

## **Pete Dauster**

---

**From:** Pete Dauster  
**Sent:** Thursday, November 01, 2018 7:53 AM  
**To:** 'Buck Hammond'  
**Cc:** walker flanary; Irve Denenberg; Keith Knight  
**Subject:** RE: Violation letter

If you are going to meet with them I think we should wait to record the Notice. Is that where this is headed or not?

**Peter J. Dauster**  
**Gast Johnson & Muffly PC**  
**323 South College Avenue, Suite 1**  
**Fort Collins, Colorado 80524**  
**Office (970) 482-4846**  
**Facsimile (970) 482-3038**  
**E-Mail: [pdauster@gjmlawfirm.com](mailto:pdauster@gjmlawfirm.com)**  
**[www.gjmlawfirm.com](http://www.gjmlawfirm.com)**

**CONFIDENTIALITY NOTICE:** This message is confidential and may be privileged. If you have received this message in error, please (1) do not open any attachments, (2) reply to the sender that you have received this message in error, and (3) delete this message. Thank you.

**MODIFICATION DISCLAIMER:** Any modifications you make to any documents enclosed with this correspondence may change their legal significance, including their interpretation and enforceability. We are not responsible for any modifications made to these documents, which have not been approved by our office. We encourage you to consult with us regarding any proposed changes to the attached documents.

**From:** Buck Hammond <buck.hammond@gmail.com>  
**Sent:** Thursday, November 01, 2018 7:06 AM  
**To:** Pete Dauster <pdauster@gjmlawfirm.com>  
**Cc:** walker flanary <wgflanary@gmail.com>; Irve Denenberg <ibdpo4hoa@gmail.com>; Keith Knight <send.keith@gmail.com>  
**Subject:** Violation letter

Dear Peter:

Attached is the violation letter to the Brucker's that will be going out today (Walker could you please mail it since I am traveling). Peter could you also file a Covenant Violation for Poudre Overlook HOA against the Bruckers as well?

--

Best regards,  
Buck Hammond  
President Poudre Overlook HOA

POUDRE OVERLOOK HOME OWNERS' ASSOCIATION

FIRST NOTICE OF VIOLATION

November 1, 2018

Kevin and Linda Brucker  
1386 Tributary Court  
Fort Collins, CO 80521

**Violation: Violation of Architectural Control Guidelines**

Dear Mr. and Mrs. Brucker:

This is to advise you that the color of the shingles you have recently installed on the roof of your home is in violation of the Architectural Control Guidelines of the Poudre Overlook Home Owner's Association. The relevant Architectural Control Guideline (Effective February 1, 2006) that was violated can be found with the Association documents provided to you as a homeowner and is as follows:

**5. Color.** All colors on the exterior of a Residence must be approved in writing by the Architectural Control Committee. Shingles are to be Tamko Weathered Wood or similar manufacturer and color. (The ACC has approved a like shingle, Driftwood by other manufacturers).

For complete versions of the Association's documents visit <http://poudreoverlookhoa.com>

**To correct the violation:** The roof shingles must be removed and replaced with the appropriate color shingles as approved by the Architectural Committee on or before June 1, 2019.

If you correct the violation as outlined above then no further action is necessary. If you choose not to correct the violation, please be aware that this letter serves as the **first of two warnings**. Failure to correct the violation by the date given above will result in a final notice which will outline the Association's fining policy for ongoing violations which may include a one-time fine of up to \$5,000.00 and or a daily fine of up to \$25.00 per day until the violation is corrected. Furthermore the Association reserves the right to pursue any and all other rights and remedies it may have under its Declaration of Covenants, Conditions and Restrictions, other Association Documents and as otherwise provided by law.

Be advised that if this notice was sent in error, or if you feel there are mitigating circumstances, you have a right to request a hearing before the Board. Enclosed is a copy of the **Fine Policy, Notice and Hearing Procedures** for reference.

Thank you for your attention to this matter.

For the Board,

Buck Hammond, President

*Buck Hammond*

Poudre Overlook HOA  
P.O. Box 885  
Laporte, CO 80535  
PoudreOverlook HOA@gmail.com

## Pete Dauster

---

**From:** Buck Hammond <buck.hammond@gmail.com>  
**Sent:** Tuesday, November 13, 2018 5:49 AM  
**To:** Pete Dauster  
**Cc:** Keith Knight; Irve Denenberg; walker flanary; Maryann Goyn; Clay & Gloria Jones; Paul Janov; Andrew Mowery  
**Subject:** Fwd: Request for Hearing - Linda & Kevin Brucker, 1386 Tributary Court, Fort Collins, Colorado 80521  
**Attachments:** Poudre Overlook Letter (111218).pdf

Dear Peter:

Attached is the letter from Mr. Ward. I will notify him that you are our counsel and we will set a time to meet on the 12th.

