

# WEATHERBY HOMEOWNERS ASSOCIATION

July 3, 2008

Dear Residents,

The purpose of this letter is to inform Weatherby Residents of recent acting Board activities.

The April survey results show that enforcement of CCRs should be the number one priority of the Board. There have been concerns expressed about the enforceability of the CCRs. Additionally, there have been concerns raised as to the legal standing of the current board. At the time it was discovered that there were too many directors on the board as prescribed in the Bylaws, the existing board voted to continue in good faith and to resolve the situation as accurately as possible. The acting board felt obligated to consult with an attorney to see how best to legally remedy the situation that has come to pass. Attached is a letter from the attorney's office concerning the enforceability of the CCRs for Weatherby. It was also advised that an election needed to be held as soon as possible to end the questions about the legality of the board, and bring the number of directors into compliance with the Bylaws. The upcoming special meeting called by several Members will achieve this so we can continue moving forward as a community.

The attorney has also been consulted regarding a structure that is being built that has deviated from the original ACC approval of August 2007. The structure is not what was originally represented to be in the drawings and accompanying letter that was submitted to the ACC and is causing loss of territorial mountain views for a fellow homeowner. CCR section 6.7 refers to "... the effect or impairment that said improvements will have on the view of surrounding Lots..." The board again felt it was prudent and obligated to seek legal council as both homeowners are considering litigation. The board and ACC are charged in the governing documents to protect the look, feel and value of the community for all Weatherby Homeowners.

These are our homes, this is our neighborhood, and we want it to be a great place to live. Survey results show that people bought in Weatherby for the privacy, beauty and property. Past, present, and future boards have a fiduciary responsibility to the community to uphold the CCRs, as written.

Board meetings are open to the public and occur the third Sunday of the month at 6pm. It is best to email or call for the location as it rotates homes and is often not decided until a week or so before the meeting when we know who will be available to host. Since it is in people's homes, it is nice to know ahead of time who plans to attend as well, so accommodations can be made if needed.

If there are any questions at all, we ask that you communicate them to any member of the acting board. We will do our best to answer them in a timely manner. Remember, the website is there for information as well.

Sincerely,

Acting Weatherby Board of Directors

Becky Fox  
Rich Tartar  
Kevin Bowen  
Mary Armstrong  
Tawna Wilsey

JOHN W. DEMCO  
MELANIE A. LEARY  
MATTHEW F. DAVIS  
LARS E. NESTÉ  
BRANDI L. ADAMS

---

## DEMCO LAW FIRM, P.S.

---

5224 WILSON AVENUE SOUTH, SUITE 200  
SEATTLE, WASHINGTON 98118  
(206) 723-2330  
FAX (206) 723-2332  
www.demcolaw.com

PHILIP T. MATTERN  
DAVID C. DANIEL  
J. CASEY SCHERER  
L'NAYIM SHUMAN-AUSTIN

June 27, 2008

To: Property Owners in the Plat of Weatherby

I have been asked to give an opinion concerning the enforceability of the Declaration of Covenants, Conditions and Restrictions for Plat of Weatherby that was recorded under Auditor's File Number 200405260026, records of Snohomish County, Washington. Covenants such as this that have been recorded are presumed enforceable against all property owners whose deeds were given subject to the covenants. This remains true whether or not the owner read or understood the covenants, and even if someone misrepresented the effect of the covenants.

To give just one example, the owner of such a lot may not violate the building restrictions stated in Article VI. This would remain true even if there were no validly constituted Board or Architectural Control Committee. In this regard, your attention is called to Section 8.2, which gives each individual lot owner in the Plat the right to sue another lot owner who is violating the Declaration of Covenants. The prevailing party in any such suit will get a judgment for their attorney's fees against the offending owner.

In recent years, there has been a strong trend in the Washington courts in favor of upholding covenants against people claiming they are unenforceable. People who purchase land with covenants on the title generally cannot be heard to complain later when an individual, a Board, or an Architectural Control Committee tries to enforce the covenants.

Sincerely,



Philip T. Mattern

[pmattern@demcolaw.com](mailto:pmattern@demcolaw.com)