



Andrew Mowery <andrew.p.mowery@gmail.com>

Purpose, Vision, and Values

Andrew Mowery <andrew.p.mowery@gmail.com>

Tue, Aug 27, 2019 at 11:53 AM

To: walker flanary <wgflanary@gmail.com>

Cc: Buck Hammond <buck.hammond@gmail.com>, Gloria Jones <jonesgjpohoa@gmail.com>, ben johnson <WindsorBen@gmail.com>, Bill Tuminello <billtum@bajabb.com>, Heatherjh1@hotmail.com, Linda Brucker <linda.brucker@gmail.com>, Kevin Brucker <kevinb371@gmail.com>, Colocampbell <colocampbell@gmail.com>, kariandbrad@msn.com, firefr25@msn.com, tomandliz.montagna@mac.com, Heather Phillips <purpleheather@ymail.com>, Herb Weatherington <herbiew.22@msn.com>, chuckdaddy.miller@gmail.com



Patty Flanary ▸ Poudre Overlook Subdivision

2 hrs · 🌐

Dear Poudre Overlook Homeowners,

There has been an abundance of misinformation. The real issue is do we want a HOA with Rules and regulations consistently applied. The present Board has tried to follow the Rules and Regulations that everyone signed before becoming a homeowner. The Board was open to changes if anyone came forward with a request to change the guidelines for all homeowners. I would hate to see our beautiful community lose its quality. I signed the rules and regulations when I moved in and would like the community to follow them unless a change is deemed necessary by the majority of the homeowners.

Unfortunately there is a small group that has requested the removal of the board who seem to have **some misinformation and issues with the enforcement of the rules and regulations**. Notification were given to 2 of these homeowners due to the lack of records from the earlier board of under Bill Tuminello (consisting of 3 members). Farm animals and removing of community fencing were approved during that time.

One neighbor chose to ignore the guidelines for the roof color. When he requested a meeting he was told a board quorum could meet at the end of the month.

I would like for the community to retain the current board and add 4 additional members now and the 3 open positions in November.

In choosing new board member please consider whether they are concerned with the entire community and are willing to uphold up the rules and regulations upon which community has agreed.

In summary, I do believe we need a board of 9 members to be fairly represented. Your board does make the decisions even if a management company is hired. The management company only does what the board decides.

I would love for some thoughtful, hard-working individuals to volunteer. It is a thankless job it but greatly needed.

Thank you for your time.



Like



Comment

Walker,

I would like the opportunity to place a rebuttal in the same space that your wife used to make specious claims. Please rescind the censorship preventing my participation in this public forum.

Are you afraid that my words may be persuasive?

Let me know where any of us agreed to be threatened with arrest for recording public meetings by using "house rules", and ignoring best practices and the obvious needs created due to disputes about what is said at meetings. I don't recall reading a single line in the governing documents I agreed to. It would appear the only consistency you are referring to is your opinions (along with Irve's).

Institutional consistency doesn't require you, me, or anyone else to achieve it's goals. Building an institution with a solid foundation is what I've advocated.

But, let's take your POV at face value: That YOU and IRVE have ALWAYS been consistent. Attached is Irve's "final" response to Heather regarding what the ACC does, it's roles and duties, and how it's actions in 2018 are justified.

Is the ACC that you pushed forward in 2019 consistent with what Irve wrote last December?

If not, what changed? And, why is change, adaptation, amending, or even building something new offensive to you? Why must our governing documents be static? Why is consistency achieved through your rigid interpretation, which you won't discuss (or allow to be discussed) in public, on the record?

As per usual, I expect no reply. That's the only consistency I've observed from you in the past 2 years. But, maybe we can have a fair debate on the matter this evening, unless your intent, as I suspect, is to censor me there too.

Andy

FROM THE ATTACHMENTS

"Additional Roofing Info: Numerous homeowners asked for the same color as the Bruckners, and some requested higher tech shingles that were more repellent to the sun in a different color.