Buck Hammond

----- Forwarded message -----

**From:** Kevin Ward <kward@wicklaw.com>  
**Date:** Mon, Nov 12, 2018 at 2:26 PM  
**Subject:** Request for Hearing - Linda & Kevin Brucker, 1386 Tributary Court, Fort Collins, Colorado 80521  
**To:** <buck.hammond@gmail.com>, <send.keith@gmail.com>, <wgflanary@gmail.com>, <goynm@outlook.com>, <pauljanov1@gmail.com>, <andrew.p.mowery@gmail.com>, <ibdpo4hoa@gmail.com>, <joneswv@gmail.com>  
**Cc:** Kevin Brucker <kevinb371@gmail.com>

Dear Members of the Board:

Please find the attached request for hearing on behalf of our clients. A copy of the same has been placed in the U.S. Mail today.

Regards,



**Kevin William Ward**

**Associate Attorney**

323 South College Avenue, No. 3

Fort Collins, Colorado 80524

[www.wicklawn.com](http://www.wicklawn.com)

Phone: 970.482.4011

Fax: 970.482.8929

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---

**From:** Kevin Ward [<mailto:kward@wicklaw.com>]

**Sent:** Wednesday, October 24, 2018 5:51 PM

**To:** '[buck.hammond@gmail.com](mailto:buck.hammond@gmail.com)' <[buck.hammond@gmail.com](mailto:buck.hammond@gmail.com)>; '[send.keith@gmail.com](mailto:send.keith@gmail.com)' <[send.keith@gmail.com](mailto:send.keith@gmail.com)>; '[wgflanary@gmail.com](mailto:wgflanary@gmail.com)' <[wgflanary@gmail.com](mailto:wgflanary@gmail.com)>; '[goynm@outlook.com](mailto:goynm@outlook.com)' <[goynm@outlook.com](mailto:goynm@outlook.com)>; '[pauljanov1@gmail.com](mailto:pauljanov1@gmail.com)' <[pauljanov1@gmail.com](mailto:pauljanov1@gmail.com)>; '[andrew.p.mowery@gmail.com](mailto:andrew.p.mowery@gmail.com)' <[andrew.p.mowery@gmail.com](mailto:andrew.p.mowery@gmail.com)>; '[ibdpo4hoa@gmail.com](mailto:ibdpo4hoa@gmail.com)' <[ibdpo4hoa@gmail.com](mailto:ibdpo4hoa@gmail.com)>; '[joneswv@gmail.com](mailto:joneswv@gmail.com)' <[joneswv@gmail.com](mailto:joneswv@gmail.com)>

**Cc:** 'Kevin Brucker' <[kevinb371@gmail.com](mailto:kevinb371@gmail.com)>; 'Linda Brucker' <[linda.brucker@gmail.com](mailto:linda.brucker@gmail.com)>

**Subject:** Linda & Kevin Brucker, 1386 Tributary Court, Fort Collins, Colorado 80521

Dear Members of the Board:

Please find the attached communication and documentation on behalf of our clients, Linda and Kevin Brucker. A copy of the same has been placed in the U.S. Mail to the attention of the Association.

Respectfully submitted,



**Kevin William Ward**

**Associate Attorney**

323 South College Avenue, No. 3

Fort Collins, Colorado 80524

[www.wicklawn.com](http://www.wicklawn.com)

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--

Ciao,  
Buck



# WICK & TRAUTWEIN, LLC

ATTORNEYS AT LAW - EST. 1972

CAMERON N. BANNINGA  
ANDREW W. CALLAHAN\*\*  
KATHRYN S. LONOWSKI  
ROBERT J. PENNY\*  
MICHAEL J. PETERSON  
MICHAEL S. SAMELSON\*  
KIMBERLY B. SCHUTT  
BLAIR J. TRAUTWEIN\*  
KEVIN W. WARD  
JOSHUA K. WESTMORELAND  
ROBIN L. WICK

