

Homeowners Association or the Boards Association or NO Association?

Dear Neighbors, Friends and Homeowners,

You have probably just received today 9/21/18, the Fall 2018 Newsletter emailed to the Silver Springs Homeowners from the property management company Model HOA's president/manager Ryan Dickey and Allyson Dickey. We have been in attendance at board meetings wherein this newsletter has been discussed for many months without any trustee choosing to compile it. We congratulate Model HOA on finally producing and distributing this effort. Their timing is associated with the board's invitation to the Homeowners to attend the upcoming October 2nd "Town Hall" meeting with their attorneys from Richards Law regarding the boards second attempt to pass a rehash of the specious Morris & Sperry Bylaws and CCRs. Today's newsletter does not mention the purpose of the meeting (to compel you to vote for their new documents). Beware of strangers bearing gifts; remember Laocoon's warning to not accept the Trojan horse but to instead set it on fire. This aptly applies to the board's documents.

The Bylaws specify an October 9 Annual Meeting on the second Tuesday in October. We plan to hold it at Parley's Park Elementary School at 7:00 p.m. We are compelled to bring to your attention the activities by the board "trustees" to deliberately continue to remove the Homeowners from participation and control of their "Homeowners Association". I have had trustees justify their actions by interpreting a line within our documents that describes the duties of the board: *the board is to conduct the business of the association*. Recent trustees insist this phrase is a complete transfer to the trustees of the Homeowners mandated rights and authority. Their position is now brazenly included in the 2018 Richards Law firm's SSSF CC&R Page 21 "Item 6.8. Limitation of Authority of Owners. After reading this we are wondering if it applies to the one man committee for the underdrains. He has never had Homeowner sanctioned authority to pursue or expend HOA funds on his repeatedly vetoed, not owned underdrain project. He has not been elected to the board; his board participation is assigned by a board officer days before the election. My experience, and other of these Articles and sections, tells me that the proviso "Except as provided herein" circumvents the listed limitations for the board and its "compatible" trustees. "Owners" do NOT get a pass since this item was written specifically to limit Owners participation. Interestingly, there is no mention of unsanctioned, unelected, volunteer committees and their chair; neither how many committees one individual can chair.

As the events leading to our 2018 Annual Meeting accumulate I feel compelled to again remind you of what is at stake. The fact is we have been in a pot of tepid water on the stove long enough to be in imminent danger of becoming a "cooked goose." We are on the precipice of losing our Owner freedoms and our options to recover from the simmering heat generated by the few in power who are seeking to turn up the heat with new CCRs and Bylaws that will leave the Homeowners at the mercy of legalese constrictions, more costly attorney involvement, and "*elections*" that are rigged to the benefit of those few who have control of the reins of power over us. It may interest you to know that during the last decade thirty-one individuals served on the SSSFHOA board. An annual board of 7 would have required

seventy folks.

The Richards Law firm 2018 DRAFT SSSF Association Bylaws and CCRs may appear very neatly crafted using professional font and formatting, however, the content is what will bind, eventually gag, each of us to a course that will be very difficult to recover from or remove. **These documents are voluntary.** There is no law local, state, or national that requires a single family-stand alone subdivision to organize themselves into a Non-Profit Corporation Association with CCRs. Currently the board trustees and the attorneys have limits to their clout and will remain so when the Homeowners vote to reject the 2018 drafts.

If we blindly transfer our authority, abdicating our property rights and freedoms, it will take **90%** of us to try to reinstate our rights (Richards Law CCRs Article 14 Page 38). That is an undertaking the board and their attorneys are sure the “apathetic” Homeowners will never succeed at within the board’s association. Our 2008 Articles of Incorporation **allow 51% of the Homeowners to terminate the HOA.**

Currently we have a board president who shows disdain for our homeowners, has repeatedly said he does not want any Homeowners calling or visiting him on his private property, has distanced himself from Homeowner communication or contact by setting up a managed email address and a “Ticket” system for the property management company to maintain, and that are mentioned today in the management company’s newsletter.

At the March 2018 meeting Ed Robertshaw announced that no one will be looking at or replying to the “Tickets. The attitude of the two controlling trustees has deteriorated to the point that they openly eschew any Homeowner contact or participation. Homeowner volunteer candidates for election are not included on the board’s ballot. Robertshaw, and Reynolds have stated a number of times that the board’s Nomination Committee selects and elects the trustees through the use of blanket proxies. Is this the origin of the above draft citation: “Owners and Individuals... shall have no authority to **Elect** or remove members of the Board.” Etc. The Richard Law firm’s documents are set up as “the only SSSFHOA source for reliance on actions or authorizations relating to the board’s association. [6.9]” Are we willing to allow a Salt Lake City law firm to control how we govern ourselves and what we do in Silver Springs? Remember, what they have proposed in their writings can NOT be implemented after the Homeowners voluntarily vote to REJECT them. WE BESEECH YOU TO REJECT THE DRAFT CCRS.

