



Elfin Cove Owners Association  
P. O. Box 380223  
Ivins, UT 84738

## AMENDMENT TO ELFIN COVE CC&Rs

IN WITNESS WHEREOF, on the 11 day of January, 2019, the President of the Elfin Cove Owner's Association hereby represents that the Board approved the attached Resolution of Non-Enforcement (Exhibit "A") at a Board meeting, which minutes are also attached (Exhibit "B").

## Elfin Cove Owners Association

By: Sandy Woodward  
Name: SANDY WOODWARD  
Title: President

STATE OF UTAH )  
ss:  
County of Washington )

On this 11 day of January, 2019, personally appeared before me  
Sandy Woodward, who is personally known to me (or satisfactorily proved to me) and who being by me duly sworn did say that she is the President of Elfin Cove Owners Association, a Utah corporation, and that she executed the foregoing Resolution of Non-Enforcement on behalf of said corporation by authority of a resolution of its Board of Directors, and she acknowledged before me that the corporation executed the same for the uses and purposes stated therein.

mary Quinn  
Notary Public

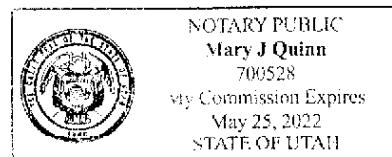


EXHIBIT "A"

**RESOLUTION OF NON-ENFORCEMENT  
ELFIN COVE OWNERS ASSOCIATION  
(Yard Maintenance & Blanket Insurance)**  
(Date: 1-10-19)

This Resolution of Non-Enforcement ("Resolution") is made the 10 day of January 2019, by the Board of Trustees (referred to generally as the "Board") for Elfin Cove Owners Association (the "Association").

**WHEREAS**, the Board finds that pursuant to the Declaration of Covenants, Conditions, and Restrictions of Elfin Cove Phase I, recorded February 25, 1994, including any amendments thereto ("Declaration"), that Article VI, Section 2, still states that the Association "shall maintain the front yard and side yard area of each unit";

**WHEREAS**, at a Board Meeting held on May 3, 2000, the Board noted that "[f]ront and side yards are no longer being maintained by the Association since members voted to change this at the Annual Meeting some time ago."

**WHEREAS**, the Association intends hereby to ratify the policy with regard to front and side yard maintenance that is consistent with the policy changed that has been in existence since at least the year 2000, and is therefore in the best interest of the Association and the Members;

**WHEREAS**, the Board also notes that the Declaration, including but not limited to Article VI, Section 4, provides that the Board "may choose to obtain a master policy of insurance," which master policy would have provided property (casualty) coverage for all of the townhomes in Elfin Cove.

**WHEREAS**, at a Board Meeting held on November 2, 2005, the Board determined that "[t]he vast majority of members were in favor of the change to individual policies, so we are moving ahead on that basis,"

**WHEREAS**, based upon the decision made at the November 2, 2005 Board meeting the Board has chosen since that time not to provide a master policy of property insurance covering the individual townhomes;

**WHEREAS**, on January 10, 2019, a quorum of the Board met to consider adoption of this Resolution regarding (i) ratification of the policy to not maintain front and side yards and to waive enforcement of Article VI, Section 2 as it relates to said front and side yard maintenance and (ii) ratification and confirmation of its policy not to provide a master policy of insurance for the individual townhomes in Elfin Cove;

**WHEREAS**, Utah Code § 57-8a-213(1)(b) provides, in pertinent part, that an "association may not be required to take enforcement action [of its Governing Documents, including the

Declaration] if the board determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances . . . it is not in the association's best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria."

**WHEREAS**, the Board has determined that the front and side yard maintenance provisions outlined in the Declaration are not enforceable because of the lack of enforcement over such a long period of time.

**WHEREAS**, the Board has determined that it is not in the Association's best interest to pursue enforcement action related to maintenance of front and side yards based upon the Members reliance for such a long period of time on the change in landscape maintenance.

**NOW THEREFORE, BE IT RESOLVED**, pursuant to Utah Code § 57-8a-213, the Board hereby establishes the following:

- (A) That it is hereby ratified that, based upon actions taken by the Board pursuant to the May 3, 2000 Board meeting - which actions have continued over a period of approximately eighteen (18) years, Article VI, Section 2 of the Declaration will not be enforced as it relates to the Association maintaining front and side yards; and
- (B) That it is hereby ratified that the Board will continue with its policy of not providing a master policy of insurance for the individual townhomes in Elfin Cove.

If any provision of this Resolution is determined to be null and void, all other provisions of the Resolution shall remain in full force and effect.

This Resolution of the Association has been duly adopted at the January 10, 2019 meeting of the Board of Trustees.

Dated this 10 day of January 2019.

ELFIN COVE OWNERS ASSOCIATION

Sandy Woodward  
By: SANDY WOODWARD  
Its: PRESIDENT

EXHIBIT "B"

ELFIN COVE OWNERS ASSOCIATION  
SENIOR COMMUNITY AGE 55 YEARS AND OLDER  
PO Box 380223 Ivins, Utah 84738-0223

**MINUTES OF BOARD OF DIRECTORS MEETING OF JANUARY 10, 2019**

**Board Members Present:**

Sandy Woodward, President  
Richard Eldredge, Maintenance  
Sue Longley, Treasurer  
Bruce and Doris Claude, Members at Large  
Carol Rasmussen, Secretary  
Elaine Daines, Vice President

Guests: Tammy Hernandez, Tam Coddington, Cruz and Vincent Patlan

Meeting was called to order by President Sandy Woodward at 10:30 am.

