

Position Paper

Trees and Views in the Lacamas Shores HOA

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One thing realtors agree on – trees and views are both desirable. After much research and input from HOA members, it was determined at the September 25, 2017 board meeting that the CC&Rs succinctly state the obligations of one neighbor to another regarding landscaping, including trees and views. Section 5.10 states:

5.10 Landscape and Maintenance. . . . All trees and shrubs or landscaping of any kind shall be kept neat and orderly and trimmed so as not to obstruct another lots view and shall be consistent with the preferred list of plants and materials attached hereto as Exhibit 'C'. provided that landscaping necessary for the wetlands shall not be subject to this section.

This paper provides historical context and other citations to help Members understand the intent of that section and the practical implications for Lacamas Shores Homeowners.

HISTORY AND VIEW RIGHTS

The Pacific northwest is known for lush and fast-growing greenery. For many lots, landscaping planted 10-25 years ago has grown to sizes not initially considered when chosen. Sometimes such growth has resulted in hindering various views – views of street signs, oncoming traffic, the Pittock-Leadbetter House, the hills, the golf course, Mt. Hood and even Lacamas Lake. While blocking another’s view is rarely intended, the aesthetics and privacy afforded by a favorite tree can provide comfort. Unfortunately, that comfort is not specifically protected in the CC&Rs, unlike a “view”, and often neighbors are left wondering how to achieve both. To do so, it is helpful to understand the governing documents and the original intent and design of our neighborhood.

In the late 80’s, the Lacamas Shores Development was marketed as a lake view neighborhood, the “Lake Oswego” of Vancouver. “Unparalleled, Uncompromised, Unsurpassed . . .” was the tag line, promising a place where the “covenants ensure the continued integrity and dedication to quality living at Lacamas Shores.” In addition to Section 5.10 of our covenants, the developer was clear in his intent by the language used in the original Landscaping Guidelines required to be signed by each Lacamas Shores lot builder. The Landscaping Guidelines attached to the CC&Rs state:

“The following items are required in the best interests of all homeowners in Lacamas Shores. In striving to maintain the high standards set forth in our neighborhood and **to preserve everyone’s opportunity for the lake view**, we ask for your cooperation in abiding by these guidelines. If necessary, they will be enforced by the Homeowners Association.” [emphasis mine]

While these guidelines addressed properties that may have a “lake view” as a result of their location (between 95-194 lots), other properties that have the golf course as their primary view (between 40-60 lots), the hills, or Mt. Hood also have rights under Section 5.10’s “no obstruction” requirements.

The Board found other guaranteed view rights for Lacamas Shores lots in the 1988 Deed of Dedication, in addition to those listed above.

3. Grantor hereby expressly reserves in itself, its successors and assigns, including but not limited to Lacamas Shores Homeowners Association, an easement for the free and uninterrupted access and enjoyment of light and view over and across the conservancy zone for the windows and roofs of the improvements to be constructed on the real property owned by Grantor, which is adjacent to the conservancy zone;

The inclusion of not just “windows”, but also “roofs” in the paragraph is notable. Preserving the legal right to “light and view” above the homes was considered important, presumably for those homes behind each lot.

In addition to the three above provisions, the developer further supported views aesthetics in other places within the CC&Rs, both directly and indirectly.

- Section 5.2, View: “Neither the Declarant, the Homeowners Association or the Architectural Control Committee as hereinafter provided for shall be liable if a dwelling should block a portion or all of another’s view(s).” In other words, there are no view rights through a dwelling, in contrast to the view rights through landscaping.
- Section 5.33.2.1, Square footage: “No structure to be built upon the properties located within Phase III shall exceed a single story above grade level”. This provision helped ensure the opportunity for lake views for lots above Phase III, which make up a sizable percentage of the lake view lots in our community.
- Section 5.13, Roofs, Exterior Paint Color, Trees: “Shake, cedar shingles, or ceramic tiles or other materials as approved for roofs are required.” This acknowledges the importance of attractive roofs as part of lake and/or mountain views for higher elevation lots that necessarily look across those rooftops.
- Section 5.6, Yard Requirements: “. . . No planting or structure obstructing vision at driveways shall be permissible or maintained”. This section addresses unobstructed views for traffic safety and convenience.
- Section 5.31, Clotheslines: “No exterior lines shall be allowed that can be seen from any street”.
- Section 5.23, Trash: “All containers must be buried or screened so as to not be visible from any street or adjacent properties or residences”.

