



Eastern Gardens Co-op

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September 6, 2013

To: All Members and residents of Eastern Gardens Cooperative, Inc.

Subject: Amendment to Rules & Regulations, Common Area, Gardening, & Storage
(Membership Thirty-Day Review Notice)

Before you rally the villagers and storm the office with torches and pitchforks, please allow your Board of Directors to explain. Since our last letter disseminated to the membership on July 19, 2013 concerning the issue of "Shrubbery, Plants and Flowers in the Common Areas" it has generated some confusion and misunderstanding on the subject of "Common Area" with a few of our members. Thus, prompting the Board to consider amending its Rules & Regulations to help bring a clearer understanding to the membership with better written guidelines on the issue of Common Areas. First, every member should understand that when you purchased your share/stock in Eastern Gardens Corporation, the common areas are not yours to do with as you please, which is the case in any multi-family community, but rather you receive an appurtenant for your purchased share a "Certificate of Membership". Each member is entitled to occupy a specific unit and has a vote in the corporation, in accordance with the Occupancy Agreement and the Corporations governing documents. Every month, the members pay an amount that covers their proportionate share of the expense, (i.e. 1bdrm or 2 bdrm), of operating the entire co-op. These monthly carrying charges typically include the building mortgage, property taxes, management, maintenance (i.e. buildings, apartment units, grounds, pool..etc.); insurance, utilities, and contributions to the reserve funds. This does not include exclusive use of the common areas by the membership, for they are part of the Corporation which holds the title, (i.e. the buildings and property is not in any of the memberships name but rather the Corporations, specifically, Eastern Gardens Cooperative, Inc.).

The designation of common area is applied to spaces in cooperative housing projects. These spaces include areas such as parking lots, laundry facilities, pool and picnic area are all parts of the property which are available to use for all members/residents. Per the California Civil Code 1351 otherwise best known as the Davis-Stirling Act; **Common area** means *"the entire common interest development except the separate interests therein."*, which your separate interest is your apartment unit. (See Membership Handbook, page 8 #11 "Common Elements & Areas")

A common area also refers to spaces which are used by all members/residents to enter and exit the property, which do not serve another particular function, such as breezeways, personnel gates, driveways and all parts of the facility. In order to maintain these common area spaces, all share holders with a percentage share contribute to a collective fund. The fees or carrying charges collected go towards various expenses, including upkeep, as explained above. Once the carrying charges have been received, it is the responsibility of management to apply them to the safe upkeep of managing the communal property as well as the day-to-day operations as per the management agreement between the association and the management company, (e.g. duties and responsibilities).

Some of you may or may not have been told that it was OK for you to take your liberties in the common areas, the Board will not argue or debate that issue. But rather evaluate and address present day problems and issues as stated in our last letter on shrubbery and plants in the common areas. It is our effort to move forward and address not only those concerns as mentioned, but also to help bring an understanding to the general membership as to the "why" in our actions in considering expanding the definition on "Common Area". It has been said by a few of the members that our governing documents are vague and not clear on this subject so the board should provide better written guidelines. So your Board is doing just that, even our own constitution of the United States has been amended some 27 times and over 10,000 constitutional amendments have been introduced in Congress since 1789. The point here is, even though you feel that it was acceptable to do whatever you wanted in the common areas in the past it is not acceptable now and must change for the future and betterment of Eastern Gardens.

Therefore, during an executive meeting held on September 5, 2013 by the Board of Directors, and in accordance with California Civil Code 1357.130 "Notice; Proposed Rule Change", the following, definition, rules and regulations, have been proposed for amendment, specifically, definition of "Common Elements & Areas", Regs & Rules #6 "Gardening", and two new additions to the Regs & Rules #25 "Common Area and #26 "Storage", was reviewed and discussed for amending/addition.

To better facilitate this process, attached is the proposed changes for the membership to review and critique for the next 30 days, effective per the date listed on this notice. Your letters of comments and suggestions will be received by your Board which can be placed inside the board's mailbox located at the business office Monday thru Friday during normal business hours. Attempts by the membership to contact individual board members or management to personally discuss this issue will only be given a response to please "Write a letter to the Board". After the 30 day period the board will gather all letters for review and make any necessary changes to the proposed amendments. The purpose is to help ensure a clearer understanding of the Common Areas within the common interest development of Eastern Gardens and to avoid future misunderstandings on this subject.

