

HIGH DESERT RESIDENTIAL OWNERS ASSOCIATION, INC

New Construction Committee Policy

As of December 15, 2010

Authority

Article XI, Section 11.2 (a) of the Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (the "CC&Rs") empowers the Board of Directors of the High Desert Residential Owners Association, Inc. ("HDROA" or the "Association") to appoint a New Construction Committee (the "NCC") to exercise "exclusive jurisdiction over all original construction" in the High Desert communities once the right held by the High Desert Investment Corporation ("the Declarant") to make such appointments has expired or been relinquished. This New Construction Committee Policy ("Policy"), adopted pursuant to HDROA Bylaws Article III, Section 3.16, sets forth the policy of the Board with respect to the appointment of members of the NCC, governance, and operations of the NCC. However, nothing herein is intended to supersede the provisions of the CC&Rs, Guidelines for Sustainability (as revised and supplemented), or other governing documents, and in the event of any conflicts, the terms of the official governing documents will prevail.

Purpose

High Desert was conceived and developed as a master planned community with initial construction in each of its Villages approved by the New Construction Committee under control of the Declarant in accordance with the land development, architectural, and design guidelines set forth in Article XI of the CC&Rs. To preserve and maintain the aesthetic character and values of High Desert properties, subsequent new construction taking place in existing Villages must be compatible with the overall design, style, and theme of each Village as originally approved. The maintenance of an effective process for regulating such new construction will help assure adherence to established architectural standards, promote the continuity of community character, and assist in protecting the property values of all Owners.

Background

Since its initial creation, the NCC has been appointed by the Declarant in accordance with the provisions of the CC&Rs. As part of a planned transition of powers and duties from the Declarant to HDROA, it has been mutually agreed that the transfer of responsibility for appointing the NCC and managing its operations to the HDROA Board of Directors is desirable and should be accomplished on a timely basis.

As of March 24, 2010, there are two separate Guidelines for Sustainability: (1) Estate and Premier Homes (revised 2-13-03), and (2) Builder Homes (revised 2-15-03). Also, there are three Supplemental Guidelines: (1) Estate Homes - Wilderness Estates (dated 4-24-03), (2) Builder Homes - The Legends at High Desert (revised 2-15-08), and (3) Builder Homes - Wilderness Village and Compound (dated 1-4-05).

Terminology

High Desert Investment Corporation, referred to herein as the "Declarant," is referred to in the Guidelines for Sustainability as "HDIC." Given the transfer of responsibility from the Declarant to HDROA, as aforesaid, effective as of the date of this Policy, whenever the term "HDIC" is used in the Guidelines for Sustainability and the Supplemental Guidelines, the word "NCC" shall be substituted for the word "HDIC."

Unless otherwise indicated by the context, the words "Guidelines for Sustainability" used in this Policy include both the Guidelines for Sustainability for Estate and Premier Homes and the Guidelines for Sustainability for Builder Homes, as well as the three Supplemental Guidelines.

Committee Composition

The Board will initially appoint a Chairperson and two to four additional Members to the NCC. Members may be: (1) High Desert Owners (or spouses of Owners), with preference being given to Owners who are also current residents of the community, who shall serve without compensation, or (2) professionals such as representatives of the Property Management Company or others with homeowner association knowledge or experience who may be paid. Current Directors of the Association are not eligible for appointment but Voting Members, Alternate Voting Members, and members of other Association committees, including the Modifications Committee, may serve concurrently on the NCC. Appointments shall be for one-year terms, which shall automatically renew each year unless rescinded by the Board. There is no limit on the number of terms that an individual may serve. The Board, however, reserves the right in its discretion to remove or replace a Member of the NCC at any time, with or without cause.

Authority and Responsibility

The primary responsibilities of the NCC are to:

- Receive, review and approve or disapprove all plans and applications for new home construction in High Desert in accordance with the applicable Guidelines for Sustainability.
- Administer the Guidelines for Sustainability to include full authority to interpret them and to determine matters of aesthetic judgment with respect to new construction.

- Amend the Guidelines for Sustainability, subject to the review and approval of the Board.
- Authorize variances from compliance with any of its guidelines and procedures under the circumstances described in Section 11.7 of the CC&Rs and in accordance with the procedures set forth in the Guidelines for Sustainability.
- Exercise its right to veto decisions of the Modifications Committee, as may be required.
- Monitor and oversee the construction phase of projects per the sections on Construction Regulations in the Guidelines for Sustainability.
- Enforce the Construction Regulations and implement the Procedures for Approval Process/Processing contained in the Guidelines for Sustainability.

Accountability

The NCC is subject to the general oversight of the HDROA Board of Directors which is responsible for its appointment and periodic reviews of performance. However, the NCC's interpretation and determination as to the Guidelines for Sustainability and matters of aesthetic judgment in individual cases shall be regarded as absolute, final, and binding, and shall not be subject to Board review.

Operating Procedures

The NCC shall operate under the standards and procedures set forth in the Guidelines for Sustainability. As needs dictate, the NCC may adopt forms, records and/or procedures to guide its internal operations.

Recordkeeping

The management company for the Association shall be responsible for the retention and maintenance of all records pertaining to the activities and decisions of the NCC.

