

DRAFT RESOLUTION NO. 2019-XXX

RANCHO SANTA FE ASSOCIATION BOARD OF DIRECTORS
RESOLUTION 2019-XXX
FENCES AND SIDEYARD INTERPRETATIONS

WHEREAS, the Rancho Santa Fe Association (the “Association”) is charged with the interpretation of Article IV of the Covenant pursuant to Paragraph 180 thereof and the Board of Directors (the “Board”) is directed to exercise the powers of the Association pursuant to Article IV of the Bylaws of the Association; and

WHEREAS, questions have arisen as to the meaning of various provisions of Article IV of the Rancho Santa Fe Protective Covenant (the “Covenant”), particularly Paragraph 141 and specifically whether an owner must be in agreement with an adjoining neighbor to install a fence within 5 feet of the property line of that neighbor; and

WHEREAS, Paragraph 141 of the Covenant states:

Par. 141. (c) In Districts of Clases [sic] A, B, H, J, K and L along each side lot line there shall be a side yard of a minimum width of five (5) feet, provided, however, that upon the presentation of a duly executed party wall agreement between owners of two adjoining lots and with the written approval of the Art Jury, this requirement shall not apply as to said lot line, provided that this shall not reduce any free space or sideline setback requirement elsewhere established; and

WHEREAS, Paragraph 141’s requirement of a minimum of 5 feet from a lot line is the rule and is not limited in application to walls, or but would include fences and presumably other like structures; and

WHEREAS, the Covenant Design Review Committee Supplemental Design Criteria – Fences and Walls states:

2. Side and rear yards
 - a. A fence that is not placed directly on the property line should be recessed from the property line by at least five (5) feet to allow room for landscaping and maintenance on both sides of the fence.
 - b. In instances where a fence is already located on an adjoining property and is set back by five feet, a greater setback than five feet may be required for the new fence to avoid a narrow ten-foot strip between the two fences.
3. Trails - Inset the fencing a minimum of 3 feet from an existing trail.
4. Applications for fences that are placed on a property line require a signed letter of approval from the adjoining owner.

WHEREAS, Civil Code 4340 provides the guideline is an enforceable operating rule:

(a) "Operating rule" means a regulation adopted by the board that applies generally to the management and operation of the common interest development or the conduct of the business and affairs of the association.

RESOLVED, that the Board hereby makes the following determinations which shall be binding on the members of the CDRC in its decisions from and after the date of this Resolution notwithstanding any inconsistent decisions reached by the CDRC prior thereto:

Paragraph 141 of the Covenant and Supplemental Design Guidelines require approval of a neighbor if a new fence is to be installed closer than 5 feet to that neighbor's property line.

I hereby certify that the foregoing resolution was adopted by the Board of Directors of the Rancho Santa Fe Association at a regularly scheduled meeting duly called and held July 2, 2019.

Dated: _____

President, Rancho Santa Fe Association

Secretary, Rancho Santa Fe Association