Mailing Address:  
P.O. BOX 2166  
FORT COLLINS, COLORADO 80522

(970) 482-4011  
FAX (970) 482-8929

WWW.WICKLAW.COM

# 3 CLOCK TOWER SQUARE  
323 SOUTH COLLEGE AVENUE  
FORT COLLINS, COLORADO 80524

421 MAIN STREET, SUITE 2  
WINDSOR, COLORADO 80550  
(970) 686-6005

513 BIG THOMPSON AVENUE  
LOWER STANLEY VILLAGE  
ESTES PARK, CO 80517  
(970) 586-3505

\*ALSO ADMITTED IN WYOMING

\*\*ALSO ADMITTED IN IL, MO, TX.

Monday, November 12, 2018

**Via Email & U.S. Mail:**

Poudre Overlook  
Homeowners Association  
P.O. Box 885  
Laporte, Colorado 80535

***Re: Linda & Kevin Brucker, 1386 Tributary Court, Fort Collins, Colorado 80521***

***REQUEST FOR HEARING***

Dear Members of the Board:

Our client are in receipt of the Notice of Violation dated November 6, 2018. On behalf of our clients Linda and Kevin Brucker, we request a hearing before the Board pursuant to Section 4.3 of the Policy for Enforcement of Covenants and Rules (effective February 1, 2006). Under the policy, our client had the right to request a hearing within four days from the effective date of the Notice. Pursuant to Section 4.2(c) the Notice becomes effective two days from the date it is deposited in the mail. Based upon the mail deposit date of November 6, 2018, the deadline for a request for hearing is today, November 12, 2018.

On behalf of our clients we note that based upon the Notice, it is unclear whether the Notice is an action by the Architectural Control Committee ("ACC") or an act of the Board. We request clarification in that respect. We bring this to your attention because, as before, it is unclear what procedures the ACC and Board has followed thus far in this matter. Note that there are procedures set forth in Article IX of the Declaration regarding hearings and appeal as well as the more limited hearing procedures referred to in the Notice.

Our office was not copied in on the Notice. We respectfully ask that the Board direct future correspondence to our office. We reassert our request that the Board advise us of its legal representation.

As before, any communications may be directed to my attention at the Fort Collins address above or via email at [kward@wicklaw.com](mailto:kward@wicklaw.com).

Sincerely,

WICK & TRAUTWEIN, LLC

A handwritten signature in cursive script, appearing to read "Kevin William Ward".

Kevin William Ward, Esq.

## Pete Dauster

---

**From:** Buck Hammond <buck.hammond@gmail.com>  
**Sent:** Tuesday, November 13, 2018 12:13 PM  
**To:** kward@wicklaw.com  
**Cc:** Keith Knight; walker flanary; Maryann Goyn; Paul Janov; Andrew Mowery; Irv Denenberg; Clay & Gloria Jones; kevinb371@gmail.com; Pete Dauster  
**Subject:** Re: Request for Hearing - Linda & Kevin Brucker, 1386 Tributary Court, Fort Collins, Colorado 80521

Mr. Ward:

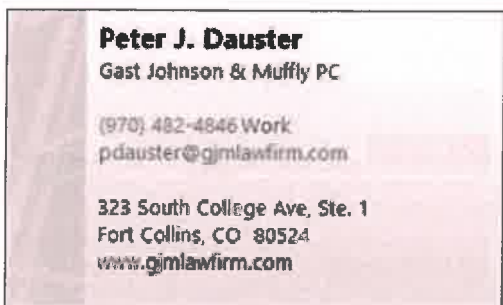
Excuse me I was looking on the wrong month. The Board will speak at our earliest convenience and we'll arrange a meeting date and time.

Buck Hammond

On Tue, Nov 13, 2018 at 5:55 AM Buck Hammond <buck.hammond@gmail.com> wrote:

Dear Mr. Ward:

We have received your communication and will arrange a meeting with you and your clients on or before November 12th (time and location TBD). Below is the contact information for our legal representative.



Buck Hammond  
President, Poudre Overlook HOA

On Mon, Nov 12, 2018 at 2:26 PM Kevin Ward <kward@wicklaw.com> wrote:

Dear Members of the Board:

Please find the attached request for hearing on behalf of our clients. A copy of the same has been placed in the U.S. Mail today.

