

# Shady Acres Homeowner Association v. Abe Froman

Community Association Institute Superior Court  
Washington State Chapter Division  
Case No. 17-001267 -SEA

Hanging Judge:	Dan Zimberoff	Barker Martin, PS
Plaintiff's Counsel:	Jeremy Stilwell	Barker Martin, PS
Defense Counsel:	Ken Strauss	Flanagan Strauss, PLLC
Abe Froman:	Sean Hughes	RW Anderson
Manager:	Vanessa Tilberg	Yalnes, Inc.
Architect:	Lizzie Monroe	HARBRO Emergency Service and Restoration



Exhibit 1

**Shady Acres Homeowner Association  
Declaration Section re Building Restriction**

**10.1 Building Restrictions.**

A Lot shall contain no more than one single-family residence structure with attached garage. The garage shall allow no less than two (2) or more than three (3) automobile or pick-up sized vehicles.

No sheds or other similar structure shall be allowed on a Lot.

Fences shall be no higher than six feet in height and must conform to the standards as determined by the Architectural Review Committee.

No residence or garage structure may be placed closer than fifteen (15) feet nearer to the front or street line of the Lot. No residence or garage structure shall materially interfere with the view of a neighboring residence.

Determination of whether a view is materially affected is to be determined by the Architectural Review Committee after an onsite visit to the Lot and the neighboring Lot. The Architectural Review Committee's decision shall be binding.

No building or structure shall be constructed, erected or permitted on a Lot unless approved by the Architectural Review Committee after submission of an ARC Submission Form. The building or structure must also comply with all conditions, restrictions and standards as established by the Architectural Review Committee or as otherwise set forth in the Association's governing documents.

SHADY ACRES HOMEOWNERS ASSOCIATION  
ARCHITECTURAL APPLICATION

\*\*\* Please Allow 30 Days for Processing \*\*\*

Failure to comply with the CC&Rs and Architectural Review Guidelines may subject a homeowner to legal action, legal fees and/or other charges per RCW 64.38.020 (11), CC&Rs Article 9.10 & 16.1. Any assessed amounts may be used to place a lien on the home until there is compliance.

Mail To: Shady Acres Homeowners Association  
c/o No Name Management Company  
111 NE Olive Road  
Lacey, WA 98516

Deliver To: 111 NE Olive Rd  
Suite A  
Lacey, WA 98516  
Contact #: 360-444-1234

From: Abe Froman Date: 3-2-2016  
Owner

101 Maple Lane Lacey WA 98516  
Mailing Address City State Zip

Property Address: Same Lot # 101  
(if different from above)

Contact #'s: Day 360.555-1212 Eve \_\_\_\_\_ Cell Email \_\_\_\_\_  
abe@sawageking.com

Architect, Engineer or Owner's Representative (if applicable):

N/A Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Describe modifications, additions and/or changes. Provide sketches, color samples, dimensions, descriptions of all finish materials, etc. on page 2 ("Information Request").

Adding second floor above garage and expanding  
garage 10' in length and 9' in width

Plans included with application

Application Returned  
(See ARC Comments Section)

Application Approved  
(Improvements must be completed within  
120 days of approval)

Date: \_\_\_\_\_

By: \_\_\_\_\_

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ARCHITECTURAL APPLICATION

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Deliver To: 111 NE Olive Rd  
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Contact #: 360-444-1234

From: Abe Froman Date: 3-2-2016  
Owner

101 Maple Lane Lacey WA 98516  
Mailing Address City State Zip

Property Address: Same Lot # 101  
(If different from above)

Contact #'s: Day 360.555-1212 Eve \_\_\_\_\_ Cell Email \_\_\_\_\_  
abe@savageking.com

Architect, Engineer or Owner's Representative (if applicable):

N/A Name Phone

Address City State Zip

Describe modifications, additions and/or changes. Provide sketches, color samples, dimensions, descriptions of all finish materials, etc. on page 2 ("Information Request").

Adding second floor above garage and expanding garage 10' in length and 8' in width

Plans included with application

Application Returned  
(See ARC Comments Section)

Application Approved  
(Improvements must be completed within 120 days of approval)

Date: 5/15/16

By: ARC Committee

Mary Jane

# SHADY ACRES HOMEOWNERS ASSOCIATION ARCHITECTURAL APPLICATION

\*\*\* Please Allow 30 Days for Processing \*\*\*

## INFORMATION REQUEST

Depending on the scope of your project, some or all of the following information should be submitted with your request. Attach additional drawings to this form.

1. Description of construction improvement.
2. Location of residence on lot and dimensions from lot line. Indicate North arrow.
3. Complete dimensions of improvement proposed.
4. Measurements of improvements in relation to residence and lot lines.
5. **Description of all finish materials, textures and color schemes. Include paint chips with Application. Note clearly where each color is to be used.**
6. Drawings to show affected elevations.
7. Height of trees at maturity.

NOTE: All works of improvement shall be performed in a manner consistent with the Architectural standards of the existing structures and fences.