At the 2017 Annual Meeting and Election there were no more than 25 Homeowners in attendance, even with the few proxies there was not a quorum. The board threw away the collected ballots and Homeowner proxies, saying that there were three candidates and three open seats so there was no need to check or count the votes. Actually there had been four open seats. This is an example of the impunity with which the board disregards the Bylaws. A second example is this year’s 2018 Annual Meeting, the date of the meeting is stipulated in the Bylaws to be on the second Tuesday of October that makes it October 9th. The board’s announced meeting date is October 25th. The trustees disregard for decorum and rules is indicative of an attitude of oligarchical control. They assume no one cares enough to challenge their wayward actions. MANY OF US ARE NOW CHALLENGING THEM. ARE YOU WITH US?

When my husband and I attend board meetings we are usually the only non-board attendees. The Homeowners in general are not attending or witnessing board meetings. I can't say that I blame you; it is a hostile environment for non-board attendees. "You will be asked to leave if you interrupt the proceedings of this meeting" warns the board president's in his opening remarks to "visitors". We get why there is very little participation from the Homeowners. Our stake as Members has been curtailed. At the Annual Meetings the average attendance is between 12 and 25 Homeowners (out of 188 lots).

Other reasons Homeowners do not attend board meetings are that a number of Homeowners have locked horns with the board regarding purported violations, fees, architectural impositions, liens on their properties, inequality of treatment, and the lack of effort by the board to include the Homeowners in decisions on highly charged or controversial matters such as the underdrains. **The Summit County attorney Dave Thomas wrote to our HOA in September 2014 that the ownership and maintenance of the underdrains is a matter to be settled according to the wishes of the SSSF Homeowners and the directives from them to their board trustees. The Homeowners majority voted four times to "Ignore the underdrains" in 1985, 1994, 2008, 2014.** To this point Homeowner votes are what are legally keeping the board in check.

Another reason for a paucity of Homeowner involvement is because the Homeowners feel little or no ownership of the Association they belong to since they had no choice when they bought their home here whether to belong or abstain from membership. Homeowner non-participation has been a way of abstaining from an Association with whom we do not agree. However, this has been taken by the trustees as license to do whatever they want to do, always with their attorney at their elbow, instructing them on how to get away with their plans and actions and circumvent Homeowner authority.

Right now is the best time to act to rid our neighborhood of a Homeowner's Association that is being run like it is the board's and their attorneys' Association.

The Oct. 2nd meeting the board and their hired law firm will conduct to discuss the documents they have labored to produce for the board will be compelling. They will be prepared to convince the attendees that they must approve these documents that will "safeguard" their residency in Silver Springs Single Family. The parties we need protection from are the board of trustees and their wily attorneys who are skilled at gaining an advantage over their clients (the board) opponents (the Homeowners). Read the report on the meeting : [WHAT YOU MISSED AT THE 10/2/2018 TOWN HALL MEETING](#) . Law firms specializing in HOA law are popping up quickly because it has become a lucrative pursuit with all the clout taken from the Homeowners then relegated to the board of trustees through the crafted Bylaws and CCRs. Nationally the 1970's crush to establish a HOA for stand alone, single family neighborhoods has been a failure. In our case, in our subdivision, there is no reason for a HOA. Our subdivision neither owns nor manages any common area, no amenities, nothing beyond privately owned real estate property.

HAVE HOAs REALLY BECOME THAT UNPOPULAR?

It is an easy search on the web to learn the destructive effect of HOAs and how attorneys in Utah and throughout the country are making a killing from lawsuits brought against

Homeowners. The HOA law firms I have contacted since 2009 will only represent the board, not the Homeowners. Lawyers know that an Association with Covenants, Conditions & Restrictions, board oriented Bylaws, Architectural Guidelines and an abundance of board imposed Rules will be easy pickings for claims against Homeowners at the cost of home equity settlements. For example:

["Homeowners associations, the enforcers of neighborhood paint colors, holiday decorations and trash bins, are leading the latest surge in Phoenix-area foreclosures.](#)

HOAs are foreclosing on a record number of homeowners for as little as \$1,200 in missed maintenance payments, according to an *Arizona Republic* investigation. And homeowners who thought only their mortgage lender could seize property are losing their houses at sheriff's auctions, sometimes for just \$100 more than they owe the HOA.

[Our neighborhood is not unscathed by this kind of legal action against its Homeowners. In 2014 this nearly happened in Silver Springs SF. When the Homeowner finally learned about the HOA action on her home she had just days to cure the lien before foreclosure action would have been initiated by the board and their attorneys for delinquent annual HOA dues. Just a week before Christmas!]

"It's become a huge issue," Arizona Real Estate Commissioner Judy Lowe said. "Most homeowners don't understand the foreclosure process and don't know their HOA can foreclose." More...

See <https://www.facebook.com/SilverSpringsCommunityUT/> for neighbor commentary and news items related to our neighborhood.

See <https://www.silverspringscommunity.com/> a Homeowner website for information

We hope we have peaked your interest and that we can count on you to vote to reject any more documents that restrict our property rights and our right of self-determination.

Definition of self-determination. 1 : is a cardinal principal of free choice of one's own acts or states without external compulsion; a condition that is not contrived to appear to be voluntary.

2 : determination by the people of a territorial unit of their own future status, whether it be property ownership and use, individual rights, political, economic, social, religious, or cultural.

Freedom to live as one chooses without harm to others or constriction of their rights.

Working for Positive Outcomes,

Lucy Archer

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