Regards,

**Kevin William Ward**

**Associate Attorney**

323 South College Avenue, No. 3

Fort Collins, Colorado 80524

[www.wicklawn.com](http://www.wicklawn.com)

Phone: 970.482.4011

Fax: 970.482.8929

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---

**From:** Kevin Ward [mailto:[kward@wicklaw.com](mailto:kward@wicklaw.com)]

**Sent:** Wednesday, October 24, 2018 5:51 PM

**To:** '[buck.hammond@gmail.com](mailto:buck.hammond@gmail.com)' <[buck.hammond@gmail.com](mailto:buck.hammond@gmail.com)>; '[send.keith@gmail.com](mailto:send.keith@gmail.com)' <[send.keith@gmail.com](mailto:send.keith@gmail.com)>; '[wgflanary@gmail.com](mailto:wgflanary@gmail.com)' <[wgflanary@gmail.com](mailto:wgflanary@gmail.com)>; '[goynm@outlook.com](mailto:goynm@outlook.com)' <[goynm@outlook.com](mailto:goynm@outlook.com)>; '[pauljanov1@gmail.com](mailto:pauljanov1@gmail.com)' <[pauljanov1@gmail.com](mailto:pauljanov1@gmail.com)>; '[andrew.p.mowery@gmail.com](mailto:andrew.p.mowery@gmail.com)' <[andrew.p.mowery@gmail.com](mailto:andrew.p.mowery@gmail.com)>; '[ibdpo4hoa@gmail.com](mailto:ibdpo4hoa@gmail.com)' <[ibdpo4hoa@gmail.com](mailto:ibdpo4hoa@gmail.com)>; '[joneswv@gmail.com](mailto:joneswv@gmail.com)' <[joneswv@gmail.com](mailto:joneswv@gmail.com)>

**Cc:** 'Kevin Brucker' <[kevinb371@gmail.com](mailto:kevinb371@gmail.com)>; 'Linda Brucker' <[linda.brucker@gmail.com](mailto:linda.brucker@gmail.com)>

**Subject:** Linda & Kevin Brucker, 1386 Tributary Court, Fort Collins, Colorado 80521

Dear Members of the Board:

Please find the attached communication and documentation on behalf of our clients, Linda and Kevin Brucker. A copy of the same has been placed in the U.S. Mail to the attention of the Association.

Respectfully submitted,

**Kevin William Ward**

**Associate Attorney**

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Fort Collins, Colorado 80524

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--

Ciao,  
Buck

--

Ciao,  
Buck

## Pete Dauster

---

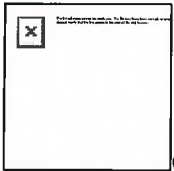
**From:** Buck Hammond <buck.hammond@gmail.com>  
**Sent:** Tuesday, November 13, 2018 12:11 PM  
**To:** Pete Dauster  
**Subject:** Re: Request for Hearing - Linda & Kevin Brucker, 1386 Tributary Court, Fort Collins, Colorado 80521  
**Attachments:** image002.jpg

Pete:  
Let me know what you find out.  
Buck

On Tue, Nov 13, 2018 at 7:41 AM Pete Dauster <[pdauster@gjmlawfirm.com](mailto:pdauster@gjmlawfirm.com)> wrote:

I will reach out to Kevin.

Peter J. Dauster



Gast Johnson & Muffly PC

323 South College Ave, Suite 1

Fort Collins, Colorado 80524

Telephone: (970) 482-4846

Facsimile: (970) 482-3038

E-mail: [pdauster@gjmlawfirm.com](mailto:pdauster@gjmlawfirm.com)

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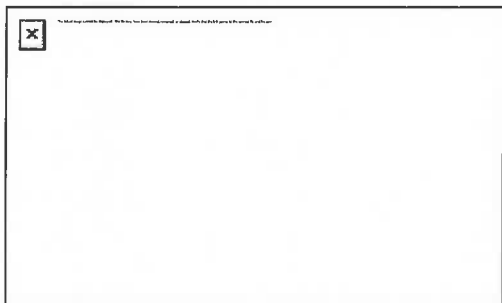
**From:** Buck Hammond <[buck.hammond@gmail.com](mailto:buck.hammond@gmail.com)>  
**Sent:** Tuesday, November 13, 2018 5:56 AM  
**To:** [kward@wicklaw.com](mailto:kward@wicklaw.com)

