

Avalon

AT EAGLES CROSSING

Architectural Policy

The following excerpts are taken from the CC&Rs and constitute Avalon at Eagles Crossing HOA's Architectural Policy.

from any such lease or agreement as they become due and payable, provided, however, that the Association, at its sole discretion, may revoke such authority at any time on written notice to the Owner of a default in the payment of any Assessment due hereunder. On revocation of such authority, the Association may, under court order or by court-appointed receiver, collect and retain such monies, whether past due and unpaid or current.

Section 4.12. Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created under this Article, the benefit of any homestead or exemption law of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed.

ARTICLE V

ARCHITECTURAL CONTROL

Section 5.1. Architectural Committee Approval of Improvements.

- a) **Approval Generally.** Before commencing construction or installation of any Improvement, as defined in Section 1.20, within the Association, the Owner planning such Improvement must submit to the Architectural Committee a written request for approval. The Owner's request shall include structural plans and specifications satisfying the minimum requirements. No work on the Improvement shall be undertaken unless the Committee's approval of the proposal is first obtained. The Architectural Committee shall base its decision to approve, disapprove, or conditionally approve the proposed Improvement on the criteria described in Section 5.6.
- b) **Modifications to Approved Plans Must Also Be Approved.** Once a proposed work of Improvement has been duly approved by the Architectural Committee, no material modifications shall be made in the approved plans and specifications therefor and no subsequent alteration, relocation, addition, or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the Committee. If the proposed modification will have, or is likely to have, a material effect on other aspects or components of the work, the Committee, in its discretion, may order the Owner and his or her contractors and agents to cease working not only on the modified component of the Improvement but also on any other affected component.

If the Association, its Architectural Committee, or the agents or employees of either learn that a work of Improvement, or any modification thereof, is proceeding without proper approval, the Association shall be entitled to exercise the enforcement remedies specified in Section 5.11, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement until such time as proper Architectural Committee review and approval is obtained.

Section 5.2. Committee Membership. The Architectural Committee shall be composed of not less than three and no more than five Members of the Association appointed by the Board of Directors. Committee members shall serve for 1-year terms, subject to the Board's power to remove any Committee member and to appoint his or her successor. Neither the members of the Architectural Committee nor its designated representatives shall be entitled to any compensation for services performed under this Declaration.

Section 5.3. Duties of the Committee. It shall be the duty of the Architectural Committee to consider and act on the proposals and plans for Improvement submitted to it under this Declaration, to adopt Architectural Rules under Section 5.5, to perform other duties delegated to it by the Board of Directors, and to carry out all other duties imposed on it by this Declaration.

Section 5.4. Meetings. The Architectural Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a majority of the Committee members shall constitute the action of the Committee, and the Committee shall keep and maintain a written record of all actions taken.

The applicant shall be entitled to appear at any meeting of the Architectural Committee at which his or her proposal has been scheduled for review and consideration. The applicant shall be entitled to be heard on the matter and may be accompanied by his or her architect, engineer, and/or contractor. Other Owners whose Condominium may be affected by the proposed Improvement shall also be entitled to attend the meeting.

Reasonable notice of the time, place, and proposed agenda for Architectural Committee meetings shall be communicated before the date of the meeting to any applicant whose application is scheduled to be heard.

If the proposed Improvement will be visible from any neighboring Unit or involves any entry into, or modification of, the roof or any Party Wall, the Owners of the effected Unit(s) shall be notified promptly by the Committee of the applicant's submittal and shall

thereafter be given notice of any Committee meeting at which the application is scheduled to be heard.

Section 5.5. Architectural Rules. The Architectural Committee may, from time to time and with approval of the Board of Directors, adopt, amend, and repeal rules and regulations to be known as "Architectural Rules." The Architectural Rules shall interpret and implement the provisions hereof by setting forth (a) the standards and procedures for Architectural Committee review, including the required content of Improvement plans and specifications; (b) guidelines for architectural design or placement of any work of Improvement or color schemes, exterior finishes, and materials and similar features recommended or required for use in connection with particular Improvement projects within the Development; and (c) the criteria and procedures for requesting variances from any property use restrictions that would otherwise apply to the proposed Improvement under Section 5.12. Notwithstanding the foregoing, no Architectural Rule shall be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the Architectural Rules and this Declaration, the provisions of the Declaration shall prevail. Architectural Rules that relate to procedural requirements for the review and approval of Improvement projects are "Operating Rules" subject to Section 3.7(c).

Among other things, the Architectural Rules shall provide a fair, reasonable, and expeditious procedure for making decisions on submitted Improvement plans and projects. The procedures shall include prompt deadlines for various actions and a maximum time for response to an application consistent with Section 5.7.

Section 5.6. Basis for Approval of Improvements. When a proposed Improvement is submitted to the Architectural Committee for review, the Committee shall grant the requested approval only if the Committee, in its sole discretion exercised in good faith, makes the following findings regarding the proposed project:

- a) The Owner's plans and specifications conform to this Declaration and to the Architectural Rules in effect at the time such plans are submitted to the Committee;
- b) The Improvement will be in harmony with the external design of other structures and landscaping within the Association;
- c) The Improvement, as a result of its appearance, location, or anticipated use, will not interfere with the reasonable enjoyment of any other Owner of his or her Condominium; and

- d) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within the Development and with the overall plan and scheme of development within the Development.