- My **consistent** response was, **"The Board of Directors decided that the only acceptable colors are Weatherwood or Driftwood."**
- **No homeowners appealed that decision.**
- **I even stopped a roofing project that had the "wrong" color shingles on the roof, ready to be installed.** That homeowner replaced the shingles without question.
- **Numerous homeowners approached the Board** and asked, "What are you going to do with that BLACK roof?" This should be documented as well.
- Obviously, there were many factors that had to go into a decision.
- The Bruckner's were informed early on that this was a difficult situation and the Board had to meet before a conversation could take place. Due to Board members travels, it would not be until the end of the month. The Bruckners then **chose to get a Lawyer and that changed everything.**

1. There is absolutely no record of any amendment to the guidelines, no vote by the Board on the matter, or any record to substantiate the claim that the Board, ACC, or CCR Committees ever made a legal decision to add "Driftwood" to the list of acceptable colors, or to remove the word (or intention) of the word "similar" in the actual guideline.

2. When Irve began promoting that such a "decision" was made, I debated the subject with Irve by email between

9/23/18 and 10/4/18. I have not previously shared this email thread. But, I dispute the concept that no one appealed the claim that a board decision limited roofs to two colors.

On Mon, Sep 24, 2018 at 2:17 PM ibdpo4hoa@gmail.com <ibdpo4hoa@gmail.com> wrote:

Nobodies hair is on fire.

No one said they need to change the roof

We do not even know if it is indeed the wrong color... We just started with a letter to find out what color it is, maft brand etc....

When the board says we need to keep a certain std ..**the board cannot change its mind after the fact...**

I am just enforcing what the board wanted in new roofs...

Not upset, **just cannot have a Board that wavers...**

In reality, we have Article IX Section 6, which explicitly addresses the concept of "consistency". It literally states the opposite - that we are not locked into identical decisions as though we are setting legal precedent. We are literally and explicitly directed by the governing documents to use judgement to apply enforcement that adheres to the principles of the Business Judgment Rule.

CCR Article IX Section 6, which states:

"No Waiver of Future Approval. The approval of the Architectural Control Committee of any proposal or plans and specifications for any work to be done on a Lot **shall not be deemed to constitute a waiver of any right to withhold approval of consent to any similar proposals,** plans, specifications, drawings or other matter subsequently or additionally submitted for approval by the same (sic) the Owner or by another the Owner on the same or any other Lot within the Common Interest Community."

3. The one thing that has been "consistent" is the use of vague references to "numerous" owners who are "silent" but only express their opinions through the voice of Walker and Irve. However, when pressed for documentation of such widespread opinions, ultimately Irve admits (to several people in the past 90 days) that this was actually only ONE person, and sometimes that person is Irve (or Walker). The facts don't support the concept that their opinions are backed by a majority of owners, or in many cases, even a plurality.

4. The Policy for Enforcement makes clear that getting an attorney to represent you doesn't "change everything". In fact, it's an explicit right "that everyone agreed to" when they bought a house here. It would appear that when someone does dissent from a "board" decision, representation by an attorney will not only be held against you, but that some will literally attempt to avoid having an in-person hearing, and instead try to have the party represented by a piece of paper at the meeting (11/20/18 Board meeting, where Buck stated that the Bruckers were represented by their attorney's letter, and that no additional "hearing" would commence - and then later they tried to hide the meeting by declaring it an "executive session")

On Mon, Aug 26, 2019 at 2:28 PM Andrew Mowery <andrew.p.mowery@gmail.com> wrote:

Too the Board:

I had asked, within this prior email, **where** (or by what means) is the proper place to publish dissent. Recently, I posted flyers on the USPS mailboxes referring to the linked article from this email. It appears that these flyers were removed within 12 hours of being posted. I can only presume this was an action by the majority bloc of our Board.

I repeat my question: **Where**, precisely, does **this Board** (or at least it's majority bloc) allow dissent to be published?

