



association exceeding its authority

Tree Committee Has No Authority To Control Limbing and Trimming

Members of the KPOA proposed a resolution to allow Members to trim and limb trees located on their residential lots without the need to obtain the approval of the Association. The resolution was reviewed by the Association’s lawyers, Davis Roberts and Johns, Attorneys at Law. Their opinion was stated in a letter to Lane Stuart, KPOA Board President, dated 21 April 2009, as follows:

“Other than the power given to the ACC”, (Architectural Committee),“ under Master Declaration Article IV Section 9 to order the pruning of vegetation that interferes with views, I do not believe that the Governing Documents have any provisions restricting member’s ability to trim trees (as opposed to removing trees)”.

“However,ArticleV Section 2 of the Master Declaration states that only the Board has the power to adopt, amend and repeal such Rules and Regulations as it deems reasonable and Article VI Section 16 of the Bylaws provides that all Association powers and duties shall be exercised by, or under the authority of the Board. Article IV Section 1 of the Bylaws further provides that no member shall have the right to exercise any of the powers or to perform any of the acts delegated to the Board by the Bylaws or the Master Declaration”

Based on the KPOA Attorney’s opinion the “trim and limb” resolution was withdrawn as being unnecessary. The Association’s approval is not required for Members to trim or limb trees on their residential lots.

Not referred to by the KPOA Attorney is Master Declaration ArticleV Duties and Powers of the Association Section 2 Rules and Regulations. Section 2 states in part: “...that the Rules and Regulations shall not be inconsistent with this Master Declaration, the Articles or Bylaws.” This is interpreted to mean that the Association cannot exercise more authority than is granted by the Master Declaration.

Continued on page 2

Inside this issue:

- About that “Sheriff’s” Resolution:** Some Thoughts About The Sheriff’s Presence- Page 2
- What is fair? Two levels of membership?:** Why Don’t The Rules Apply Equally To Everyone? - Page 3
- About Those “Tree” Resolutions:** Some Thoughts About Managing Trees On Private Properties-Page 4
- Enhance Your Walks With Hiking Poles:** Increase The Health Benefits Of A Daily Walk Page 6
- Planning and Managing Your Fire Defensible Landscaping:** Defensible Space for your home- Insert Page 1

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Tree Committee Has No Authority To Control Limbing and Trimming

Continued from front page

With respect to limbing and trimming of trees and other vegetation, **the only authority given to the Association is maintenance of views and this responsibility is**

not being exercised.

It seems to be a case of the **Association ignoring a clearly stated responsibility and grasping power that is not**

The Association's lawyers, Davis Roberts and Johns, Attorneys at Law gave their opinion stated in a letter to Lane Stuart:

I do not believe that the Governing Documents have any provisions restricting member's ability to trim trees (as opposed to removing trees)".

authorized by the Master Declaration in order to advance the agenda of some Members by restricting the rights of other Members.

about that **"sheriff's" resolution** **Some Thoughts About The Sheriff's Presence**

Resolution 5 requires, by amendment, that **the KPOA membership vote to approve bringing the Sheriff into our community to control speeders before the Board takes action.** The approval can establish any term and conditions that the Members determine is appropriate, such as one year and twenty hours per week.

The Board authorized and the Board President requested the Sheriff to patrol our private roads to reduce a perceived speeding problem. The Association paid the Sheriff over \$50 per hour for the presence of a deputy. Our taxes do not pay for this service. The Sheriff's presence was limited to a very few hours to control the cost. The possible presence of the Sheriff was intimidation rather than attaining real effectiveness by actually catching and ticketing speeders.

Intimidation did not work. The probability of the Sheriff actually observing and ticketing a speeder was statistically almost zero. The percentage of speeders, monitored by roadside sensors, exceeding 30 mph, increased from 8% in 2008 to 10% in 2009. Only 1% of the vehicles monitored exceeded 35 mph. Is it even possible to decrease that 1% to a lower percentage?

As exhibited on our highways, a good percentage of drivers will not observe posted speed limits unless they observe a Sheriff's car parked on the side of the road. These lawbreakers are also present in our community; some are our neighbors and others are the trade people with whom we do business. They do not react to intimidation, only

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confrontation. They either do not care about safety or falsely believe they can control any situation.

If the Board is serious about reducing the number of speeders in our community, then it seems apparent that the Sheriff must be present a significant amount of time each and every week. It seems reasonable that the Sheriff should be present a minimum of 20 hours a week at a cost exceeding \$ 1000 per week. That is over \$ 100 per year per member.