**Cc:** Keith Knight <[send.keith@gmail.com](mailto:send.keith@gmail.com)>; walker flanary <[wgflanary@gmail.com](mailto:wgflanary@gmail.com)>; Maryann Goyn <[goynm@outlook.com](mailto:goynm@outlook.com)>; Paul Janov <[pauljanov1@gmail.com](mailto:pauljanov1@gmail.com)>; Andrew Mowery <[andrew.p.mowery@gmail.com](mailto:andrew.p.mowery@gmail.com)>; Irve Denenberg <[ibdpo4hoa@gmail.com](mailto:ibdpo4hoa@gmail.com)>; Clay & Gloria Jones <[joneswv@gmail.com](mailto:joneswv@gmail.com)>; kevinb371@gmail.com; Pete Dauster <[pdauster@gjmlawfirm.com](mailto:pdauster@gjmlawfirm.com)>

**Subject:** Re: Request for Hearing - Linda & Kevin Brucker, 1386 Tributary Court, Fort Collins, Colorado 80521

Dear Mr. Ward:

We have received your communication and will arrange a meeting with you and your clients on or before November 12th (time and location TBD). Below is the contact information for our legal representative.



Buck Hammond

President, Poudre Overlook HOA

On Mon, Nov 12, 2018 at 2:26 PM Kevin Ward <[kward@wicklaw.com](mailto:kward@wicklaw.com)> wrote:

Dear Members of the Board:

Please find the attached request for hearing on behalf of our clients. A copy of the same has been placed in the U.S. Mail today.

Regards,

**Kevin William Ward**

## Associate Attorney

323 South College Avenue, No. 3

Fort Collins, Colorado 80524

[www.wicklawn.com](http://www.wicklawn.com)

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**Sent:** Wednesday, October 24, 2018 5:51 PM

**To:** 'buck.hammond@gmail.com' <[buck.hammond@gmail.com](mailto:buck.hammond@gmail.com)>; 'send.keith@gmail.com' <[send.keith@gmail.com](mailto:send.keith@gmail.com)>; 'wgflanary@gmail.com' <[wgflanary@gmail.com](mailto:wgflanary@gmail.com)>; 'goynm@outlook.com' <[goynm@outlook.com](mailto:goynm@outlook.com)>; 'pauljanov1@gmail.com' <[pauljanov1@gmail.com](mailto:pauljanov1@gmail.com)>; 'andrew.p.mowery@gmail.com' <[andrew.p.mowery@gmail.com](mailto:andrew.p.mowery@gmail.com)>; 'ibdpo4hoa@gmail.com' <[ibdpo4hoa@gmail.com](mailto:ibdpo4hoa@gmail.com)>; 'joneswv@gmail.com' <[joneswv@gmail.com](mailto:joneswv@gmail.com)>

**Cc:** 'Kevin Brucker' <[kevinb371@gmail.com](mailto:kevinb371@gmail.com)>; 'Linda Brucker' <[linda.brucker@gmail.com](mailto:linda.brucker@gmail.com)>

**Subject:** Linda & Kevin Brucker, 1386 Tributary Court, Fort Collins, Colorado 80521

Dear Members of the Board:

Please find the attached communication and documentation on behalf of our clients, Linda and Kevin Brucker. A copy of the same has been placed in the U.S. Mail to the attention of the Association.

Respectfully submitted,

**Kevin William Ward**

**Associate Attorney**

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--

Ciao,  
Buck

--

Ciao,  
Buck

## Pete Dauster

---

**From:** Kevin Ward <kward@wicklaw.com>  
**Sent:** Friday, November 16, 2018 9:14 AM  
**To:** Pete Dauster  
**Subject:** Poudre Overlook HOA and Brucker  
**Attachments:** Gmail - Roof blanket approval.pdf; ACC Guidelines.PDF;  
2160648poudre\_overlook\_-\_signed\_declaration\_of\_covenants\_09-03.pdf; Roof  
Collage.pdf

Pete,

Thanks for stopping by. I've attached the email sent out by the HOA regarding roof replacement. That email references the guidelines, so I've attached those as well. Also attached is the declaration. Page 24 of the Declaration is where the appeal procedures are addressed. It does appear that the appeal would be to the owners if there is dissatisfaction with the decision of the Board.

As I noted for you, my clients felt that they were within the guidelines by choosing a "similar manufacturer and color." They felt they were within the range of colors in the neighborhood. They took some photos of various roofs in the neighborhood and I've attached the photo collage.

