



Spring Valley Lake Association

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President's Special Message Regarding Treatment Facility in EQ Estates

As most of you have heard by now, a care facility is in the process of opening in a private residence in the Equestrian Estates. The details of this facility were presented by the owners and discussed at length at the open November 2014 Board meeting and again at the April 2015 meeting. At both meetings, it was made clear that the Board was unable to deny or act in any way on the proposal, since the legality of the facility is based entirely on CA state law – not SVLA governing documents.

At the November meeting, every sitting Board member voiced their displeasure with the proposal, but the Board was unable to act to stop the facility. However, to further understand the legal issues involved, the Board of Directors asked our legal counsel to provide an opinion with regard to the Association's authority related to restricting or prohibiting these types of facilities. Here is our legal counsel's opinion:

ASSOCIATION'S AUTHORITY TO PROHIBIT OR RESTRICT "CARE FACILITIES" WITHIN SVLA

On April 23, 1999, paragraph (n) was added to Article IV of the Association's CC&Rs. Article IV(n) requires any use or occupancy of a Lot to be for "residential purposes" only. This provision restricts the degree to which a homeowner may use his/her property for a nonresidential or commercial purpose.

However, the Association does not have the *absolute* authority to determine what constitutes a "residential purpose" in situations where a property is being used to operate a licensed "care facility." The California Legislature has, through provisions of the California Health & Safety Code, mandated that certain types of residential care facilities (i.e., day care facilities, group homes, alcohol/drug abuse recovery and treatment facilities) be classified as "residential uses" of property and the use of a property by a "single family." Those provisions are based upon the declared policy of the State of California to permit and encourage the development of residential care facilities. (*Health & Safety Code § 1566.*) Such facilities include any single-family residential dwelling or group care facility that provides 24 hour non-medical care to persons in need. (*Health & Safety Code § 1502(a)(1).*)

In accordance with the Health & Safety Code, a licensed care facility or "alcoholism or drug abuse recovery or treatment facility" that serves six (6) or fewer persons at a time *must* be treated as a "residential use" of property by a "single family" for the purpose of any deed restriction or covenant contained in the Association's CC&Rs. (*Health & Safety Code §§ 1566.5, 11834.25.*)

Therefore, the Association may not legally prohibit the establishment of such facilities on residential properties within SVLA.

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