If we as a community believe there is a speeding problem, and we want to reduce it, then we should be willing to pay for it. This resolution merely places that decision and the associated willingness to pay in the hands of the Members rather than just the Board. The cost could increase our annual assessment over 13% at a time when our assessments have already been steadily rising

And, the presence of the Sheriff really takes the “private” out of our private roads. Gone is the sense that we are home when we enter our community. Even though we are not all speeders, still the Sheriff is monitoring us. Will the loss of privacy really increase the safety of our roads?



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what is fair?

two levels of membership?

Why Don't The Rules Apply Equally To Everyone?

The Election Committee established rules for the arguments for and against the proposed resolutions for inclusion in the official election material mailed to each Member. The proponents and opponents were limited to statements of 150 words for each resolution. **The proponents adhered to the rules** with one statement for each resolution of 150 words or less. The Tree Committee, a functionary of the Board, wrote the opposition statements for the “tree” resolutions, and exceeded 150 words for two of the three resolutions. The Board then added another average of 57 words in stating their reason for being against the “tree” resolutions. So, **one entity, the Board and its Tree Committee, exceeded the established rule of 150 words by over one-third.** The proponents would have welcomed the opportunity to explain their position with a longer statement. The Board didn't feel compelled to adhere to rules their Election Committee imposed on the length of the resolution arguments. The proponents would have welcomed having a second statement by a proponent of their resolutions. They were not given that opportunity.

The Board's action in opposing the “sheriff” resolution was no better with respect to following the rules. They submitted a statement of 150 words in opposition but then they added a second statement of 41 words further explaining their opposition.

It is apparent that there are two types of members of KPOA. There are those who follow the rules and those who feel they don't have to follow the rules. Does the Master

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Declaration establish two levels of membership? When will the Members insist that the rules apply to the Board as an entity and all Members equally? When will the Board start following its own rules? **When will each Member be treated fairly?**

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about those “tree” resolutions

Some Thoughts About Managing Trees On Private Properties

Resolutions 3, 4 and 6 change, by amendment, the need for Owners to obtain KPOA approval to remove trees on their residential lots if the trees meet certain specific requirements and criteria. **Approval would not be required to remove immature trees, hazardous trees or Alders.**

The amendments were proposed and supported by Members who believe that an **Owner should be trusted to make decisions regarding the trees on their residential lots** which will improve the management, appearance and safety of their property, without adversely affecting the wooded nature of the Kala Point community. The amendments would not be necessary if the Association supported reasonable efforts at tree management by Owners. Instead, the unreasonable Association position of trying to protect every tree, placing the rights of trees over that of owners, appears to be the basis of judgment exercised in not granting reasonable tree removal requests.

Resolution 3 addresses the need for more Owner latitude in determining what constitutes a hazardous tree; relying on Owner judgment rather than the arbitrary, biased decision of a committee of non-experts. After all, it is the safety of the Owner’s property and person which is potentially threatened. Resolution 3 also is important with respect to the safety of the community. Trees need to be managed with respect to the fact that the Kala Point community is a wooded residential development of closely situated homes and not a forest. Management approaches and rules which may be fine for a

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true forest are not applicable to and safe for a residential neighborhood. Kala Point is a potential fire disaster waiting to happen and the Association ignores addressing the issue and steps that could be taken to lessen the hazard while keeping the magnificent mature trees which add so much to the ambience of the community.

Resolution 4 addresses the size definition of a mature tree. The Association currently allows an Owner to remove an immature tree without prior approval. The Association has arbitrarily defined an immature tree as having a trunk diameter of six inches or less. Many trees, especially in the tree friendly climate of the Olympic Peninsula, attain a trunk diameter of ten inches or more in less than 20 years. A less than 20 year old tree is not a mature tree. The six inch definition unnecessarily limits an Owner's ability to manage his trees without interference from the Association. Resolution 4 increases the definition of a mature tree to one with a trunk diameter of more than ten inches. The majestic conifers, which contribute so much to the Kala Point community, all have trunks well in excess of ten inches. Removing some of the redefined, (less than 10 inch diameter), immature trees would have the beneficial effect of opening up the view of the mature trees and also reduce the fire hazard smaller trees impose.

Resolution 6 addresses Alders. Alders are currently controlled by the same Association rules as other trees. Resolution 6 allows an Owner to remove any Alder from his residential lot without prior approval. The Association currently limits the ability of Owners to comply with the requirement established by the CC&Rs to control the growth and spread of Alders. The "save the trees" mantra prevalent in Association actions is counter to the CC&Rs when applied to Alders.