I have checked my schedule. I will be unavailable on the 28<sup>th</sup> of November, so that date will not work. Maybe early December?

If we can come to some agreement and imposition of a fine, I think my clients could live with that; however, replacing the entire roof would be an exceptional burden.

Let's keep the dialogue going...

Thanks,

Kevin



**Kevin William Ward**

**Associate Attorney**

323 South College Avenue, No. 3

Fort Collins, Colorado 80524

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Kevin Brucker &lt;kevinb371@gmail.com&gt;

---

**Poudre Overlook HOA eMail Bulletin**

1 message

---

**Poudre Overlook HOA** <messenger@yourcommunitybulletins.com>  
Reply-To: Poudre Overlook HOA <poudreoverlookhoa@gmail.com>  
To: Kevin Brucker <kevinb371@gmail.com>

Sat, Jun 30, 2018 at 8:41 AM

Dear Neighbors,

In light of the recent hail storm and the number of households needing new roofs, this letter serves as written approval for roof replacements if you are following the guidelines below:

The guidelines for roofing shingles can be found in the Poudre Overlook HOA Rules and Regulations dated Feb 1st, 2006, and states the following:

#5. All colors on the exterior of a residence must be approved in writing by the Architectural Control Committee (ACC). Shingles are to be Tamko Weathered Wood or similar manufacturer and color.

NOTE: "Weathered Wood" is a color, very similar to "Driftwood" by other manufacturers.

If you follow these guidelines, please proceed with your roofing project. Any deviation will require a written proposal sent to the ACC.

If you have any further questions please contact the HOA @: poudreoverlookhoa@gmail.com

Thank you all in advance for noting these details.

Kind Regards,

Irve Denenberg  
ACC Chairman

Visit Poudre Overlook HOA online at <http://www.poudreoverlookhoa.com/poudreoverlookhoa>

**POUDRE OVERLOOK H.O.A.  
ARCHITECTURAL CONTROL GUIDELINES**

**Effective: Feb 1, 2006**

1. Land Use and Building Type. No building or other structure shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single-family Residence per Lot, with attached garage, and one (1) shed per Lot. Any shed to be constructed on a Lot shall meet the following requirements: The shed shall be located behind a five-foot (5') redwood or cedar privacy fence; the high point of the shed shall not extend more than four feet (4') above the five-foot (5') privacy fence; maximum shed size is 80 sq. ft.; the shed shall be painted the same color as the Residence; the shed shall have the same roofing material as the Residence; the shed shall have a 5/12 roof pitch; and the shed shall have horizontal lap siding with seven-inch (7") exposure. Size and placement of the shed on the Lot must be approved by the Architectural Control Committee. Sheds may be denied approval if they cause drainage problems or block neighbors' views. Playground equipment may be constructed on a Lot. Play ground equipment need not be constructed behind a privacy fence.

2. Garages. Each Residence shall include an attached garage having space for not less than two (2) automobiles.

3. Height of Buildings. No building shall exceed two and one-half (2 ½) stories in height.

4. Roof. The roof of each Residence shall have a minimum 5/12 pitch and a minimum overhang of twelve inches (12").

5. Color. All colors on the exterior of a Residence must be approved in writing by the Architectural Control Committee. Shingles are to be Tamko Weathered Wood or similar manufacturer and color.

6. Fences: Any fence to be constructed on a Lot must be approved by the Architectural Control Committee. All fences must not exceed five feet (5') high as measured from final grade, must be constructed of redwood or cedar wood, and must conform to the standard subdivision design. The Architectural Control Committee shall provide the fence detail information to any Owner requesting such information. The Owner of the Lot shall be solely responsible for any damage caused to his or her Lot or any adjacent Lot as a result of the failure of the Owner to maintain proper drainage flow within the swale.

7. Clotheslines. Any clothesline to be installed on the Common Interest Community must be approved by the Architectural Control Committee and must be retractable.

8. Landscaping. The landscaping plan for each Lot must be approved by the Architectural Control Committee and installed within ten (10) months of the issuance of a certificate of occupancy.

9. Siding. All siding shall horizontal lap siding with a maximum of seven inches (7") in width exposed.

10. Setbacks. No building or other structure, except fences, shall be constructed within the minimum setbacks established by applicable City codes and regulations.

11. Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, including, by example and not limitation, satellite dishes in excess of eighteen inches (18") in diameter, shall be erected, used, or maintained outdoors on any Lot, whether attached to a building or structure or otherwise, unless approved by the Architectural Control Committee. Satellite dishes which do not exceed eighteen inches (18") in diameter shall be permitted below the eave of the roofline on sides or rear of a Residence but shall not be permitted on the front elevation of a Residence.

12. Maintenance of Lot and Improvements. Owners of Lots shall keep or cause to be kept all buildings, fences, and other structures, and all landscaping located on their property in good repair.

13. Trash Removal. Rubbish, refuse, garbage, and other solid, semisolid, and liquid waste shall be kept within sealed containers, shall not be allowed to accumulate on any Lot, and shall be disposed of in a sanitary manner. No Lot shall be used or maintained as a dumping ground for such materials. All containers shall be kept in a neat, clean, and sanitary condition and shall be stored inside a garage or other approved structure. No trash, litter, or junk shall be permitted to remain exposed upon any Lot and visible from adjacent streets or other Lots. Burning of trash on any Lot shall be prohibited. No lumber or other building materials shall be stored or permitted to remain on any Lot unless screened from view from other Lots and from the streets, except for reasonable storage during construction. Only one commercial trash hauling company will be permitted to serve the neighborhood.

14. Nuisance. Nothing shall be done or permitted on any Lot which is or may become a nuisance. No obnoxious or offensive activities or commercial businesses or trades shall be conducted on any Lot, except home occupations as defined and permitted by the applicable zoning resolution of the governmental entity having jurisdiction over the Common Interest Community.

15. Household Pets. Household pets, such as dogs and cats, shall be permitted on any Lot, not to exceed four (4) pets total (two (2) of which may be dogs). Said pets shall be restricted by leash or chain or confined by fence within the Lot or properly trained and at all times within the control of and controlled by the Lot Owner. Household pets may not be kept, bred, or maintained on any Lot for commercial

purposes. A dog run may be installed on a Lot; provided, however, that the dog run is located behind a five-foot (5") redwood or cedar privacy fence. Dog runs must be approved by the Architectural Control Committee.

16. Damage or Destruction of Improvements. In the event any Residence or other structures constructed on a Lot is damaged, either in whole or in part, by fire or other casualty, said Residence or other structures shall be promptly rebuilt or remodeled to comply with this Declaration; or in the alternative, if the Residence or other structure is not to be rebuilt, all remaining portions of the damaged structure, including the foundation and all debris, shall be promptly removed from the Lot, and the Lot shall be restored to its natural condition existing prior to the construction of the Residence or other structure.

17. Storage Tanks and Containers. No elevated tanks of any kind shall be erected, placed, or permitted to remain on any Lot unless such tanks are screened from view from other Lots and from the streets by fencing or landscaping in a manner approved by the Architectural Control Committee. All air-conditioning, refrigeration, cooling, heating, or other mechanical equipment or system which is located outside of a Residence or other structure on a Lot shall be screened from view from other Lots and from the streets by fencing or landscaping approved by the Architectural Control Committee.

## Pete Dauster

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**From:** Pete Dauster  
**Sent:** Tuesday, November 27, 2018 8:32 AM  
**To:** 'Buck Hammond'  
**Subject:** RE: Brucker's

No fine. No action to be taken. You are just going to let it ride or are you still going to hold a hearing?

Peter J. Dauster  
Gast Johnson & Muffly PC  
323 South College Ave, Suite 1  
Fort Collins, Colorado 80524  
Telephone: (970) 482-4846  
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**From:** Buck Hammond <[buck.hammond@gmail.com](mailto:buck.hammond@gmail.com)>  
**Sent:** Tuesday, November 27, 2018 8:23 AM  
**To:** Pete Dauster <[pdauster@gjmlawfirm.com](mailto:pdauster@gjmlawfirm.com)>  
**Subject:** Brucker's

Dear Peter:

The Board voted last Tuesday not to impose a fine on the Brucker's. You may read the mtg notes and see the final vote in the last paragraph. Please notify their attorney and call me if you have any questions at 970-223-1525.

--

Best regards,  
Buck Hammond



Board Meeting Minutes Nov. 20, 2018

Quorum of Board Members present:

Irve Denenberg  
Andy Mowrey  
Keith Knight  
Gloria Jones  
Maryann Goyn  
Heather Philips  
Buck Hammond

The meeting was called to discuss the offer by Kevin Ward (see email snippet below), attorney for Kevin and Linda Brucker, to resolve the issue of the ACC Covenant Violation.