DEFINITION AND VALUE

The question of whether “view” can be defined and therefore enforced has been raised. There is an old law professor saying that “ignorance of the law is no excuse.” One could be debate what might practically be an acceptable amount of view loss, however, the language of Section 5.10 does not allow for partial view loss. Questions regarding from where is a view allowed, or a view of what, or even view loss compared to when can be answered with common sense and a dictionary. The noun definition of “view” includes:

- “range of sight or vision”, “a sight or prospect of a landscape, the sea, etc.” – dictionary.com
- “extent or range of vision”, “scene, prospect” – Merriam-Webster.com
- “the ability to see something or to be seen from a particular place.” – google.com
- “field of vision”, “A scene or vista” – thefreedictionary.com

A reasonable person understands the generally accepted meaning of the word “view” in the sentence: “I used to have a view of the lake.” While each case is unique, a picture is worth a thousand words.

As realtors and business people alike say – “location, location, location!” Every Lacamas Shores lot carries a portion of its value in the characteristic defined as “view”, with its location determining whether the view value is territorial (trees), lake, mountains, or of a historic building.

The Clark County Assessor’s Office demonstrates a practical use for developing criteria for the word “view”. The Assessor’s documented criterion determine the quality and quantity of a view to calculate the taxable basis for each property. In 2017, the following are the Assessor’s definitions and values assigned to each category of view.¹

- Limited – tunnel vision, high obstruction, unable to see distant object with clarity - \$15,000;
- Fair – narrow degree of vision, obstruction/intermittent view, unable to see distant objects with clarity - \$30,000;
- Average – degree of vision neither narrow or expansive, some obstruction typical, distant objects can be seen with focus/clarity - \$45,000;
- Good – expansive degree of vision, very little obstruction, distant objects seen with focus/clarity - \$75,000;
- Excellent – expansive/panoramic degree of vision, no obstruction, distant objects are focused/clearly definable - \$100,000.

¹ See Appendix A – June 27, 2017 Email from Justin Soth of the County Assessor’s Office to LS HOA Board Member and Vice President Tom Kelly

While the tax assessor's office values property for a different purpose², the Office "updates the market value for all properties annually according to market sales"³ and boasted a 96% accuracy rating.⁴

WHAT DOES THIS MEAN FOR ME?

Here is a list of some of the proactive steps Lacamas Shores Homeowners should take to ensure they are being responsible neighbors:

- Make sure all your landscaping is "kept neat and orderly and trimmed". This includes clear sidewalks, paths, structures and views.
- Look at your yard from different vantage points to see if something might be blocking a view. Touch base with your immediate neighbors to ask if there is any part of your landscaping hindering their view. There have been quite a few instances where a neighbor was unknowingly blocking a view or was uncomfortable asking a friend to trim a tree for fear of tarnishing the relationship. Often, neighbors are willing to pay for part or all of the work to be completed. Removal is not always necessary – some trees in violation may just need trimming, limbing and/or windowing.
- Any landscaping that block sidewalks, driveways, street/traffic or distant views must be corrected for safety. Homeowners are responsible to care for the City's property as well, which is the 10 feet from the curb. It is suggested that within those 10 feet, landscaping should be less than 36 inches in height and tree limbs should be at least 10 feet above sidewalks.
- Those Members that have viewshed rights under the Deed of Dedication should keep their established view corridors clear and open, not only for their own enjoyment, but also for their uphill neighbors' view through the Conservancy Zone.
- The Board is responsible for maintaining common properties' landscaping and should strive to minimally adhere to the same criteria as Homeowners. If you see something that needs to be fixed, please let the Board know.

As Members of the Lacamas Shores HOA, we are charged "to preserve, protect and improve the quality and character of the Lacamas Shores development'. It is our duty to carry out that purpose, both collectively as an HOA and individually as homeowners who bought property with legal conditions attached to it. We can work together, help each other, and enjoy getting to know our amazing neighbors while doing so!

² See the Tax Assessor's website for a short video explaining the assessment process.
<https://www.clark.wa.gov/assessor>.

³ <https://www.clark.wa.gov/assessor/about-assessors-office>.

⁴ <http://www.columbian.com/news/2014/oct/02/in-our-view-van-nortwick-for-assessor/>