Alders play an important part in the ecosystem of a forest by providing nourishment and protection to young conifers. **In a non-forest environment, such as a wooded community like Kala Point,** their protection and nourishment are not needed or effective. They obscure the view of the large conifers and pose a potential fire hazard. They have been determined to be a major source of the nitrogen pollution affecting the waters of Puget Sound. The Kala Point community would be more attractive, less hazardous and more environmentally friendly without the presence of Alders.

Each of the tree resolutions **addresses the issue of Association misinterpretation of the Master Declaration, Article IV B, Uniform General Requirements, Section 8 Clear Cutting.** This Section clearly addresses only the clear cutting and removal of trees by both title and text. The Association has chosen to interpret the verb "cutting", in the sentence establishing the right to levy fines and other penalties, as meaning "any cutting" which would include trimming and limbing. This is a blatant attempt to create their right to require Owners to obtain Association approval to trim and limb trees on their residential lots. Each resolution includes changing the verb "cutting" to "removal" to limit Section 8 to its intended scope.

Approval of the three "tree" resolutions would limit the power of the Association to control trees only to the extent as required to maintain the wooded nature of the Kala Point community. Protection of the mature conifers, the firs, hemlocks and cedars, is very important. These resolutions do not threaten those trees. These resolutions do allow owners to manage the trees on their residential lots under very specific conditions which will only enhance the appearance and limit the hazards of living in a wooded community.

enhance your walks with hiking poles

Increase The Health Benefits Of A Daily Walk By Adding This Simple Piece Of Equipment



What began as a training method for cross-country skiers has now entered the world of recreational walking and hiking. First spreading through Europe and now popular in the United States, the use of walking poles is becoming a method for increasing the intensity and health benefits of a daily walk.

Walking is one of the most popular forms of physical activity. It is a low impact movement that provides a cardiovascular benefit and calorie burn, while promoting mental wellness. It is a preferable form of activity for beginner to advanced exercisers.

One challenge of walking for exercise is the intensity level. For more fit exercisers, speed and duration must be increased when walking to provide a workout of a higher intensity. Also, elevation is often seen as a means to increase intensity through the incorporation of hills on the walking path. This may or may not be possible depending on the walking environment. Using poles during the session pushes walking for exercise into the category of more vigorous activity.

The use of walking poles can increase calorie burn up to 46%. In addition, the research indicates a 20% increase in oxygen consumption and a 16% increase in heart rate as a result of walking with the poles. The addition of poles can be an easy solution for increasing fitness and successful weight loss through daily walking.

Walking is an activity that focuses heavily on the muscles of the lower body.

The poles incorporate the use of the upper body making the walk a more balanced, full body workout. The utilization of muscles in the chest, shoulders and back improves the strengthening of the upper body. The use of poles may also be beneficial to the mobility of the neck and spine. Using more muscle groups, such as those in the upper body, increases calorie burn during the workout. It is estimated that an hour walking with poles burns about 400 calories compared to only 280 calories walking without them, depending on body weight.

The DVD “Hiking Poles; Techniques and Tips” at the Jefferson County Library explains how poles reduce stress on knees; increase endurance, balance and stability; exercise upper body and core muscles; and help prevent injury. It also shows poling techniques for different terrains (downhill, uphill, and level areas), adjusting pole length for sidestepping up or down hilly areas, pole length adjustment techniques and pole care recommendations. Making a trip to REI in Seattle or Sport Townsend in Port Townsend is worth the effort because you can try out the poles prior to purchase.



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Produced in association with the Center for Urban Horticulture and College of Forest Resources, University of Washington, and the Pacific Northwest Interagency Fire Prevention Group representing Oregon and Washington.

Planned space gives firefighters room to battle the oncoming fire before flames reach your home.

Defensible Space For Your Home

Planning and Managing Your Fire Defensible Landscaping

A WILDLANDS INFERNO

Each year, more and more people settle on our state's wildlands.

As more homes are built in the country, the risk of wildfire increases. Urban growth into inaccessible areas means fire protection districts and wildland firefighting agencies are often overwhelmed during wildfires.

Residents are rarely prepared for an inferno that sweeps through brush, grass and trees, destroying homes, property and lives.



A DEFENSIBLE SPACE

Fortunately, you can help protect your property by creating a defensible space around your house. Defensible space is a vegetation buffer that surrounds your home to reduce the chances of a fire reaching it.

Creating defensible space requires you to:

- Landscape in zones around your house.
- Reduce piles of debris near your house.

With sufficient defensible space, you may save your home in the critical minutes it takes for a fast moving fire to pass.