The decision of the Committee shall be in writing, shall be made in good faith, and shall not be arbitrary, unreasonable, or capricious. The Committee will present its proposed decision to the Board for final approval. Although it is recognized that the Architectural Committee's determination will, of necessity, be subjective to some degree, the members of the Committee shall consider such factors as the quality of workmanship and materials proposed for the Improvement project; the harmony of its exterior design, finished materials, and color with that of other existing structures; the proposed location of the Improvement in relation to the existing topography, finished grade elevations, roads, Common Areas, and other existing structures; and the impact, if any, that the Improvement will have or may have on the structural integrity of the Condominium or adjacent Condominiums. Decisions shall be consistent with any governing provision of law, including, without limitation, the Fair Employment and Housing Act.

The Architectural Committee's approval of any plans, drawings, or specifications for any work of Improvement done or proposed or for any other matter requiring the approval of the Committee under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval by the same or some other Owner. In reviewing a particular submittal, the Committee may take into consideration different locations for Improvements, the size of the structure, proximity to other Residences or Common Facilities, and other factors. Accordingly, the Committee shall be entitled to determine that a proposed Improvement or component thereof is unacceptable when proposed for a particular Condominium, even if the same or a similar Improvement or component has previously been approved for use at another location if factors such as drainage; topography; noise; visibility from roads, Common Areas, or other Units; or prior adverse experience with the product, the design, or with similar Improvements mitigate against erection of the Improvement or use of a particular component thereof for the Unit involved in the Owner's submittal.

In approving a request for construction of an Improvement, the Architectural Committee may condition approval on the adoption of modifications in the

Owner's plans and specifications or observance of restrictions as to location, noise abatement, or similar mitigating conditions applicable to the Improvement.

Section 5.7. Time Limits for Approval or Rejection; Right of Appeal to the Board.

- a) **Approval or Disapproval by the Committee.** Within 30 days after submission of plans and specifications satisfying the requirements of the Architectural Rules, the Architectural Committee shall return one set of such plans to the applicant, with written notice of either approval or disapproval. If the proposed Improvement is disapproved, the written decision of the Committee shall include both an explanation of why the proposed change was disapproved and a description of the procedure for reconsideration of the Committee's decision by the Board. If written suggestions of changes required for approval of the project accompany the returned set of plans, the applicant may implement such changes to the plans and within 30 days resubmit plans incorporating such changes for approval to the Committee, which shall not unreasonably withhold its approval as long as the Owner has complied in all material respects with the requested changes. If no written notice of approval or disapproval is received by the applicant within 30 days after the Owner's plans and specifications (or revisions thereto) are submitted to the Committee, the plans shall be deemed to have been approved as submitted.

- b) **Appeals to the Board.** If the Board establishes an Architectural Committee, any decision by the Committee other than to approve the Owner-applicant's proposal as presented shall be subject to appeal to the Board and shall be placed on the agenda for confirmation, modification, or denial at the next scheduled regular Board meeting, and the 30-day period set forth in this Section for Association action shall be extended to include the days from the committee's action to the meeting at which the appeal is heard. The Architectural Rules shall include fair and expeditious procedures for the hearing of appeals under this subparagraph (b).

Section 5.8. Proceeding With Work. On receipt of approval of an Improvement project from the Architectural Committee, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction as approved. In all cases, work on an Improvement project shall commence within 6 months from the date of such approval. If the Owner fails to comply with this paragraph, any approval given under this Article shall be deemed revoked, unless the Architectural Committee, on written request of the Owner before the expiration of the initial 6-month _ period, extends the time for commencement or completion. No such extension shall be

granted except on a finding by the Architectural Committee that there has been no change in the circumstances on which the original approval was granted and that the Owner has a bona fide intention and ability to complete the Improvement project within the time specified in the extension request.

Section 5.9. Failure to Complete Work. Unless the Owner has been granted an extension of time to complete the project by the Architectural Committee, the construction, reconstruction, refinishing, or alteration of any such Improvement must be complete within 6 months after construction has commenced, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner because of strikes, fires, national emergencies, natural calamities, or other supervening forces beyond the control of the Owner or the Owner's agents. The Committee shall be entitled to grant longer times for completion of a particular Improvement project as part of the project approval process.

If the Owner fails to comply with this section, the Architectural Committee shall notify the Board of such failure, and the Board shall proceed, in accordance with the provisions of Section 5.10(c)-(d), as though the failure to complete the Improvement was a noncompliance with approved plans.