Again, dissent on Facebook resulted in the removal of members from the Facebook group, along with posts from those members. Dissent published on the HOA website was removed as well, along with documents that would support the dissenting opinions. And, the "majority bloc" sent out a broadcast email stating that use of email is also not allowed - and defaming the publishers of such dissent.

You've also protested the use of meeting minutes to record dissent against any majority vote or discussion. You've also prevented (or ignored requests from) members from adding to the agenda prior to a meeting, allowing for discussion to occur (or tabled it without a vote, or discontinued discussion without a vote). You've also prevented (or ignored requests) a vote, either in a meeting or by email in Action Without A Meeting on any and all topics for which you would prefer no dissent is documented. And, of course, you've also prevented audio/video recording of meetings and remote access via telecommunications, which would capture what is not allowed to be documented or recorded through the meeting minutes.

On the last point, it's important to note the weakness of reasons given for not allowing remote access to the last Board meeting. Gloria stated that her cell phone plan does not have enough minutes, and that I would have to personally pay extra to her for such access. Buck stated that he has blocked by personal cell phone. It should be noted that no one's personal cell phone is at all a requirement for remote access. And, I've heard through the grapevine that Walker and Irve have contended that the reason not to record meetings is because the recordings could be edited for nefarious use.

A plethora of solutions exists, many of which are entirely free (Google: [Free Conference Calling Service for 150M results](#)), and not only make such connections available, but create a recording that would then not be the personal property of any one person, and would be a check against any editing that would take any comments out of context.

In other words, there's no actual good reason not to record meetings, except for petty reasons that simply protect the ability to revise history, and deflect criticism by creating doubt over the veracity of any dissenting point of view about what occurred at meetings. In fact, this most recently occurred on 8/12/19, where there appears to be debate about whether or not a vote occurred to hire Zach Wilson for legal services.

Again, quoting from the principles of Robert's Rules of Order: "[The Minority SHALL be heard.](#)" Except, apparently, not in this HOA - which has discarded the requirement requiring the use of Robert's Rules of Order. And, ignored motions regarding not only it's proper use, but also recognition of the section for small groups, which modifies certain requirements (including how the agenda may be amended), as well as requirements for seconding of motions that would lead to a vote. Perhaps this is the unstated underlying reason the majority bloc wishes that Robert's Rules of Order to be ignored.

Heading into an important community decision, I've advocated that all members be fully informed. Yet, it would appear, the majority bloc of Board members wishes to convey it's position unchallenged, or as though it is unchallenged, and prevent members from knowing any dissenting points of view prior to their votes. It doesn't appear good enough for the majority bloc to simply win a vote against a minority point of view - it's apparently important that the point of view is never voiced, discussed, debated, motioned, or voted upon. This is, by definition, anti-democracy, anti-transparency, and authoritarian.

Unless there is a definitive answer to this question prior to the meeting, you can expect this to be a focus at the meeting. This is a hallmark of the dysfunction that defines this board. I will state that this board simply applies universal censorship that is inappropriate, unethical, and non-compliant, unless you have a citation from our governing documents or state statutes that justifies the censorship. Or the denial of remote access to meetings. Or any of the actions taken to avoid allowing myself, or any other dissenting member, from having the informed dissent considered prior to a vote. It's literally the heart of all matters of dispute with this board.

Thank you in advance for your response. If no response is received, and no explanation for the removal of flyers given, I shall be reposting them and taking additional actions to make the blog post available to owners prior to the meeting. If there is something specific in my blog post that creates basis for the action, you would need to notify me, specifically, regarding what that reason may be. Those that have read it and given me feedback have been universally positive and supportive. I have yet to hear a critical word.

Sincerely,

Andy

On Tue, Aug 20, 2019 at 6:07 PM Andrew Mowery <andrew.p.mowery@gmail.com> wrote:
To the Board and Petitioners:

I have written something in advance of the August 27th Special Meeting. I've considered mailing it, but after the community has received 3 letters, I think it would be received poorly. Therefore, I'm distributing it as a blog post to avoid any concerns with anyone receiving too many letters, emails, or even face-to-face contacts. Those that are interested in my thoughts are welcome to read them.

