



LAW OF THE ROCKIES

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October 20, 2017

VIA ELECTRONIC MAIL

Arrowhead Improvements Association, Inc.
c/o Kim Norwood, President
knorwood.aia@gmail.com

Re: *Legal parameters for second RVs*

Dear Mr. Norwood,

The purpose of this letter is to provide you with a letter that may be shared with owners explaining the legal parameters for Arrowhead Improvement Association, Inc. (the “Association”) relating to second RVs.

There are a number of relevant provisions in the Declaration of Protective Covenants and Restrictions. *See* Covenants, Art. II, ¶ 10 (defining single family residence); Art. II, ¶ 11 (defining a site as a lot reserved for use as a single family residence or single family camp site); Art. IV, ¶ 1 (stating that all sites are to be exclusively used for single family residential purposes); Art. IV, ¶ 2 and Art. IV, ¶ 3 (limiting residences to only approved single family residential structures); Art. IV, ¶ 3 (limiting each site to only one single residence); Art. IV, ¶ 7 (providing that camping by *owners* in tents and RVs is permitted but limited to a camping season)(emphasis added); Art. II, ¶ 1 (providing that abandoned vehicles do not include operational vehicles kept on sites upon which a residence has been constructed); Art. IV, ¶ 29 (providing that campouts involving groups other than site owners and their guests require approval of the Board of Directors).

The Association cannot prohibit by regulation what is expressly permitted by covenant. *Houston v. Wilson Mesa Ranch Homeowners Ass'n, Inc.*, 360 P.3d 255, 261(holding that short term renting was consistent with single family residential use provision in covenants and thus could not be prohibited by board resolution). However, the Association may resolve any ambiguity in the covenants through a regulation that adopts a reasonable interpretation. *Woodmoor Imp. Ass'n v. Brenner*, 919 P.2d 928, 931 (Colo. App. 1996)(holding that an

association had the authority to interpret an ambiguous provision in its covenants relating to antenna).

The covenants limit site use to single family residential purposes while also allowing for camping. There is substantial case law in Colorado that discusses limitations to single family residential purposes and the thrust of that case law is that the use must have the “characteristics of a normal and permanent family unit maintaining the usual family-style living arrangement.” *Turner v. United Cerebral Palsy Ass'n of Denver, Inc.*, 772 P.2d 628, 631 (Colo. App. 1988); see *Buick v. Highland Meadow Estates at Castle Peak Ranch, Inc.*, 21 P.3d 860, 863 (Colo. 2001)(providing that granting an easement to someone outside of the neighborhood violated a single family residential dwelling limitation); see *Double D Manor, Inc. v. Evergreen Meadows Homeowners' Ass'n*, 773 P.2d 1046, 1050 (Colo. 1989)(explaining the distinction between a single family dwelling restriction and a single family residential use type restriction such as in the case here).

Notably, the provision regarding camping expressly mentions “owners” but not their guests while the provision regarding campouts by groups mentions owners and their guests.

Though not perfectly clear, I believe that the most reasonable interpretation of the covenants is that an unoccupied RV may be kept on a site with a single family residence. Covenants, Art. II, ¶ 1; Covenants, Art. II, ¶ 22.

Ultimately, I think that a reasonable interpretation of the covenants under existing Colorado law is that camping is permitted on a site but multi-family residency is not. If an owner has a campsite or site with a single family residence, having an RV on site to enable multi-family type of living arrangements is not permitted by the covenants provided that it does not qualify as camping. Camping is by its nature limited in duration. Camping is often limited to approximately 14 day periods by various governmental entities. I believe that any regulation that permits camping for 14 day periods or shorter is a reasonable interpretation of the covenants. Further, I believe that allowing for multiple 14 day periods within a camping season is reasonable with certain caveats. Namely, the longer the break between camping periods the more that such stays are consistent with camping rather than residency. Similarly, the longer each camping period is the more it looks like residency rather than camping. I do not advise any camping scenario that may be viewed as a sham, such as having only a one day break between camping periods. It is important that the periods between camping be long enough that the stay in an RV appear to be genuine camping. One reasonable interval for camping would be 14 days per month.

Because the covenants are specific on certain issues related to this, there are certain caveats from such a blanket policy. For example, the covenants expressly address parking of unoccupied RVs on single family residence sites. The covenants also allow for campouts by owners and their guests, but do not elaborate what a campout is or how long it lasts. As other special events are infrequent, they should be approved on a case by case basis by the

October 20, 2017
Arrowhead Improvements Association, Inc.
Page 3 of 3

LAW OF THE ROCKIES

Association's board to ensure that such events do not exceed a reasonable interpretation of the covenants.

Though the board has discretion in making rules and regulations with respect to RVs that discretion is not unbridled. For example, I do not believe that the Association may allow a second, occupied RV for the entirety of a camping season on a single family residence lot. I also do not believe that the Association may allow a second RV on an RV lot for the entirety of the camping season.

Sincerely,



Jacob A. With
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