“He (Kevin Ward) also suggested that his clients would really like to resolve this matter. He suggested a one-time fine.” “Something to consider as well may be an agreement that if the property is sold the new owners would need to replace the roof or something to that effect (Peter Dauster).”

Because the Brucker’s requested an appeal to the board we treated this as part of the appeal process. I opened the meeting by stating the purpose of the meeting to discuss the offer by Kevin Ward and requested a straw poll to gain an understanding of what all members understood every person’s position. I also spoke to Ben Johnson and Walker Flannery by phone prior to the meeting to get their straw poll position.

**Irve Denenberg** didn’t want to burden the Brucker’s by forcing them to replace the roof. If it needs replacing before the sale of the home they should be required to get board approval. He also felt \$1,000 would be a reasonable fine.

**Andy Mowrey** felt the CCR and By-Law’s had been incorrectly followed from the beginning and provided compelling information from Article IX Section 7. He felt we should waive the fine.

**Gloria Jones** felt there should be no fine and if it is re-roofed it will need to conform to the ACC guidelines.

**MaryAnn Goyn** felt a \$1,000 fine was sufficient and when the roof is replaced it must conform to the ACC guidelines.

**Buck Hammond** concurred with this concept (\$1,000 fine and when the roof is replaced it must conform to ACC guidelines). I also pointed out that of all of the roofs (at least 80 or 90% of the HOA) that were replaced only 1 was out of compliance despite the fact there were clear color guidelines. Assurance did other roofs in the HOA that were in color compliance.

PO Box 885  
Laporte, CO 80535  
PoudreOverlookHOA@gmail.com

**Heather Philips** feels the Brucker's had paid enough already and felt if they paid for a tree for the open space renovation that would be sufficient. She also felt they should file for a variance.

**Keith Knight**, who had at the beginning of this process had recused himself, as point of order requested that Irve Denenbeg be recused from the voting on the final decision due to conflict of interest between being a Board Member and head of the ACC in consideration of Article IX Section 7. After some discussion I agreed with the request and recused Irve from the voting process.

**Ben Johnson** felt there should be no fine but perhaps they could plant a tree in the new open space and when the roof needs to be replaced it will need to conform to ACC color guidelines. Parenthetically he mentioned that they had their solar panels off for 4 months which cost them \$100/month.

**Walker Flannery** felt a \$2,000 fine would be reasonable and that when the roof is replaced it should conform to ACC color guidelines.

There as a round table discussion and I made a motion based on the discussion to fine the Brucker's \$500 which would include all incurred legal fee's by the HOA and require them, when the roof requires replacement, to ensure the roof color conforms to ACC guidelines. The outcome of the vote was as follows:

Gloria Jones – No  
MaryAnn Goyn – Yes  
Heather Philips – No  
Buck Hammond – Yes  
Andy Mowery – No

The no's carried.

Heather Philips proposed a second motion to state that there will be no fine, the Brucker's are in violation of the color code provided by the ACC Committee and that when the house next requires re-roofing it must conform to the ACC color guidelines.

Gloria Jones – Yes  
MaryAnn Goyn – No  
Heather Philips – Yes  
Buck Hammond – No  
Andy Mowery – Yes

The second motion passed. I closed the meeting and will notify the Peter Dauster of the results of the Board vote.

## Pete Dauster

---

**From:** Pete Dauster  
**Sent:** Tuesday, November 27, 2018 9:02 AM  
**To:** Kevin Ward (kward@wicklaw.com)  
**Cc:** Buck Hammond (buck.hammond@gmail.com)  
**Subject:** Poudre Overlook HOA / Brucker (1386 Tributary Court)

Kevin:

This email will confirm our conversation with regard to the above referenced matter. The Poudre Overlook board met last night and decided not to fine your clients or take any other enforcement action in response to the non-conforming roof shingles at their residence, despite the fact that the Bruckers failed to properly follow the required approval protocol per the association's governing documents. When the current roof needs to be replaced your clients will be expected to follow proper ACC approval protocol and, if not, will face possible enforcement action at that time.

Should you or your clients have any questions with regard to the above please feel free to give me a call. Pete.

Peter J. Dauster  
Gast Johnson & Muffly PC  
323 South College Ave, Suite 1  
Fort Collins, Colorado 80524  
Telephone: (970) 482-4846  
Facsimile: (970) 482-3038  
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