

Park Mediterranean Homeowners Association  
c/o Euclid Management Company  
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NOTE: 5/20/04 P.S. UPDATE ADDED

2004 05 20 revised-Complaint-willful misfeasance and or malfeasance.doc

Subject: **Complaint-willful misfeasance and/or malfeasance**

5/19/04

CC & R's Section 10.11 refers to the Directors being covered by HOA provided insurance " ... except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties ... " My dictionary defines Misfeasance as "The performance of a lawful action in an illegal or improper manner" and Malfeasance as "Wrong doing or misconduct especially by a public official." In my 3 years here I have noticed some questionable practices by the Board of Directors and Euclid Management. When I try to call their attention to it by writing a letter, they usually ignore it. And at the monthly meeting of the Board of Directors Alex Taylor discourages public comment by making the homeowners wait until after all the other association business is complete then at the very end of the meeting making some comment about him wanting to leave and frequently interrupting when a homeowner is talking. (The recent May meeting was an exception in that due to the presence of many upset homeowners there about the dues going up, the public comment portion was held first. One homeowner got even more upset when a Board member referred to his comments as ignorance. Alex Taylor referred to owners who were not current in their dues as deadbeats. The Minutes for 12/11/03 includes the Executive Session and gives the addresses of 15 condos and states: "Delinquencies - The board wants to ensure that the following accounts go to the attorney"). Twice I have written letters and distributed them door-to-door. **I just recently selected an Internet domain name and paid for Web Hosting. Soon I will be able to publicize my grievances that are going unresolved by Euclid and the Board.** I am looking forward to the meeting tomorrow night **put together by homeowners** that was announced with a flyer stating in part: "Gain opportunity to voice your concerns."

I was finally able to afford paying \$100 for the complete HOA package so now I know what my rights are and have proof the Board of Directors and Euclid have violated them. On 5/5/04 I received it in the mail and even though I paid an outrageous \$100 for only 98 photocopied pages it was still short two items: The Minutes for the last 3 months and the Rules and Regulations (Guidelines for Architectural Improvements, Pool, Tennis Court, Common Area, Parking, etc.). **Would you mail me as soon as possible these missing items that I paid for?**

As I informed you several times in previous letters 3 years ago when escrow closed, I received an incomplete set of the Governing Documents that was missing the entire Declaration of Covenants, Conditions and Restrictions. Even the coversheet for the Association Rules & Regulations stated that it was just a partial list of the R & R. In my letter dated 7/15/02 with subject "3rd written request for governing documents" I pointed out once again that the California Civil Code section 1368 states: "The association may charge a fee for this service, which shall not exceed the association's reasonable cost to prepare and reproduce the requested items." Euclid's following letter dated 8/1/02 stated in part to receive all governing documents to send you a check for \$40 and for just the CC & R's to send \$25. As the CC & R's are only 26 pages Euclid's requiring \$25 for them is obviously a rip off and exceeding "the association's reasonable cost to prepare and reproduce the requested items." According to Euclid before each Board of Directors association meeting they provide copies of letters from members **so the Board is aware of and not doing anything about Euclid's breaking the law.** Euclid even charges an obscene amount, \$35, for a copy of a key to the pool area. Lowe's cuts a duplicate key for only \$1.24.

Before purchasing my security door I noticed that even though the Association Rules and Regulations Guidelines for Architectural Improvements state **"No screen doors on the front door"** many of the units had security screen doors so I assumed the HOA amended them to allow for their use. After paying \$100 for the CC & R's I now notice that **Section 8.07 of the Declaration of Covenants, Conditions and Restrictions also states no "screen doors."**

CC & R's Section 10.04 Amendments.

"This declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of each class of members..."  
"Any amendment must be recorded."

**When did a majority of the members vote to change the Declaration of Covenants, Conditions and Restrictions to allow security screen doors? If the members really did vote to change it, was the amendment recorded? If it was recorded, why didn't I get a copy of it in the HOA package I purchased?**

CC & R's Section 6.05 Architectural Rules.

The committee may, from time to time recommend to the members the adoption, amendment and repeal of rules and regulations to be known as "architectural rules," and if same are approved by a majority of each class of members the same shall be deemed adopted, amended or repealed, as appropriate. The architectural rules shall interpret this declaration by setting forth the standards and procedures for committee review and the guidelines for decoration, design and replacement of improvements.

**When did a majority of the members vote to approve of an architectural committee's recommendation that an architectural rule be adopted that security screen doors could only be obtained from Euclid Management's handyman, Adam Verska? I doubt very much the members voted to approve of such a restrictive policy. Especially if they knew he is not a licensed contractor and the doors apparently are homemade and come with no warranty.**

**So according to the CC & R's the architectural committee can only recommend to the members a rule adoption, amendment or repeal. The architectural committee does not have the authority to make on its own any rule about security doors. Also**



according to the CC & R's no "screen doors" are allowed and the HOA package that I received did not include any amendment showing that restriction had been repealed by a majority of the members or that they voted to now allow security screen doors.

