

**MEMORANDUM** from Jim Haney dated 4 January 2010

To: Directors, Versailles III POA

CC: Property Manager (Attn: Lou Ellen Wilson)

Subj: Position Paper

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**BACKGROUND**

A Versailles III POA members' request dated 12 October 2009 was submitted at the Directors' meeting on 15 October 2009 for a formal review hearing and resolution of their concerns related to the process and decisions applied to the painting of 1025 Emerald Dunes Drive. This paper is submitted pursuant to the proposed Directors' meeting agenda item to address the aforementioned request on 5 February 2009.

**PERSPECTIVE**

The following events, as they apply to the painting of 1025 Emerald Dunes Drive, took place between 21 June 2009 and 9 September 2009.

21-22 June 2009: Submitted ALC Change Request Form to paint exterior of 1025 Emerald Dunes Drive its original color; citing a paint swatch location.

26 June 2009: Received Versailles III POA letter of 24 June 2009 approving the aforementioned exterior painting.

7 July 2009: Painting started in the morning, and when he returned home during the afternoon believed the paint was not the original color but close to another WCI applied color in the Versailles III area. It had begun to rain, and the painter stopped for the day having painted about one third of the side of the house facing 1023 Emerald Dunes Drive and started painting the back patio area (under cover). Jim, Priscilla, and Mike Diaz (painter) spoke about the perceived color difference.

1. Priscilla believed that starting the painting was approved since no mention of painting a swatch was cited in the approval letter of 24 June 2009.
2. Priscilla and Mike had compared paint chip cards to the house surface (original color) on 6 July 2009, and agreed on a chip selection they thought matched the original color, then Mike purchased the paint that afternoon as we were told on 7 July 2009.
3. Priscilla asked Jim to contact Gerry Cook to discuss the color difference, and it was determined that Gerry was out of town through 12 July 2009.
4. Jim suggested that they contact Rick Zak, in Gerry's absence, since his name was cited in the April 2009 POA newsletter as "Architectural Committee: Gerry Cook/Richard Zak" then other ALC members.
5. Priscilla left a voicemail message requesting that Rick, in Gerry's absence, look at the paint on the side of the house and provide us with his opinion; understanding that this was not a final ALC decision .

6. Rick received the voice mail message, looked at the painting on the side of the house, and commented that the house painting "... looked good since the original color had faded with time ...". Jim then informed Rick that he would be submitting a revised ALC Change Request Form identifying the color change per paragraph 3 of the previous 24 June 2009 approval letter and the completed Form would be submitted to Gerry upon his return.

8 July 2009: Jim and Priscilla directed the painter to continue to paint based on the belief that the color was close to that used on other Versailles III homes (SP 8522) and the "swatch" was believed to be a step in the process intended to protect the homeowner(s) from having to re-paint should a disapproval decision be rendered later; we understood that an ALC decision about the color change had not been made at this time.

About 15 July 2009: Jim spoke with Gerry Cook at Club Renaissance to determine how we should proceed with submitting the ALC Change Request Form to revise the previous plan to represent the color change. Gerry said to submit the Request identifying the different color and that he would "... work with us ..."; we understood that this was not an ALC decision but that there was no disapproval decision at this time.

About 18 July 2009: Jim prepared the Request with an identification of the new color paint specifications.

18-21 July 2009: Jim Haney "walked" the aforementioned Request around the neighborhood to the immediate neighbors that had previously signed the first Request on 21 June 2009 (Mike Krodel and Bill Turcote), the ALC members (Dick Zak, Hank Missenheim, and Jim Delia), and the Directors (Dick Zak and Jim Kopernick) to explain the circumstances resulting in the Request (color change) and gained their signatures. Jim believed that the signatures would not constitute approval until Gerry had reviewed the Request, signed the Request, and submitted the completed Request to the Property Manager for disposition or notified the Haney's of the Request's disapproval.

1. If the color change Request had been disapproved by the ALC, it was the Haney's understanding that Sections 8 and 9 in Article IV of the Declaration of Covenants and Restrictions for Versailles III would apply and they would be:
  - a. Informed in writing of the disapproval, and allowed to discuss with the ALC the circumstances and/or basis for disapproval (Section 8).
  - b. Written ALC disapproval decision to the homeowner standing, they would be allowed to proceed under the appeal steps laid out in Section 9.

23 July 2009: Gerry Cook advised Jim Haney that Jim should not have approached the ALC members and the Directors to sign the above color change Request, and that another Request should be submitted ASAP to allow for correct decision processing by these forums; see the attached copy of an email message sent by Jim Haney on 23 July 2009 to Gerry, the Directors, and the Property Manager.