Section 5.10. Inspection of Work by Architectural Committee. Inspection of the work relating to any approved Improvement and correction of defects therein shall proceed as follows:

- a) During the course of construction, representatives of the Architectural Committee shall have the right to inspect the jobsite to confirm that the Improvement project is proceeding in accordance with the approved plans and specifications.
- b) On the completion of any work of Improvement for which Architectural Committee approval is required under this Article, the Owner shall give the Architectural Committee a written notice of completion.
- c) Within 30 days thereafter, the Architectural Committee, or its duly authorized representative, may inspect the Improvement to determine whether it was constructed, reconstructed, altered, or refinished in substantial compliance with the approved plans. If the Architectural Committee finds that the Improvement was not erected, constructed, or installed in substantial compliance with the Owner's approved plans, then within the 30-day inspection period the Committee shall give the Owner a written notice of noncompliance detailing those aspects of the Improvement project that must be modified, completed, or corrected. If the

violation or nonconforming work is not corrected, the Association and its Architectural Committee shall have the enforcement rights and remedies set forth in Section 5.11.

- d) If for any reason the Architectural Committee fails to notify the Owner in writing of any noncompliance within 30 days after receipt of the Owner's notice of completion, the Improvement shall be deemed to have been constructed in accordance with the approved plans for the project, unless it can be demonstrated that the Owner knew of the noncompliance and intentionally misled the Committee with respect to it.

Section 5.11. Enforcement of Architectural Review and Approval Requirements.

- a) **Authority to Red Tag Projects.** In addition to other enforcement remedies set forth in this Declaration, the Architectural Committee shall have the authority to order an abatement (red tag) of any construction, alteration, or other matter for which approval is required, to the extent that the work has not been approved by the Committee or the work does not conform to the plans and specifications submitted to and approved by the Committee. If an Improvement project is red tagged, the Owner and his or her contractor shall cease all construction activity until such time as the issue giving rise to the red tag order is resolved. The red tag notice shall clearly state the reasons why the abatement has been ordered.
- b) **Effect of Failure to Comply With This Article V.** If the Owner fails to remedy any noticed noncompliance within 30 days from the date of receipt of the Association's notice of noncompliance, or if the Owner believes that the project has been red tagged or has received a notice of noncompliance without justification, the Committee shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance.
- c) **Approval Not Deemed a Waiver.** The approval by the Architectural Committee of any plans, drawings or specifications for any work of Improvement done or proposed or for any other matter requiring the approval of the Architectural Committee under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval by the same or some other Owner. Different locations for Improvements, the size of the structure, proximity to other Residences or Common Facilities, and other factors

may be taken into consideration by the Committee in reviewing a particular submittal.

- d) **Lack of Complaint Not Deemed Approval; Attorney Fees.** No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work. If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorney fees in addition to the costs of such proceeding.

Section 5.12. Variances. The Board of Directors, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this Article V or in any minimum improvement standards imposed by Article VI to overcome practical difficulties, avoid unnecessary expense, or prevent unnecessary hardship to applicants, provided all of the following conditions are met:

- a) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise be applicable under this Declaration, the Board must conduct a hearing on the proposed variance after giving prior written notice to all Owners of effected Condominiums. The notice shall also be posted in the Association's principal office within the Development. The notice shall be posted and mailed to the interested Owners at least 15 days before the date when the Board/Architectural Committee is scheduled to act on the requested variance. No decision shall be made with respect to the proposed variance until the 15-day comment period has elapsed.
- b) The Board/Architectural Committee must make a good faith written determination that the variance is consistent with one or more of the following criteria:
 - i. The requested variance will not constitute a material deviation from any restriction contained herein;
 - ii. The variance relates to a land use restriction or minimum construction standard otherwise applicable hereunder that is unnecessary or burdensome under the circumstances; or
 - iii. The variance, if granted, will not result in a material detriment or create an unreasonable nuisance with respect to any other Condominium or Common Area within the Development.

Section 5.13. Limitation on Liability. Neither the Association, its Architectural Committee, nor any member thereof shall be liable to any Owner for any damage, loss, or prejudice suffered or claimed on account of any mistakes in judgment, negligence, or nonfeasance arising out of (a) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; or (b) the construction or performance of any Improvement project, whether or not under approved plans, drawings, or specifications; whether or not the facts therein are correct, provided, however, that such member has acted in good faith on the basis of such information as he or she possessed at the time the act or omission occurred.

Section 5.14. Compliance With Governmental Regulations. Review and approval by the Architectural Committee of any proposals, plans, or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Owner who desires to construct, install, or modify the Improvement.

ARTICLE VI

MINIMUM IMPROVEMENT STANDARDS

Unless a variance is requested from, and granted by, the Architectural Committee in accordance with Section 5.12, Improvements constructed for any Unit in the Development shall conform to the following minimum improvement standards:

Section 6.1. Building Plans. All building and Improvement plans must be submitted to, and approved by, the Architectural Committee before being submitted to any governmental agency to obtain a building permit.

Section 6.2. Compliance With Approved Plans and Applicable Improvement Requirements. Once approved by the Architectural Committee, the Improvement project must be constructed and completed in accordance with the approved plans and specifications and any applicable minimum construction standards imposed by this Article VI or the Architectural Rules (unless the Committee has approved a specific variance from those standards).

Section 6.3. Licensed Contractor. Residential structures and any other significant structural Improvement project, as reasonably determined by the Committee, shall be constructed by a contractor licensed under the laws of the State of California and, if