Therefore all of the approximately 27 security screen doors in the condo complex, handyman installed and my own, are equally in violation of the CC & R's. I received threatening letters about my security screen door and have a \$25 per month re-occurring fine. All of the condo owners having security screen doors should be treated the same way. All of us should either receive or not receive the same letters and \$25 per month re-occurring fines. The President of the Board of Directors, Alex Taylor, apparently has been in that position for a very long time, maybe as much as 15 years, so he must be aware he and the Board and Euclid have no authority to change the CC & R's regarding screen doors, only the members.

Alex Taylor must also be aware that by having 3 dogs he is in violation of CC & R's Section 8.08 Animals. "As used in this declaration, "unreasonable quantities" shall be deemed to limit the total number of dogs, cats and birds to two (2) of each species per lot." President of the Board of Directors or not he too should be treated like the rest of us and receive threatening letters about his dogs and have a \$25 per month re-occurring fine.

In the By-Laws Article VI Power and Duties of the Board of Directors, Section 2 Duties, subsection (e) it states: "To cause the common area to be maintained and to perform such other obligations respecting maintenance as are set forth in the Declaration." In spite of the By-Laws the tennis courts are in disrepair and are a safety hazard due to cracks as wide as 5 1/2 inches. Whenever someone asks me how much I am paying for Homeowners Association monthly dues and I say \$266, their usual reply is "Why is it so much?" They also ask about the amenities and are surprised that for \$266 it comes with so little. Most can tell you of other HOAs with much lower dues and much more amenities. The President of the Board of Directors, Alex Taylor, apparently has been in that position for a very long time, maybe as much as 15 years. So apparently it has been during his time on the Board that the tennis courts have been neglected in spite of the high dues. Another example of his failure "to cause the common area to be maintained" is his removal of the basketball backboard. Prior to the May meeting I received "Park Mediterranean Budget Analysis February 29, 2004 Prepared by Alexander F Taylor" which gives under Recommendations "Close the pool and spa. The association will save on water, gas, electricity, janitorial, pool service and County permit fees." Following his recommendation to close down the pool and spa would not "cause the common area to be maintained" so it would be a violation of the By-Laws.

In the By-Laws Article VI Power and Duties of the Board of Directors, Section 4 Regular Meetings, it states: "Regular meetings of the board shall be held monthly at such place within the properties and at such time as may be fixed by resolution of the board." The time and place of the May meeting was not given on the monthly invoice, was posted on the mailboxes as being at Denny's, but at the last minute moved to the complex. At the May meeting a homeowner complained about meetings not being held "within the properties," and was told the Gonzales Community Center was paid up to the end of the year. The Board renting a room at that Center two miles away from "within the properties" was a violation of the By-Laws.

During the May meeting Alex Taylor went over his "Park Mediterranean Budget Analysis February 29, 2004" and stated the budget was in bad shape due to his busy schedule and actions by the other Directors on the board. I got the impression due to his busy schedule he missed some meetings and while he was not there the other Directors on the board made some unsound financial decisions. On 5/5/04 I received the HOA package containing Minutes from 1/30/03 to 1/8/04. Three of the meetings were cancelled due to lack of a quorum. All of the meetings that were held state Alex Taylor was present. So he did not miss any of the meetings that were held and was present at the times all financial decisions were made.

I would have sworn Alex Taylor at the May meeting stated he was against dipping into the reserves to do the asphalt work, but the Minutes for 1/30/03 show otherwise: "The board received information from Epsten Grinnell & Howell stating that in order to take out a loan for the asphalt work it would be necessary to get a member vote. Since this would probably not be likely Alex asked the Board what they would think about taking the money from the reserves to pay for the asphalt." It further states: "Alex Taylor asked that the Total Reserves Required figure of \$569,374.73 be changed back to the Grand Total amount of \$394,861.23 listed in the 1999 reserve study." So Alex Taylor went around a membership vote by the homeowners by dipping into the required reserves.

Sincerely,

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P.S. On 5/20/04 the present Board of Directors increased the Association dues. In a separate meeting put together by homeowners attended by two-dozen concerned people, after a discussion of the mismanagement by the Board and Euclid, it was decided to vote in an entire new Board of Directors then fire Euclid. We need to do an audit to find out what happened to our reserves and explore legal remedies to recover our money. The "Park Mediterranean Budget Analysis February 29, 2004 Prepared by Alexander F Taylor" states "Park Mediterranean has \$8,094.91 in its operating account and \$44,678.54 in its reserve account." So apparently somehow Alex Taylor and the other Board members with the help of Euclid's management skills managed to drain off our required reserves in spite of our high monthly association dues. The next meeting put together by homeowners is on 6/3/04, a Thursday, at 6:00 PM at 1097 #35 (garage). We need to join together and vote in an entire new Board of Directors then fire Euclid before they raise our dues again.