Jim submitted the requested revision to Gerry with Jim's signature and the signatures of the immediate neighbors that had previously signed the first Request on 21 June 2009.

25 July 2009: Jim Haney and Rick Zak were informed by Gerry Cook, and confirmed by Jim Kopernick, that a meeting to draft an Association letter responding to the 23 July 2009 Request was to be conducted on Monday, 27 July 2009, at the Property Manager's office. We had not received notification from any ALC member that our Request had been disapproved. Therefore, the Haney's believed the meeting was to draft an approval letter addressing "color change precedents" since Directors would not be meeting without proper announcement to the Association membership otherwise.

27 July 2009: Jim Haney called the Property Manager's office to determine when the aforementioned "drafting" meeting was taking place, and he was informed that the meeting could not take place since it had not been properly announced to the Association membership; still no communication written or otherwise of a disapproval decision.

Jim Kopernick posted a 31 July 2009 Directors' Special Meeting announcement at the neighborhood mailboxes.

Jim Haney contacted the Directors and the Property Manager to remind them that he and Priscilla were departing on the morning of 28 July 2009 for a long planned vacation, and would be returning in three weeks; ~12 August 2009. Jim also requested that the President postpone the Meeting until our return to allow us to address any concerns that might be expressed at this Special Meeting.

28 July 2009: The Haney's departed on vacation.

10 August 2009: The Haney's returned from vacation without any communication from ALC members or Directors regarding the painting Request.

11 August 2009: Jim Kopernick informed Jim Haney that the "new color" painting had been disapproved at the 31 July 2009 Directors' Special Meeting. That Directors' decision was reached without homeowner attendance at the Special Meeting and appeared to be in violation of Association Declaration Article IV Section 9 cited above. Jim Haney was encouraged by the Property Manager to take no action or respond until an Association letter was received by him.

28 August 2009: Jim received Special Meeting minutes from the Property Manager via email message.

Based upon the minutes content Jim began to draft the new Request and determine the other four WCI colors used on Versailles III residences.

Jim notified Jim Kopernick and the Property Manager that the new Request would include the painting of a swatch of the "close color" as well as the original color; Jim requested WCI colors identification from Gerry Cook and WCI. WCI provided color identifications and the Haney's then purchased original and "close to" Scott Paint colors (SP 8529 & SP 8522 respectively) from the Brandon Scott Paint store on SR 60.

1 September 2009: The Haney's received the Versailles III POA letter dated 28 August 2009.

3 September 2009: The Haney's submitted a new Request per the aforementioned POA letter, and painted two swatches (Scott Paint colors SP 8529 & SP 8522) on their house on the side near 1027 Emerald Dunes Drive.

About 7 September 2009: Jim Haney was called to a meeting with ALC members at Gerry Cook's house. Jim was asked to complete his portion of a new Request, which he did, and while there the three ALC members present signed the new Request and all present stated that the painting was approved. Later Gerry got signatures from Jim Kopernick, Rick Zak, Bill Turcote and Mike Krodel.

9 September 2009: The Haney's were informed by the Property Manager that an Association letter approving the new color painting was being sent to us. This letter was received a few days later.

## **POSITION**

The Haney's cannot comment on the Special Meeting proceedings since they were not present.

In regards to paragraph B of the Versailles III POA members' request dated 12 October 2009, we do not believe that "... previously applied rules ..." were overlooked. The homeowner decided to proceed with the painting and to submit a revised plan after the painting with a new color. The "previously applied rules" process continued when the revised plan was submitted under the new color Requests. The only difference from previous applications was that the house color was changed to another "close to" an original WCI applied color.

In regards to paragraph 1 of the Versailles III POA members' request dated 12 October 2009, we do not believe that the cited "... official Board decision ..." was valid since we were not notified in writing by the ALC of their disapproval prior to the Directors' Special Meeting and we were not in attendance to present an appeal ; appearing to be a clear violation of Declaration Article IV Sections 8 and 9.

In regards to paragraph 2 of the Versailles III POA members' request dated 12 October 2009, I do not believe that I "... acted outside of and apparently with disregard for the covenants ...". I openly communicated with Association representatives (ALC, Directors, and Property Manager) about having proceeded with the new color painting and complied with the instructions I was given by Association representatives, especially upon Gerry Cook's return to the area.

In regards to paragraph 4 of the Versailles III POA members' request dated 12 October 2009, how a color change was to be accomplished was established and that I proceeded with the belief that communication between Gerry and I would resolve that process upon his return. I do believe that I did follow "process and procedure" during a period when a disapproval could have been communicated properly.

Lastly, the 9 September 2009 POA approval letter approves the painting of 1025 Emerald Dunes Drive.

Respectfully submitted,

James H. Haney  
1025 Emerald Dunes Drive