

HOA Boards response regarding an RV parked behind a homeowner's gated fence

We wish to inform you of your HOA Board's efforts to investigate this matter, including talking to legal counsel. At this time the Board continues to monitor and investigate, however based on advice of counsel, we do not consider this action a violation at this time.

Referenced CCR's available in Documents at www.Stonebrookestates.org

Key points in our decision:

- The Board was aware of the RV the day it was parked. In fact all three of us observed the property in person and together shortly thereafter. We also reviewed the corresponding CCR's and decided unanimously that the homeowner was not in violation. This decision was based upon our inspection of the property and strict adherence to the wording of the CCR's (Section 8:5).
- At one point we received a sole homeowner complaint indicating the RV was being used as a residence (in violation of CCR's Section 8:3). The Board took this very seriously and all three of us spent well over a month observing the RV day and night. We clearly determined in fact that it is not being used as a residence and therefore not in violation.
- Section 8.3 prohibits the RV's use as a residence. Based on continued observation by all three board members it does not appear the RV at issue is being used as a residence. Therefore, the owner does not appear to be in violation of Section 8.3
- Section 8.5 states that an RV cannot be kept on a lot unless one of two exceptions is met. One, the RV is "fully" enclosed within a garage or, two, the RV is screened from view by a screening structure or fence
- The RV is adequately screened and reasonable as it is located behind a fence, a powered gate, on an engineered pad and not readily visible from public streets and the front of the property (therefore curb appeal and home valuations are not adversely affected). The RV is solely located in the lot's backyard and can only be seen from the alley behind the property
- The RV is operable, in operable condition (a requirement of Section 8:5) and consistently used by the owner

- We disagree with any assertion that many others will follow suit as this lot is unique (corner of the alley with a large/wide fence and powered gate). Few properties in our neighborhood are configured as such. Trailers, RV's, etc. stored in the open on driveways, landscape and/or the street are and will continue to be in violation. The same trailers, RV's, etc. stored behind adequately fenced/screened lots is acceptable per HOA CCR's and would be reviewed on each basis.
- Further statement regarding Section 8.5 (*stating that an RV cannot be kept on a lot unless one of two exceptions is met. One, the RV is "fully" enclosed within a garage or, two, the RV is screened from view by a screening structure or fence*): We have obtained legal counsel with specific references to the wording including legal textbooks and court cases. Based on these guidelines for interpreting the covenants the word "fully" only describes the enclosure of the RV in the garage. The wording regarding screening of the RV follows the phrasing regarding enclosure in the garage. As a result, "fully" is only describing the requirement that the RV be enclosed in the garage and not the following phrase regarding screening from public view.
- This interpretation is supported by the subsequent language in Section 8.5. That language provides that the Association "has the absolute authority to determine from time to time whether a vehicle is adequately screened from public view". That language implies full screening is not required. If the drafter intended to require full screening, the drafter could have simply added the word "fully" before the screening language and removed the language regarding the Association's discretionary authority to determine adequate screening.
- Regarding the Association's authority described above in determining as to adequate screening, the Board possesses the authority to operate and render decisions for the Association.
- The HOA Board believes we ruled with integrity in strict accordance with the CCR's. Any other ruling on this issue with regards to Section 8:5 would in fact be contrary to the CCR's. Accordingly we stand by our interpretation as being fair and equitable.