

April 23, 2024

Dear VHA Board,

Thank you for arranging the meeting with the attorney regarding the CC&Rs.

John and I object to our CC&Rs allowing the use of foreclosure as a remedy—under any circumstances. Village Homes has other measures at its disposal to bring about compliance. The most obvious is a lien. But there are also effective measures such as late fees, fines, attorney's fees, lawsuits, garnishment of wages, and bank account levies. All of these remedies are specifically permitted under the Davis-Stirling Act.

We know liens can be effective from personal experience. In 2007 our neighbour built an objectionable fence without getting ARB approval and without consulting us. We hired a surveyor and discovered that the fence had been built on our property. So, we placed a lien on his property. That lien helped move the process forward.

I believe that if Rob had submitted his plans to the ARB, as he was legally required to do, the dispute would have been avoided. In the end, the VHA Board was able to resolve the issue. So, our experience is that a functional Board and our existing CC&Rs can effectively resolve disputes.

Having said that, we spent 3 years and over \$10,000 in legal fees to resolve this dispute. Had the Board been more willing to sanction Rob when we first raised this issue, we would not have had to spend so much of our time and money. The upshot is that we are strongly in favour of the Board using its power to ensure that the rules are followed when complaints are made.

Our research into HOA foreclosure has brought us to the conclusion that the practice is unjust and unethical. And, frankly, we see no way to make it ethical. As Melissa made clear in her presentation, foreclosed homes are sold "on the courthouse steps by auction". The sale price at auction is typically a small fraction of the market value. The law firm representing the HOA recovers the money owed and collects their legal fees. Ethical treatment of the homeowner, takes a back seat and the result is that the home is effectively confiscated.

There is an industry whose business model is to flip foreclosed properties. Here is an eye opening [investigation](#) that demonstrates how HOA foreclosures work. Such foreclosures are lucrative for those who profit and devastating for the homeowner involved.

We would like to see a statement in our CC&Rs that specifically prohibits foreclosure and all references to its use as a remedy removed.

To quote from Melissa's presentation:

"There's been no evidence whatsoever that your board or a legal counsel have any intent to be predatory with regard to assessment collections."

We agree, but things can change, sometimes in unpredictable ways. Furthermore, we believe that removing foreclosure from our "toolbox" will NOT "compromise the financial integrity of our community" as Melissa suggested it would.

Village Homes should take this opportunity to adopt new CC&Rs that prohibit foreclosing on a member's property.

Thank you for your attention.

John and Diane Swann