## Secretary's Report

**The minutes from the November 1, 2018 meeting were approved by motion. Seconded and carried unanimously. (Eldredge/Daines)**

### **Treasurer's Report**

Treasurer's report was presented by Sue Longley. The accounts were approved by motion. Seconded and carried unanimously. (Eldredge/Daines)

The annual audit was conducted. The final balances for the Annual Operating Account, Reserve Account and Park and Entertainment Account were presented to the Board. **The above accounts were approved by motion. Seconded and carried unanimously. (Eldredge/Daines)**

The Board discussed the 2019 budget and proposed budget for 2019. Details will be provided to homeowners in the next meeting minutes. **The budget was approved by motion. Seconded and carried unanimously.** (Eldredge/Daines)

**The Annual Audit was approved by motion. Seconded and carried unanimously. (Eldredge/Daines)**

## President's Report:

Recently the Board was challenged regarding the CC&R statutes dealing with front and side yard maintenance and blanket insurance coverage. The statute regarding front and side yard maintenance was voted on at the Annual Meeting in 1999. It was decided that each individual homeowner would maintain their own front and side yards. At a Special Meeting in 2005 members voted to procure their homeowner's policies when the cost of blanket insurance became prohibitively expensive. It was pointed out that neither change was ever recorded.

To clear up this challenge, the Board had our attorney, Bruce Jenkins, address this issue. He drew up a

resolution of Non-Enforcement. The Resolution states that so many years have gone by since the votes were taken that the Non-Enforcement has in effect become statute.

The Board voted to adopt the Resolution and I will take the Resolution, along with the minutes of this meeting, to the Recorder's office and have them added to our CC&Rs. (the binder that stays with the home). I have also added a paragraph to the Annual Realtor's letter apprising them of this Resolution.

If you have any questions regarding this issue, please contact me.

**A motion was made to adopt the resolution of Non-Enforcement for yard maintenance and blanket insurance. The motion was seconded and carried unanimously. (Eldredge/Rasmussen)**

**New Business:**

There is a problem with the south gate latch/knob down (by the big gate at the end of 650 S). This will be addressed. The knob has been adjusted and if it is turned to the right from inside our neighborhood, the gate will open. If there are still problems, we will look into replacing the knob.

Parking issues within the neighborhood will also be addressed.

**Old Business:**

The pothole by the mailbox is causing some concerns. Dick will call the city to have them check for a leaking valve. If it is not due to a valve issue, he will see about getting it fixed. Dick called and the city informed him that they will fix it when they do asphalt repair on roads (probably sometime this summer).

**Announcements:**

We wish to extend a warm welcome to our new neighbors. Carlene and Bill Chapman have purchased Joanne Schultheis' Home, Donna Russell has bought the Wenner home, and Janet Medina has purchased Anasazi's house. Welcome to all.

We wish to express gratitude to the Lanz's for organizing our ECOA Christmas party at Chuck-A-Rama. It was well attended and it was fun to mix and mingle with friends and neighbors.

Tami expresses her gratitude for allowing her to stay in the neighborhood after Joanne left. She has found a place over by Red Cliffs Mall and will be leaving us on January 15<sup>th</sup>.

Everyone will receive a copy of the Resolution with the February minutes. You will also get an updated phone list. New people, please provide your phone numbers to Sandy so we have an accurate list.

**NOTE!!! The Board positions of Maintenance, Secretary and Vice President will be up for election in March. If anyone is interested in filling these positions, please let Sandy know. Also, feel free to attend the February meeting to see what these positions entail.**

**ECOA MEETING SCHEDULE**

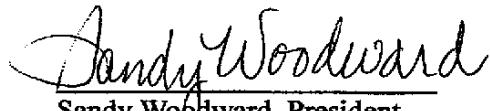
**February 14, 2019 10:30 AM**

**March 16, 2019 10:00 AM Annual Meeting**

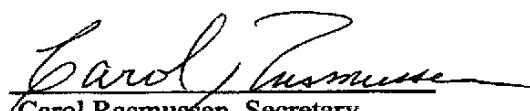
**Adjournment:**

**Motion to adjourn. Seconded and carried unanimously. (Rasmussen/Daines)**

Meeting adjourned at 11:46 AM.



Sandy Woodward, President



Carol Rasmussen, Secretary

Exhibit "C"

**This Resolution of Non-Enforcement of the Elfin Cove Owners Association is to be recorded against the real property located in Washington County, Utah with the following parcel numbers:**

1-ELFC-1-1 through ELFC -1-8

1-ELFC-2-9 through 1-ELFC-2-13

1-ELFC-3-14 through ELFC-3-30

*Subdivision*

**This property includes all lots located within Elfin Cove Owners Association.**

*Phases 1, 2 & 3*