Professional Services

The NCC may, from time to time, employ consultants in professional areas (architects, engineers, surveyors, landscape designers, etc.) to assist in its evaluation of requests and/or may engage legal counsel to represent it and/or consult with during and/or in connection with hearings. Fees for such services, however, must be approved in advance in accordance with standard HDROA expenditure control policies.

Timeliness

In accordance with the Guidelines for Sustainability for Estate and Premier Homes, the NCC shall make reasonable efforts to promptly complete First Plan Reviews and Final

Plan Approvals and provide Owners with written responses within fifteen (15) days of submittal. Similarly, in accordance with the Guidelines for Sustainability for Builder Homes, the NCC shall make reasonable efforts to promptly complete Sketch Plan Reviews and Final Plan Approvals and provide Owners with written responses within ten (10) days of submittal.

At a minimum the NCC shall not exceed the 45-day limit for responding to requests set forth in Section 11.4 of the CC&Rs. In all cases the NCC shall strive, consistent with performing a thorough and competent review, to provide a timely and prompt response to each party that submits a new construction request.

Application Review Fee and Construction Deposit

After the Pre-Design Meeting with the Owner/Developer and/or Architect, and prior to any review and approval action, the Owner/Developer shall be required to pay the Association an application review fee and construction deposit for each lot in the amount of \$8,000 for Estate and Premiere Homes lots, \$4,000 for semi-custom Builder Homes lots ("Application Review Fee/Construction Deposit"). Part of each Fee will be used to cover the usual and customary amounts for professional services required to properly evaluate requests and part will be used as assurance of applicant's intent to comply with the provisions of the Guidelines for Sustainability and adhere to the submitted plans as approved. The expenses for professional services may vary with the size and complexity of the project and the completeness of each submission.

The deposit may be used by the NCC to cure problems of noncompliance with the Guidelines for Sustainability if they are not corrected by the Owner/Developer/Builder upon ten (10) days' written notice to do so. In such cases, both the Owner/Developer/Builder and the Board shall be notified of the estimated amount of the charges not less than five (5) days in advance of any work being scheduled by the NCC. The Owner/Developer/Builder shall be asked to acknowledge in writing that such charges are required and agree to accept the charges before proceeding with consideration or continuation of the project. However, any refusal or failure of the Owner/Developer/Builder to acknowledge or agree shall not bar the NCC from using the Owner's/Developer's/Builder's Construction Deposit/Bond to cure the subject problem of noncompliance with the Guidelines for Sustainability.

During construction, if the cost of Reviews and Approvals or NCC corrective actions reduces the deposited funds to 50% of the initial amount, the owner shall be required to restore the deposited funds to the original amount before further construction or NCC actions are taken.

Within a reasonable time of NCC final approval, the owner/builder shall receive an accounting of all funds spent on the Review and Approval Process and any corrective

actions taken. At that time the balance of the deposited funds shall be refunded without interest to the owner in accordance with the Guidelines for Sustainability.

Duration of Approvals

In accordance with the CC&Rs, all approvals granted by the NCC automatically expire after 12 months if construction has not commenced unless a waiver of the requirement is specifically requested and granted by the NCC. Construction must be substantially complete within one year of commencement of construction.

Denied Requests

Any person requesting a review of an NCC decision by the Board of Directors shall bear in mind the provisions of CC&Rs Article XI, Section 11.2(c) as set forth in the Eighth Amendment to the Declaration adopted July 29, 2003, which states, in part, that the “NCC and MC shall have sole and full authority to interpret the Guidelines for Sustainability and to determine matters of aesthetic judgment. Their interpretation and determination as to the Guidelines for Sustainability and matters of aesthetic judgment shall be final, conclusive and binding ...” Thus, any review by the Board of Directors shall be limited to determining that all applicable administrative procedures, rules, and standards have been properly followed, and shall not include a “de novo” review of any decisions of the NCC interpreting the Guidelines for Sustainability and/or determining matters of aesthetic judgment.

Any Owner who has a request denied by the NCC may within ten (10) days from the date of the denial, ask for a review of the decision of the NCC by the Board of Directors, but only for alleged procedural errors. The Board’s decision shall be final. All requests for hearings and/or reviews must be in writing and state the reason(s) for the request.

No Precedents

Each proposed site plan and building design will be evaluated for appropriateness to their compliance with the objectives of the Guidelines for Sustainability. Each decision of the NCC shall pertain only to the specific request at hand, and does not establish a precedent to be applied, either retroactively or prospectively, to any other similar or related request. However, the NCC shall keep in mind Section 12.5 (a) of the CC&Rs, which provides that similarly situated Owners and occupants shall be treated similarly.

Enforcement

Other than as provided in the Procedures for Approval Processing and in the Construction Regulations in the Guidelines for Sustainability, the NCC shall have no authority to enforce its decisions or to impose sanctions for noncompliance. That

authority is reserved to the HDROA Board of Directors pursuant to Article III, Section 3.23 of the Bylaws and Article XI, Section 11.9 of the CC&Rs.

Adopted by the Board of Directors on December 15, 2010.

Approved

Revised: April 20, 2011