



Clint G. Goodman, Esq. *
Mark A. Holmgren, Esq. **
Ashley N. Moscarello, Esq. t
Daniel S. Francom, Esq. t
Maura A. Abernethy, Esq., Of Counsel t

t Licensed in Arizona
* Licensed in Arizona and Colorado
** Licensed in Arizona and New Mexico

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Members of the Silverstone Ranch Association

Re: Notice of Wall Maintenance and Responsibility

Dear Association Member:

This law firm represents the Silverstone Ranch Association (“Association”). The Association’s Board of Directors requested us to provide members with information regarding maintenance, repair, and replacement responsibilities and obligations for certain shared walls within the Silverstone Ranch to resolve any uncertainty as to who is responsible for these walls. As such, this letter is being sent to you as a reference as to what the Association’s governing documents and Arizona law obligate you to do as owners versus the obligations of the Association.

Association and owner responsibility for walls in Silverstone Ranch include walls that are shared between owners’ lots, common area and other walls that are either located next to the equestrian trail or walls shared between an owner’s lot and a lot that is not part of the Association. The Association’s Declaration of Covenants, Conditions and Restrictions provides guidance for the parties’ obligations related to walls.

Walls between owners’ lots and between an owner’s lot and Association common area

Walls located between two lots or between a lot and common area are party walls. Article 11, Section 11.1 of the CC&Rs states:

Each wall or fence which is located between two Lots or between a Lot and Common Area shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article 11, the general rules of law regarding party walls and liability for property damages due to negligent or willful acts or omissions shall apply thereto. (For purposes of this Article 11 only, in the case of a party wall between a Lot and Common Area, in interpreting the provisions of this Article the Common Area bounded by such wall shall be deemed to be a "Lot" and the Association shall be deemed to be the "Owner" of such "Lot.")

Article 11, Section 11.3 governs the maintenance of party walls, and states, “In the event any repair, maintenance or reconstruction of any party wall shall be necessary (other than due to the negligence or willful act or omission of the Owner or Occupant of one Lot, or such Owner’s or Occupant’s tenants, guests, invitees, employees or agents) the cost thereof shall be borne equally by the Owners and/or Occupants of the Lot(s) having in common such party wall...”

Therefore, the owners of the lots that share these walls are obligated to maintain and repair them, and in the case where the wall is situated between an owner’s lot and common area, the lot owner and the Association share the obligations. If the wall is shared by an owner and the

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Association, the Association has the responsibility to maintain the side of the wall facing the common area and the owner has the responsibility to maintain the side of the wall facing the owner's lot. Maintenance includes painting, stucco and all cosmetic maintenance. The Association and the lot owner are responsible for sharing the cost of any structural repairs or replacement of these walls. Owners should note the numerous small strips of Association common area through Silverstone as indicated on the enclosed reference map.

Perimeter and Boundary Walls

The Declaration also addresses the maintenance and repair of perimeter or boundary walls. Article 4, Section 4.1.6 of the CC&Rs states that, "The Association shall be responsible for maintaining the side of any boundary wall facing a public street or roadway (or a private street or roadway owned by the Association), while the owner of a lot shall be responsible for maintaining the side of any boundary wall facing such owner's lot." Whether a wall is considered a boundary wall or perimeter wall depends largely on if the design of such wall is a "theme" wall that presents uniform appearance along its length. The Association is only responsible for the maintenance of the portion of the wall facing the street. In these instances, the walls do not separate any Association common area in between the public street and the lot owner's property. Because there is no common area adjacent to the wall, and because the wall is situated on the lot owner's property, the lot owner is responsible for the maintenance of the side of the wall facing the owner's property and the structural repair and replacement of the wall.

As noted on the reference map, the number of walls that fall under this category are relatively low. The walls that are included in this category are those along Red Rock St. and Rawhide Ave. where the walls separate an owner's lot from the street and does not include any Association common area in between.

Equestrian Trail and Lots Bordering Fry's

The Association has received specific questions related to the walls on the lots that border the Fry's property in the southeast part of the community and the equestrian trail on the west side of the community. The Association does not have any obligation in the maintenance, repair, or replacement of these walls. These walls are not considered perimeter or boundary walls under the CC&Rs pursuant to Section 4.1.6 of the CC&Rs as noted above. These walls are not "theme" walls as they do not present a uniform appearance throughout. Some of these walls have different texturing and colors than the other boundary or perimeter walls in Silverstone Ranch.

Equestrian Trail

The walls bordering the equestrian trail are located entirely on the owner's lot and do not include any Association common area adjacent to the walls. The Plat map for Silverstone Ranch indicates that these walls are located approximately fifteen feet (15') on the lot owners' property with an easement for the equestrian trail. Because these walls are on the owner's lot and do not separate two lots, there are no shared maintenance obligations and the maintenance and structural repair of those walls are solely the owner's responsibility.

Fry's

Those walls bordering Fry's do not face a public street or roadway and thus the Association also does not have any maintenance or repair obligations for these walls. These walls divide the property between an owner's lot and Fry's property. The walls between an owner's lot and Fry's are likely governed by the common law of party walls, but we recommend owners consult their own personal attorneys to determine the responsibility between the owner and Fry's.

Included with this letter is a reference map indicating owners' and the Association's responsibilities in maintaining and repairing the walls within Silverstone Ranch. Please note that this reference map does not include the obligations for walls which are located between lots where each lot belongs to an owner. Those walls are party walls where maintenance and repairs are defined in Article 11 of the CC&Rs and discussed briefly above. We hope this letter and the enclosed reference are helpful. Please reach out to your Community Manager, Lisa Richmond with Vision Community Management if you have any questions regarding your obligations as an owner.

Very truly yours,
GOODMAN HOLMGREN LAW GROUP, L.L.P.



Daniel S. Francom, Esq.
For the Firm

Enclosure: Silverstone Ranch Wall Reference Map

