

Are Lake Ramsey HOA New Fence Specifications are Invalid in Phases 1-4 Under LA Law?

In October of 2022, the HOA Board “adopted” something called “Revised Community Fence Specifications,” a.k.a. “Fence Specifications.” In summary, this document is an attempt to establish new, additional architectural restrictions upon property owners. The problem, architectural restrictions are, by law, governed by our CC&Rs. CC&Rs can only be revised by written approval of 80% of lot owners. Though I would like to see some fence restrictions, it is my opinion that, as presented here, this document is unenforceable and non-binding. New restrictions can be enacted, but it must be through the lawfully available route.

LA Revised Statute 9 §1141.6. Establishment, amendment, or termination of building restrictions

► **A. Building restrictions affecting association property, including lots or common areas, or those imposing an affirmative duty may be established, amended, or terminated in accordance with the terms of the applicable community document.** (See L.R. CC&Rs Phase 1-4, Article VII, Sect. 3; and L.R. CC&Rs Phase 4A, Article XII, Sect. 2) *[FYI: In the absence of building restriction see RS 9 §1141.6B and 2021 Louisiana Laws Civil Code, Art. 780.]*

Current Fence Restrictions in Phases 1-4. For years now fences have been an issue within Lake Ramsey; many residents were under an assumption that there were existing fence restrictions, but it has been discovered that CC&Rs contain just a few restrictions on fences. Yes, the Covenants in Phase 1-4, Article 5 state the board must approve fences, but this approval can only be based on existing covenants for the phase in which the property lies. The only restriction on fencing is that the structure “be in harmony with the nature, kind, shape, height and materials of its surroundings structures and topography,” and, of course, that it be built on your property.

Property owners have the freedom to build their home and living space to their liking and taste without overreaching interference. And, at this point, for a fence to harmonize with its surroundings, other fences, *and hopefully with adjacent neighbors*, leaves many fence options available. (Phase 4A is the exception, their CC&Rs Article II, Section 2, gives the board frightening leeway in creating new rules and restrictions on any improvements to property.)

“Clarifying” The Word “Fence.” A former board member mentioned at a board meeting that he believes the board has the right to “clarify” what is meant by a “fence.” Unfortunately, it doesn’t take 866 words to “clarify” one.

Proposed New “Specifications.” These restrictions are severely over-reaching, giving the Board authority over fence materials and colors, restricting the use of shrubbery and trees for privacy. The board also gives themselves sole authority and discretion to grant variances, while saying nothing about opinions of near-neighbors.

Flawed Logic. To justify their issuance of this document the Board says, “Covenant provision provides that every owner shall have a right and easement of enjoyment in and to the Common Areas. As recognition of this right, these requirements are designed to afford every resident an unobstructed view of the lake and harmonize the architectural appearance of fences within the community.” If this logic were to be maintained, then the Board should not permit another home or boathouse to be built in Lake Ramsey. They all obstruct lake views!

Board Exceeding Its Authority. Though the establishment of certain fence criteria might be good, and I appreciate the time and effort by the Board, my greatest concern is that the Board is once again exceeding their authority. (They have done it with enacting fees, fines, and late fees among other things.) Placing additional architectural controls on homeowners is something they have no authority to do, except in Phase 4A. But they are not without remedy. The Board can lawfully revise current CC&Rs in Phases 1-4, by obtaining written approval from 80% of property owners.

In Conclusion. It is my opinion that this “Fence Specification” document, though nicely written, and appearing so official, is not worth the paper it is written on. My concern is that should the Board attempt to enforce it, any legal challenge would prevail and the costs incurred would be paid out of our community funds. ●