Sincerely,

Janice Hoberg, President/Director
Ed Healy, Secretary/Director
Shirley Brown, Director
Linda Manning, Alternate Director
Eastern Gardens Board of Directors

Jerry Ontiveros, Vice President/Director
Kathy Slotterback, Treasurer/Director
Lynette Haley, Alternate Director

Attached:

The proposed amendments

NOTE: Red italics represents the proposed amendment and additions to EG's Rules & Regulations and strikeouts equals removal of existing statements. Proposed amendments can be found in your Membership Handbook

DEFINITIONS

Membership Handbook page 8.

11. COMMON ELEMENTS & AREAS *Common Area is defined as the entire common interest development except for the separate interests in the development. In accordance with, Civil Code 1351(a),(b),(c)(1&4),&(d), (l)(1&4),&(m).* include picnic & barbeque area, lawns, flower gardens, driveways & carports, walkways, breezeways, swimming pool, clubhouse, laundry rooms, and storage buildings, exterior steps, exterior lighting fixtures, installation of central services, such as, power, telephone D-mark boxes, gas, water, all utility lines, sewer, drainage, water and other pipes and conduits.

- a. Separate Interest. The "separate interest" of your apartment unit is the air space bounded by the interior surfaces of the perimeter walls, floors, ceilings, windows, and door for which you receive an appurtenant for your purchased share a "Certificate of Membership", granting you an exclusive right to occupy a selected apartment unit in accordance with the terms of the Occupancy Agreement and the Corporations governing documents.*
- b. Exclusive Use Common Area. Exclusive use common area, sometimes referred to as "restricted common area", is defined as those common areas outside the memberships separate interest, such as, clubhouse, laundry rooms, business office, maintenance storage areas, pool and picnic area, breezeways, walkways, driveways, all green areas including flowerbeds and grass areas, garbage areas, any and all areas that is outside the members apartment unit is considered restricted common area to which the Corporation holds title.*

RULES AND REGULATIONS

Membership Handbook page 42.

Regs & Rules #6. GARDENING: ~~Trimming of trees and shrubs is the responsibility of our landscaping service. An outside water hose bib is provided for the convenience of downstairs dwelling units and other members who should need to use it.~~ *There is no gardening permitted on the premises at anytime, (i.e., digging, planting, growing, or trimming of shrubbery, trees, plants, flowers or vegetables outside the apartment buildings otherwise known as the Common Areas).*

You are however, permitted to have _____ (Member to fill in a number) _____ potted plants within your breezeway, that is, just outside your front door, but they are not to exceed 12" and/or 5 gallon in size and cannot be planted permanently into the ground or attached, affixed, or hung to the building, nor obstruct access in the breezeways or hinder the grounds keeper from doing their job; neither shall they violate Articles 6 & 7 of the Occupancy Agreement or other members rights to a safe and healthy living environment. Members who have already planted those items, as listed above, prior to the forming of such rules are required to conform to said rule(s). In

addition, the member will be responsible for the care and upkeep of those items and will maintain them at their own expense.

NOTE: When filling in a number in the blank space above please remember to multiply your number by four (4). This accounts for all members within your breezeway as an equal share, for example, 10 potted plants times 4 equals 40 potted plants within each breezeway, (i.e. 40 upper and 40 lower).

Proposed new regulation/rule.

Regs & Rules # 25. COMMON AREA: Restricted common areas shall not be used for the exclusive use by the membership, that is, no construction or building of any kind, no planting of personal shrubbery or flowers, no gardening, no personal storage this will include household furniture, gardening tools, poisons, insecticides, pesticides or herbicides, neither shall they be sprayed or in pellet form applied on the outside grounds of any of the common areas. There are to be no posting, affixed or attached items to the outside of the building structure, that is, screwed, nailed, bolted or taped. (See definition of Common Elements & Areas, page 8 #11)

Proposed new regulation/rule.

Regs & Rules #26. STORAGE: Garbage cans, bottles, brooms, mops, toys, shelves, shopping carts, gardening tools, fitness equipment, cardboard boxes, household furniture, and similar personal property are to be kept inside the apartment. Patios, balconies, and/or breezeways are to be used for patio furniture only, (limited to size of table & number of chairs permitted). Areas located outside front doors, or on stairway landings, are part of the common areas and cannot be used for storage, this includes outside next to apartment building(s). In addition, there are to be no poisons, i.e., insecticides, pesticides, or herbicides, of any type or kind, whether sprayed or in pellet form, applied or stored on the outside grounds or in the common areas by the Member/Resident.