

August 11, 2011

Arrowhead Improvements Association, Inc.
Board of Directors
P.O. Box 89
Montrose, CO 81402

RE: Arrowhead in Gunnison Country Subdivision
RV Regulations

Dear AIA Board of Directors:

This letter is to provide you with our firm's opinion, as legal counsel for Arrowhead Improvements Association, Inc., with respect to recent concerns from lot owners about the validity of current restrictions on recreational vehicles (RVs).

We reviewed Article IV, Use of Sites, Subparagraph (1)(7) of Declaration of Protective Covenants and Restrictions (Declaration) that states:

Camping in tents, camper trucks, recreational vehicles or camping trailers by owners shall be permitted. However, all camping equipment, including but not limited to, tents, motor homes, camp trailers, truck campers, self contained RVs and related supporting equipment must be removed from the site and boundaries of Arrowhead prior to the date designated each year by the Board, notice of which shall be provided to all owners at least thirty (30) days prior to such effective date.

We also reviewed Section 1, Article 2, Use of Sites, Subsection g of The Design Regulations (Regulations), which state:

An owner is limited to a maximum of one (1) house or RV (as a residence), one (1) detached garage, and one (1) shed. One (1) additional unoccupied RV is allowed and if and when occupied a fourteen (14) day permit is required.

It is our opinion that these two provisions are not in conflict. The Declaration permits owners to have RVs on their property but is silent as to the number of RVs permitted on a property or the length of time that an additional RV, not being used as a primary residence, may remain on the property. Simply put, the Regulations further refine a property owner's ability to have RVs on his or her property.

Pursuant to state statute, the Association is empowered to adopt and amend rules and regulations and exercise any other powers conferred by the Declaration. The Declaration, grants the Association, through its Board, the power to enforce the Declaration and Regulations by noncompliance assessments, injunctions, legal actions or other means. The Association is also empowered to adopt reasonable rules and regulations to insure compliance with the Declaration and Regulations. As a result of the broad powers granted to the Association to adopt regulations to govern the property within the subdivision, lot owners should be aware that each lot is subject not only to the Declaration, but also to any regulations adopted by the Association or Board. In addition, the Declaration expressly permits the Board to amend the Regulations. The Board is not required to amend the Declaration when adopting or amending regulations.

The restrictions contained in the Declaration and Regulations run with the land. In other words, they attach to the lot and not the individual owners of each lot. When property is conveyed from one owner to another, the restrictions remain in effect and each new owner is subject to them. Each lot has the same rights, duties and restrictions applied to it. It is not determinative or relevant how many individuals have an interest in a specific property. This is demonstrated by the definition of owner in the Declaration:

The record owner, whether one or more persons or entities, of a fee simple title to any site which is a part of Arrowhead in Gunnison Country Subdivision excluding those having an interest merely as a security.

Furthermore, how an owner comes to have an interest in a property does not change the restrictions placed on the use of the property. It would be inappropriate to apply different Regulations to lots that were acquired through gift or inheritance as opposed to lots that were purchased, just as it would be inappropriate to apply different regulations to lots owned by a single owner and lots co-owned by more than one owner. The same is true for the type of use that a property owner exercises on their property. Under the current

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regulations, simply because an owner chooses not to build a cabin on their property does not result in a different set of restrictions on that property compared to a lot where a cabin or house exists.

An Arrowhead lot owner's property rights are not unlimited. Those rights are at minimum subject to the Declaration and any adopted rules and regulations. Therefore, imposition of restrictions do not result in a denial of property rights. These restrictions and authorization to impose regulations are of record and potential and current owners are deemed to have full notice.

Addressing the concerns that Gunnison County Land Use Resolution and in particular, Section 9-509-B, it is correct that Arrowhead falls within the exception in Section 9-509-B-1. However, notwithstanding Section 9-509-B-1, the Association is not prevented from limiting the length of time an RV may be used for camping or temporary living within the Subdivision. The Regulations are the controlling document on this issue regardless of the language of the Gunnison County Land Use Resolution.

The Board may share the opinion set forth in this letter with the members of the Association as it deems best.

Sincerely,



Kathryn M. Sellars