## ARC COMMENTS SECTION

Reasons for return/disapproval:

- Expanded garage encroaches on 15' lot line restriction
- Second story violates view restriction
- Both violate §10.1 of Declaration

Common Reasons for Incomplete or Does Not Meet Standards Applications

<input type="checkbox"/> Paint chips needed	<input type="checkbox"/> Trim color does not meet standards
<input type="checkbox"/> City/County permit needed	<input type="checkbox"/> House base color does not meet standards
<input type="checkbox"/> Missing neighbor notification signature(s)	<input type="checkbox"/> Incomplete "Information Request" page
<input type="checkbox"/> Shed roof must be same as house	<input type="checkbox"/> Shed siding must be same as house
<input type="checkbox"/> Needs description of materials to be used	<input type="checkbox"/> Needs sketch with building dimensions
<input checked="" type="checkbox"/> Structure(s) exceed height/view restriction	<input type="checkbox"/>

**From:** Shady Acre Manager  
**Sent:** March 2, 2016 3:12 PM  
**To:** abe@sausageking.com  
**Subject:** ARC Submission

Mr. Froman:

The Association is in receipt of your ARC application for your home remodel/addition received today in our office. The next ARC Committee meeting is March 15<sup>th</sup>, at which time the Committee will review your application.

Please do not hesitate to let me know if you have any questions in the interim.

Thank you.

Vanessa

Manager, Shady Acre HOA

**From:** abe@sausageking.com  
**Sent:** March 16, 2016 11:13 AM  
**To:** vanessa@nonamemgt.com  
**Subject:** ARC Submission

Vanessa:

Please let me know if I can provide any further information or documents to the ARC Committee to help them along. Also, time is of the essence, as I have an architect and contractor all set to go.

Thank you.

Abe Froman

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**From:** Shady Acre Manager  
**Sent:** March 16, 2016 9:44 AM  
**To:** abe@sausageking.com  
**Subject:** ARC Submission

Mr. Froman:

The ARC Committee met last night to review your application. They wanted me to let you know that more information is required. And that they will be scheduling an onsite visit within the next couple of weeks. We will continue to keep you advised.

Please do not take any action on your home until approved by the ARC

Thank you.

Vanessa

Manager, Shady Acre HOA



**From:** Kurtsmith3224@gmail.com  
**Sent:** April 11, 2016 2:35 PM  
**To:** vanessa@nonamemgt.com  
**Subject:** Froman ARC Application

Vanessa:

The ARC conducted an onsite visit yesterday afternoon and we need more information. We also need to hire an architect to help us interpret Section 10.1. Can you please move forward with hiring the architect that we discussed?

We should probably get right on this, as Mr. Froman seems hot to trot on moving forward.

Thanks!

Kurt Smith

ARC member

**From:** abe@sausageking.com  
**Sent:** April 15, 2016 7:05 AM  
**To:** vanessa@nonamemgt.com  
**Subject:** ARC Submission

Vanessa:

I haven't heard from you or the Association for almost a month. I'm about to lose my contractor and have to move forward **without further delay!!!**

Thank you.

Abe Froman

**From:** Kurtsmith3224@gmail.com  
**Sent:** April 15, 2016 10:04 PM  
**To:** vanessa@nonamemgt.com  
**Subject:** ARC Application

We are trying the best we can. Still waiting on info from the architect.

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**From:** vanessa@nonamemgt.com  
**Sent:** April 15, 2016 9:35 PM  
**To:** Kurtsmith3224@gmail.com  
**Subject:** ARC Application

Kurt:

Please see email below from Mr. Froman. What should I tell him?

Thank you.

Vanessa

Manager, Shady Acre HOA

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**From:** abe@sausageking.com  
**Sent:** April 15, 2016 7:05 AM  
**To:** vanessa@nonamemgt.com  
**Subject:** ARC Submission

Vanessa:

I haven't heard from you or the Association for almost a month. I'm about to lose my contractor and have to move forward **without further delay!!!**

Thank you.

Abe Froman

**From:** Shady Acre Manager  
**Sent:** May 11, 2016 2:50 PM  
**To:** [abe@sausageking.com](mailto:abe@sausageking.com)  
**cc:** kurtsmith3224@gmail.com  
**Subject:** ARC Submission

Mr. Froman:

I have been told by a neighbor that you are starting construction on your home. May I please remind you that your ARC application has not been approved. Therefore, you are instructed to cease and desist all construction activities relating to your application until such time as it has been approved.

Thank you.

Vanessa

Manager, Shady Acre HOA

**From:** Shady Acre Manager  
**Sent:** May 15, 2016 3:12 PM  
**To:** abe@sausageking.com  
**Subject:** ARC Submission

Mr. Froman:

Shady Acre Homeowners Association, under the authority of its Architectural Review Committee and Sections 10.1, 11.1 – 11.3 of the Declaration, has denied your ARC submission dated 3/2/16. Please find attached the formal denial.

Thank you.

Vanessa

Manager, Shady Acre HOA

# Stipulated Facts

1. Following the Association's May 15, 2016 denial of Mr. Froman's ARC application, the Association sent a Notice of Violation of Declaration § 10.1 to the Owner with demand to correct the two violations (view and encroachment). The Notice included an opportunity to be heard.
2. Mr. Froman ignored the Notice and the Association proceeded to send a Fine Notice along with a renewed demand to correct the violation. The Notice included a statement that since he had waived the hearing, the fine automatically became an assessment against his Lot.
3. Mr. Froman retained legal counsel who demanded that the Association drop its enforcement action.
4. After two more months of ongoing fines and repeated demands with no action by Mr. Froman, the Association initiated this lawsuit.

# Learning Objectives

- Identify flaws in governing documents before problems arise – amend if necessary
- Identify early if attorneys' fee provision applies
- Communication between all parties is key
- Adopt reasonable and practical standards
- Act quickly—absolutely no later than required
- Must apply rules and CC&Rs uniformly