

THE SUMMIT RESIDENTIAL OWNERS ASSOCIATION
SPECIAL MEETING MINUTES OF THE
BOARD OF DIRECTORS
CONFERENCE CALL
December 10, 2020
2:00 PM MST

Board Directors Present: Bruce Fauser
Craig Batchelor
Peter Esselstyn
Paul Peebles

Association Legal Counsel: Jon Schumacher

Management Company Present: William Laird, Mountain Home Management
Annalise Smith, Mountain Home Management

Swiss Chalet Representative: Deuce Wynes, Swiss Chalet Contractor
Ashraf Shokry, Swiss Chalet Representative

President Peter Esselstyn called the meeting to order at 4:03 PM with 4 of 4 board members present.

Peter Esselstyn stated this issue has gone on long enough and there seems to be some confusion between the Swiss Legacy Team and the board of directors at the Summit. Peter Esselstyn clarified that the Swiss Legacy Team had an approved plan at one point; however, the house has been and continues to be built not according to the original plans that were submitted and approved. Esselstyn mentioned the Swiss Legacy Team has never come back to the board to seek approval for changes that have been made to the house.

Esselstyn stated that there are a few issues with the addition of a third fireplace, removal of stairs, and the condenser fans currently on the house. Esselstyn stated that the Swiss Legacy Team is in violation of Summit's policies by building something other than what has already been approved. Ashraf Shokry stated he had several discussions with the board, and he was not aware of being in violation of anything. Esselstyn stated the big issue is the condensers and he encouraged Shokry to read the association's bylaws because changes are not approved unless the board approves them. Esselstyn stated that any other changes to the plans also need to be approved by the board. Shokry stated that he did not accept this, and he would look into what the board was referring to. Shokry stated that everything was approved by the city. Esselstyn reiterated the changes have not been approved by the board. Shokry asked to look at each issue case by case. Shokry stated that these items were approved verbally and there were many people present during the meeting.

Esselstyn stated that today's meeting is about the condenser fans specifically and how they cannot stay where they are at. Shokry stated that was not clear to him and asked if this came from the guidelines or the board. Esselstyn stated this came from the board. The board mentioned there was a meeting that required that the condensers be moved by a unanimous vote, and all that are present for this meeting, were present for that meeting. Shokry stated there was a discussion where the board stated that the fans had to be moved without explaining why they had to be moved. Shokry sent the drawings to Reed Meredith on July 25, 2020 and never got a response. Shokry stated that he did not comply, and he did not know that he had to send the drawing to the board and have the engineer look at the proposed plans. Shokry stated he sent a drawing to the board that complied with sound level and said if it is a visual issue, that we can make it so everyone sees landscaping and not the fans. Craig Batchelor stated that the guidelines are on the website and that there is a paid manager on-site, at the property, that knows the guidelines and reiterated these were not approved changes to the existing plans. Batchelor stated that now Shokry is fighting after the fact. Esselstyn reiterated nothing may be built unless it is approved by the board of directors. Esselstyn stated the condensers must be moved because of noise and visual concerns. Esselstyn stated even if the condenser fans are silent, they will need to be moved because of the visual impact. Esselstyn stated if Shokry's plan is to screen them, Shokry does not have an approval to screen them from the board and Shokry will not get an approval. Shokry stated he does not understand because he sent the drawings to the board and nobody responded or gave any feedback. Shokry stated nobody shared the issue with him and no one responded to him after submitting the drawings. Batchelor said Shokry put the condensers and fireplace in place without approval and is now asking for permission. Batchelor reiterated that the fans were put in place without approval. Batchelor stated Shokry went around the board and installed items that were not approved. Esselstyn stated whatever was proposed for screening will not be approved by the board. Shokry asked why. Esselstyn stated it was because the board did not want to approve the changes because Shokry has not complied, and this has been going on too long.

Shokry stated he is trying to meet the guidelines and correct the error. Batchelor said Shokry had violated the guidelines. Shokry asked for the board to be clear with him. Shokry stated there was nothing in the guidelines that stated the board cannot approve changes after they have been made. Shokry stated if he does not have guidelines, he does not know how to proceed. Batchelor reiterated that the changes were never approved and can never meet approval. Shokry said he can meet the guidelines by creating a garden.

Paul Peebles stated he is looking for a solution and he needs for the condenser fans to be moved. Peebles mentioned that if this issue must be fought about, the board has no problems doing that, but the legal fees will be billed to the homeowner. Shokry asked for a solution. Peebles told the Swiss Chalet representatives to go back to the homeowner and tell him there is a problem with the condenser units and Shokry needs to come back to the board and propose a solution that the board will either accept or deny.

Peebles reiterated the condensers came after the board had approved plans without the condensers. Peebles clarified that the issue is the condensers were placed without board approval. Peebles stated if nobody responded to the proposed drawings, the fans were neither approved nor denied. Shokry stated in the original email the violation was the noise and visual. Peebles stated that whatever Shokry submits as a solution will be denied. Shokry stated as project manager, he will go to the homeowner, Gabrielle, and relay to him the fans must be moved.

Peebles asked when Shokry and Deuce Wynes think the house will finally be completed. Wynes stated that Shokry will put it in writing for the board. Shokry stated he is expecting a copy of the HOA meeting minutes and he will respond to that. Peebles stated the communication should be with the board and not with the association's vendors. Shokry stated he misunderstood and believed he should be reaching out to Reed Meredith. Peebles stated he would like for Shokry to email everyone that is on the call. Peebles said Mountain Home Management will send over all the contact information to Shokry. Batchelor stated there is project manager on site that has all the names and contact information. Esselstyn stated Billy Laird is the point of contact and Mountain Home Management will send all the contacts to him, again.

Peebles expressed his frustration over having to discuss this issue again. Peebles stated the association manager will get the emails and contacts, but the bottom line is the condenser fans HAVE to be moved and clarified again the board is unanimous about this decision. Wynes asked where the condensers need to move to. Esselstyn stated Wynes should submit a plan to the board that they will either approve or deny. Esselstyn clarified the fans will not be on the north, south or west side of the building. Peebles stated he wants to make sure Shokry understands the board's position.

Peebles asked Jon Schumacher to explain to the Swiss Legacy Team what the board needs to do to get this resolved. Schumacher stated first, we need to hear a deadline for when the Swiss Chalet representatives will get back to the board on the proposal and plan to move the condensers. Schumacher stated if the condenser fans are not moved, a judge will not hesitate to require the removal of any violating part of the home. Schumacher stated this is not where the board wants to go but this issue has been dragging on since July. Schumacher stated the plans should have been submitted for approval and that the ultimate remedy to this nuisance if not moved will be to proceed further legal action. Shokry clarified he did not have approval. Shokry stated they will have a proposed solution once they get an agreement about where the condenser fans are going to move. Shokry stated once he gets approval, he will move the fans. Shokry explained he will send a response with a solution. Peebles stated the ball is in the Swiss Legacy team's court. Shokry will be provided with the emails about where to send plans for approval.

Peebles asked if there was anything the board could do to help move the project along. Shokry stated he needs to know where to put the condensers but other than that, there is nothing at this point.

Peebles stated there is urgency to get this resolved and the board will help him get this resolved. Peebles stated he wants to make sure the board are good neighbors to the homeowners.

There being no further business, the meeting was adjourned at 4:41 PM.

Respectfully Submitted:

Approved By:

Annalise Smith, Recording Secretary

Peter Esselstyn, Association President