

The Crofts at Brackenridge Homeowner's Association

July 14, 2005

Subject: Message from the HOA Board

Dear Homeowners:

The HOA Board has received numerous complaints of apparent covenant violations over the past two years. The reasons for the complaints are just as numerous and these complaints have taken an enormous amount of time to be addressed by the Architectural Committee. As such, we feel compelled to provide all homeowners with a reminder of the covenants as well as the steps that are required of the HOA board to ensure compliance with the covenants. First a working definition of Covenant

Covenant (n) - An agreement that is included in a real property's deed that limits the buyer's (grantee) future use of the property.

1. A binding agreement; a compact.

2. Law

a. A formal sealed agreement or contract.

b. A suit to recover damages for violation of such a contract.

In our neighborhood, the previous land owners and developers established legally binding regulations for future use of the land that makes up The Croft at Brackenridge. The board neither wrote nor provided input for our current covenants, but we are required to provide oversight and enforcement as specified in the covenants and our current by-laws. The covenants are also referred to as "Protective" because they are intended to do just that - protect the property values for each of us.

The board members do not look for violations, but the Architectural Committee will investigate all claims of apparent violation that are brought to the committee's attention. Over the past two years, the Architectural Committee has received the following complaints, which are most common.

Trailers, Boats, and Recreational Vehicles that are visible from the road or adjoining lots, Non-Conforming Driveways, and Homeowners erecting or modifying structures without approval from the Architectural Committee. In addition, non-licensed motor-operated vehicles are being operated in the subdivision.

Cutting or Removing Live Trees - This has become a major concern, as this violation is not correctible and will result in much higher assessments being levied against the property owner.

1. The following are the Procedural steps that the HOA Board must follow as required by Covenants and By-Laws
 - A. Verbal Notification of Violation – The current board (not required by covenants or by-laws) may give the homeowner a courtesy call to attempt to resolve the violation in a neighborly fashion.
 - B. Written Notification of Violation – The Architectural Committee will provide written notification of the apparent violation with an invitation to the homeowner to visit the next monthly meeting with the board of directors. The purpose of the meeting will be to determine the root cause of the violation.
 - C. Continuing Violation – After providing the homeowner an opportunity to appear at the meeting, the Board either decides that there was no violation or establishes a reasonable time for remediation of the violation to occur. If no remediation has occurred in a set time period, the homeowner is then sent a continuing violation notice and assessments can be levied.
 - D. Assessment (Fine) – After determining the root cause, the Board of Directors may impose a fine based upon the severity and the reason of the violation. In some cases, the fines will become additive, as each day of violation is considered to be a separate violation. In addition, failure to pay, can and will result in late fees and interest being added to the assessment amount due. Please understand that the assessments are a tool of last resort and are employed only when the homeowner does not remedy the violation after the board has followed Steps A-C above.
 - E. Liens – Continuing Liens will be filed on the property for which the Assessment has not been paid in a timely manner. In addition, the covenants state that additional costs to cover attorney's fees shall also be added to the lien.
2. In 1999, General Statue 47F emphasizes that the courts may also award reasonable attorney's fees and court costs to the HOA if the Homeowner is found to have committed a covenant violation.
3. Variances – The Architectural Committee (from time to time) may permit variances to the covenants. The intent of the variances is to limit hardship to the homeowners association to provide enforcement. Variances should be requested through the Architectural Committee prior to committing a violation and not as a means to prevent assessments being levied due to a violation. Requests for variances should be directed the Architectural Committee Chair.

4. What if the specific covenant violation has not been enforced before? Am I liable?
Yes, the covenants specifically state that a homeowner is liable even if the same or similar violation has not been enforced in the past. Again, the current board is acting upon all notifications of apparent violation that are provided to the Architectural Committee to ensure that all notifications are addressed in a similar manner.

Summary - Over the last two years, the Architectural Committee has received 33 notifications of apparent violation. The Committee determined that 22 were actual covenant violations. As of this date, 18 of the 22 violations have been remedied, 3 have proceeded to the assessment phase and 1 is approaching a Lien being filed against the current property owner.

Where are the covenants located? – Presently, the Covenants (per phase), the by-laws and other useful information can be found at the following web address:

<http://www.croftsatbrackenridge.com>. Additional copies of the covenants may also be obtained by contacting Jeannette Karnofsky at jeannetekarnofsky@yahoo.com.

A New Web Site for our Neighborhood is in the process of being created and will be located in the near future at the following : <http://www.thecroftsatbrackenridge.com>

The board truly appreciates all of the homeowners that have acted swiftly to correct their covenant violations and would like to reemphasize the need for all homeowners to know the covenants that have been attached to their property by the original landowners and developers. The Chair of the Architectural Committee has work hard to ensure that all complaints are reviewed and acted upon in a timely manner. It is our sincere hope that the number of apparent violations will be reduced so that the current board can spend more time making improvements to our neighborhood.

We would also like to request that prior to removing dead, fallen, or diseased trees (which are located in an area covered by Protective Covenant 18) that the Architectural Committee Chair be contacted to head off any complaints of apparent violation being submitted to the Committee.

Sincerely,

Mark Walker - President
Tom Conte – Vice President
Van Stewart – Treasurer
Larry Boone - Secretary
Jeannette Karnofsky – Architectural Committee Chair
Jeff Adcock – Grounds Committee Chair
Mary Holloway – Architectural Committee