<https://poudreoverlook.com/purpose-vision-and-values/>

I hope you all take the time to read it.

This email is being copied to all Board members as well as the petitioners. You are welcome to share this email and/or the link above to whomever you please. And, the blog has the ability for anyone to leave comments if they want to do so. I welcome questions and interactions on the matters at hand. And, since the Board is silent on the question of where dissent is properly published or Owners are free to speak their minds without being banished from Facebook Groups, I am opening up this blog to guests who wish to share their thoughts or opinions going forward.

I am also receiving reports and messages from some other Owners regarding the canvassing and campaigning activities of both the Board and Petitioners. I feel it necessary to clear things up on a few points:

1. My thoughts are my own. What I've written in the blog post above is inspired by a book, *The Amara Raja Way*, and takes it's cues from the successes of a Global 500 company.
2. While I do keep an open door for communication with the Petitioners, I am not part of their group, nor am I made aware of the details of their plans. I've heard that someone is going around suggesting that I am. It's false.
3. While I support the Petitioners use of CRS 7-128-108 for board removal due to dysfunction, which is obvious, at this point, I do not believe it is a long-term solution. I believe that we will eventually see circumvention of this action, and that CRS 7-128-109 will eventually be necessary, as recommended by Robinson & Henry. I have been explicit to both the Board and any Petitioners that I've communicated with on this point. I recognize that this is the final step to exhaust all options prior to the "109" process, and with the Petitioners the best of luck in avoiding that step should they seat the next Board through their actions.
4. I have heard that someone is using an anonymous email address, noseeme@icloud.com, using the name "No Name" to forward several of my emails. One of them had an attachment, which I immediately recognized as a Quickbooks Report with the Membership List exported from Quickbooks on August 5, 2019 (timestamp on the file). There is other identifying information in the file and email. I've been told some suspect I am anonymously sending emails from that email address, and that is also false. Anyone receiving emails from that email address should look at the header, and note the variation in the IP from the emails I am sending. What I can infer, however, is that the person who sent the emails has access to documents exported from Quickbooks. Only Gloria and Buck have access to Quickbooks, so whomever is sending these emails must have gotten them from one of the two of them. So, the first question anyone concerned should ask Gloria and Buck is which of them produced the report, and who was it distributed to (and why).

I have no need to use secret email addresses, and anything I send in regards to this HOA originates from andrew.p.mowery@gmail.com. Going forward, I'll use the blog to publish any thoughts I'd like to share publicly with this community until a Board is in place that establishes an approved place where dissent may be published without retaliation - by the Board, or anyone else. We should not be censored for disagreeing with the Board, or having a different Purpose, Vision, or Values than the Board.

5. I do not support the rumored dealmaking I am hearing about. I believe the Policy for Enforcement has a process that should be followed, and the process should be the same for Board members as it would be for anyone else. No one else gets to make secret deals to avoid their non-compliance being documented,

so neither should Board members. Use of CRS 7-128-108 is a last resort when the regular process breaks down, but the documentation of the non-compliance shouldn't be disappeared in the process. There should be a record of the impartial fact-finding to avoid the dispute being raised again in the future. This needs closure, and non-transparent dealmaking prevents this.

6. My attorney has sent a letter to 4 individuals and the HOA regarding defamation. Again, this is a serious matter, and neither Special Meeting outcomes nor deals for resignations resolve the matter. I was explicit on June 1 regarding my concerns and intentions, and have yet to receive the resolution described in that email (A written apology clearing my name). Perpetuating a false narrative will have consequences, and again, the outcome of the meeting or dealmaking isn't relevant to that dispute. These are two separate matters, and unrelated in any way to the activities of the Petitioners. Please stop conflating the issues.

I hope this fully resolves the concerns about sending emails or letters to the general membership of this HOA, and that this workaround the majority bloc censorship is seen as reasonable to everyone else.

Andy

2 attachments



finalresponse.docx

27K



18-1004 Gmail - Black roof.pdf

76K