that have been platted as one piece of land be considered as one, not two , lots. This reduces by, perhaps, 4 lots, though the committee was unsure which of the combined lots were replatted as combined lots.

**Committee members:**

Janis Delman, ACC Chair, 9 year resident

Russ Kampfe, Long time resident

Dale Ricklefs, OBE Board President, 9 year resident

Lamar Urbanovsky, Served on the early boards, ACC Chair in the past

Michael Wayne, Long-time resident