When firefighters are available, the planned space gives them room to battle the oncoming fire before flames reach your home. It also can keep a house fire from igniting native vegetation and starting another wildfire.

Defensible space should be part of every homeowner's comprehensive fire protection plan that includes:

- Adequate road access
- Excess water supply capacity
- Use of fireproof building materials

The Home Protection Guide (1990) contains information about fire protection strategies and is available from your local fire district or wild-land firefighting agency. See list on the back of the brochure.

MAINTAIN PLANTS TO KEEP AWAY FIRE

Any plant can burst into flame during severe fire danger weather. Most plants accumulate excess woody material and all shed seasonal foliage. Branches spread, often touching other vegetation. Weeds grow between landscape plants.

In your defensible space, you must actively reduce this accumulation of potential fuel by regular pruning, mowing, and raking, followed by proper disposal. The less accumulated plant debris, the slower a fire will spread. Reducing the amount of fuel limits the fire's intensity and shortens the time until firefighters can directly attack the flames.

MAINTAINING LOW FUEL VOLUME

- Remove dead woody material on ground and in standing vegetation (all zones).
- Minimize early maturing grasses to reduce potential for rapid surface fires.
- Mow and rake grasses during the growing season to reduce the potential for fast-moving surface fires.
- Remove or thin shrubs to keep space between plants at least five times their height.
- Prune shrubs to maintain an open structure and prevent dense branching.
- Prune tree branches to 10' or more above ground to reduce possibility of surface fires spreading into tree crowns.
- Thin the forest to achieve a minimum 10' of space between tree crowns.
- Remove understory trees or space widely.

CHARACTERISTICS OF FIRE RETARDANT PLANTS

- Little or no seasonal accumulation of dead vegetation
- Open, loose branching habit
- Non-resinous woody material
- Slow growth requires less frequent pruning
- Low volume of total vegetation
- High moisture content in leaves
- Drought tolerance

ZONES OF DEFENSE

Your home landscape needs three zones (lines of defense) against encroaching wildfire. Plants in each zone perform a distinct function. The transition between zones creates breaks in the path to slow advancing flames. Experience has revealed that a minimum distance of 100 to 150 feet around your home needs this comprehensive landscaping. Greater defense distances are necessary on steep slopes or windswept exposures.



Fire Resistant Plants Key:

Examples of appropriate plants for the Northwest Interior (NI) and Northwest Coastal (NC) regions are listed below. Select plants according to actual site conditions.

Zone 1: Moist and Trim

Low-growing, fire resistant plants resist catching fire and provide little fuel. Turf, groundcovers (g), perennials (p) and annuals form a greenbelt that is regularly watered and maintained to eliminate dry plant litter. This zone may contain occasional individual shrubs and trees located at least 10 feet from the house.

Examples:

bugleweed (g) (NI/NC); daylily (p) (NI/NC); hosta (p) (NC); iris (p) (NI/NC); mountain laurel (NC); pachysandra (g) (NC); periwinkle (g) (NI/NC); rhododendron (NI/NC); st. johnswort (g) (NC); stonecrop (g); witch hazel (NI/NC); woolly yarrow (P) (NI/NC)

Zone 2: Low and Sparse

Slow growing, drought tolerant shrubs and groundcovers keep fire near ground level. Native vegetation can be retained here if it is low growing and does not accumulate dry, flammable material.

Examples:

bearberry (g) (NI/NC); bulbous bluegrass (NI); coast silk-tassel (NC); crested wheatgrass (g) (NC); currant (NI/NC); holly (NI/NC); oceanspray (NI/NC); oregon grape (NC); rock rose (NC); salal (NC); serviceberry (NI/NC); Siberian wheatgrass (g) (NI); snowberry (NI/NC); sumac (NI/NC)

Zone 3: High and Clean

Fire intensity is reduced where it can burn less fuel. Native trees are thinned and dry debris on the ground is removed. This zone requires removing overgrowth and major pruning every three to five years. Specimen trees can be planted at the edge of this zone if well care for.

Examples:

Black locust (NI/NC); European mtn. ash (NI/NC); hackberry (NI/NC); honeylocust (NI/NC); horsechestnut (NI/NC); Kentucky coffeetree (NI/NC); oak (NI/NC); quaking aspen (NI/NC); sweetgum (NI/NC); walnut (NI/NC)

For More Information: Contact your local wildland firefighting agency: USDA Forest Service, Bureau of Land Management, Oregon Dept. of Forestry, Washington Dept. of Natural Resources, Bureau of Indian Affairs, or National Park Service.