

Director of Property Maintenance Report

(As of 1.19.24)

The majority of resident complaints for 2023 were conditions (cluttered or faded paint) of carports, yard decorations, palm fronds, dead or overgrown trees, and weeds. Two residents complained about possible “poor resale values” of their homes given the appearance or condition of specific homes.

On October 20, 2023, the Property Maintenance Director coordinated a Zoom meeting between the GVTH5 Board and Attorney Michael S. Shupe, a leading attorney in community association law. The director provided an overview of current GVTH-5 concerns along with eleven specific CC&R questions. The Board approved a single hour for this meeting.

Initially, Mr. Shupe advised the Board that due to *Kalway v. Calabria Ranch HOA* case, he suggested every HOA not to change any CC&R or add new CC&Rs. The controlling issue from the case is that new amendments are invalid if they are not reasonable or foreseeable. The case reasoning is that CCRs must be clearly identifiable and foreseeable in the **original** HOA agreement.

Attorney Shupe stated that the Board does have the authority to write rules and regulations that clarify existing CC&Rs or are in the general purpose of executing the Board’s duties. One of his recommendations was that HOA Board wait to see if *Kalway* is overturned (and some HOAs are following that advice). The other option is that the attorney reviews the original charter and then determines what current CC&Rs are legally sound in light of the *Kalway* decision. This option can be expensive. Unfortunately, the Board could not discuss all the prepared questions before a Board Member stated that the hour had expired. The Board decided to end our meeting.

The Director believes that waiting for the *Kalway* to be overturned is a false assumption. There is no way to know when or if it will ever happen. Mr. Shupe instructed us to call back occasionally to see if anything along that idea had transpired. The Director and members of the Architectural Committee believe that the funds should be made available to determine the soundness of our current GVTH5 CC&Rs now and in light of the *Kalway* decision.

This is the Director's reason for requesting \$3,000.00 for the 2024 budget. For 2024, the Director will hire Attorney Shupe to procure the original charter agreement from the title company. The Director and volunteers will begin to transcribe the document as best as possible.