

Ludlow Bay Village Association
Appeal Hearing of an ARC Decision by Jim and Marcia Krell
Monday, November 14, 2016

A. Call to Order

Larry Smith called the Appeal Hearing of the Ludlow Bay Village Association to order at 2:00 pm, Monday, November 14, 2016, at the Port Ludlow Associates Development Office. The following Directors were present: Larry Smith, Rose Lincoln, Tony Sasse, Kori Ward, Diana Smeland and Cliff O'Brien.

Absent: Jeanne Joseph, JJ (John) Simpson and Debbie Wardrop

Guests also present: Jim and Marcia Krell (Appellants), Kirk and Kim Boys (neighbor of Appellants), Bill Master, Al Wagner and Gordon Hamilton

B. Confirmation of quorum -- it was determined that a quorum was present.

C. Format of the meeting was that the Appellants would have 20 minutes, the Applicant would have 20 minutes and the Appellants would have a closing comment time of 10 minutes. The Board would then go into Executive Session for making a Decision on the Appeal, and would provide a written answer within the 60 days of the date of the Appeal. Appellants requested additional time for making their presentation at the scheduled hearing. The Board agreed to consider an extension of the fifty minutes set for the hearing if there were critical outstanding items at the expiration of the 20 minutes.

D. The Board listened to presentations by the Appellants, the Applicant (Al Wagner for the Townhomes Boards and Members Kirk and Kim Boys), followed by closing comments by the Appellants. Upon conclusion of the closing comments, the hearing was closed, the Board excused the guests, and it retired to Executive Session. After deliberation, the Board made the following **DECISION** on November 14, 2016:

The Board hereby denies the Appeal and confirms the decision of the ARC. The Board finds and concludes that the approval by the ARC is consistent with the Declaration for Ludlow Bay Village and meets the Village Design Standards. However, the ARC is directed to review the gate installation and enforce the ADA compliance requirement of its initial approval of the application.

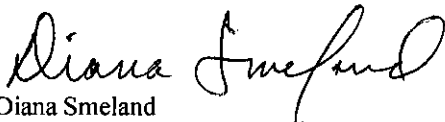
Among other factors, the Decision was based on the following:

- In the Krell's presentation, they discussed health issues and their inability to operate a gate latch as installed on the existing gate. The ARC decision on the application referenced an ADA approved gate. From the information provided at hearing, it is unclear to the Board whether the current latch meets ADA requirements. Accordingly, the Board hereby remands the application to the ARC solely for the purpose of confirming that the gate, as installed, is ADA compliant.
- In the Krell's presentation, they argued that the ARC decision violated CC&R Sections 4.1 and 4.15. Section 4.1 describes the function of the ARC and Section 4.15 addresses fences, among other issues. The Board finds and concludes that a "gate" is not a fence, but rather an opening or passage through a fence or wall. Therefore it is not precluded by Section 4.15. The Board finds and concludes that Section 4.15 does not preclude gate construction in a fence installed by the Declarant.
- In the Krell's presentation, they contended that CC&R Section 4.13 must be interpreted to allow ingress and egress "without entry gates". The Board finds and concludes that this is an inaccurate interpretation of this Section of the Declaration.
- In the Krell's presentation, they contended that ARC procedures and CC&R Section 11.4 were inadequate for addressing appeals. The Board adopted final appellate procedures on November 11, 2016. In regard to the Krell's appeal, time deadlines were extended to accommodate the Appeal.

The Board finds and concludes that the appellate procedures as applied to this Appeal provided the Appellants with a fair opportunity to present their appeal to the Board.

- E. Following the hearing, additional materials were submitted by the Appellants on November 17, 2016. The Appellants did not request that the hearing be left open to submit additional information. The Board reached its Decision on November 14, 2016, by a unanimous vote. The supplemental materials submitted by the Appellants were not timely.

Respectfully Submitted,


Diana Smeland
Secretary