

# ARC PLAN APPROVALS

LIMITS ON FEES CHARGED, ETC



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I know you are thinking that nobody in your neighborhood would paint their home like this but anybody in the homeowner association business knows that some people do strange things. Without architectural controls this could be your neighbor.



WITHOUT ARCHITECTURAL CONTROLS THIS COULD BE YOUR NEIGHBOR.

The reality is that restrictive covenants and architectural standards can and do benefit homeowners for many reasons. The most important reason has to be increased property values for associations that maintain acceptable standards.

A few definitions are important to understanding this process. A “rule” is a specific statement of required behavior whose violation carries a penalty. An “architectural guideline” is a rule that applies to the appearance of an owner’s lot or the exterior of his or her home. Typically, architectural guidelines address: fencing, location of improvements upon lots, decks and patios, exterior material and lighting, color of exterior surfaces, landscaping, outdoor equipment, doors, window treatments and roof protrusions. These controls are intended to promote and preserve the harmonious design of the community and protect property values.

THESE CONTROLS ARE INTENDED TO PROMOTE AND PRESERVE THE HARMONIOUS DESIGN OF THE COMMUNITY AND PROTECT PROPERTY VALUES.

Now that we have defined “rules” and “guidelines” it would be helpful to understand the hierarchy of authority within community associations. This is particularly important because both the rules and architectural guidelines cannot conflict or contradict these legal precedents. The hierarchy is from highest to lowest: Federal statutes, regulations and court decisions; state statutes, regulations, and court decisions; local county and city statutes, regulations and court decisions; declarations and CC&R’s, master deed, proprietary lease or occupancy agreement; article of incorporation; bylaws; board resolutions and finally other rules and regulations.

It is in the best interest of any builder to establish these written guidelines as early as possible in the construction process. Management companies and/or legal counsel can help navigate producing these guidelines while ensuring they do not contradict or conflict with higher legal authority. These guidelines can provide prospective homeowners a sense of the community they are buying into. It also helps avoid claims of arbitrary or selective treatment of owners once they have purchased a home. It is imperative that these guidelines be readily available to all homeowners and prospective buyers.

THESE GUIDELINES CAN PROVIDE PROSPECTIVE HOMEOWNERS A SENSE OF THE COMMUNITY THEY ARE BUYING INTO.

The next important step in this process is the establishment of an architectural review committee (ARC). The duties of this committee are usually defined in the community governing documents. Their authority typically includes: reviewing, approving or disapproving proposed improvements, supervision of approved construction plans and inspection upon completion. One of the most important responsibilities of this committee is to ensure that their decisions are: consistent, fair and impartial.

In some cases the ARC decisions may not be final. That is to say in some associations the governing documents allow for an appeal to the board of directors. In those cases the board of directors is the final decision authority for the community.

As our industry evolves, those that become informed, educated and involved rise to the top. This can be said of those active members of the Utah Chapter Community Association Institute (UCCAI). These professionals are dedicated to improving the lives of those that live in homeowner associations (estimated at 350,000 in Utah). As an active resource for communities throughout our state, homeowner associations can and should use the resources of UCCAI as they build their communities or refine their rules and guidelines.