

Torrey Pines Homeowner Association
P.O. Box
Omaha, NE
November 16, 2004

Terry & Kim Choma
15101 Sahler Street
Omaha, NE 68116

Dear Homeowner,

The Torrey Pines Homeowner Board would like to take this opportunity to point out a number of concerns that have surfaced over the summer. First, we have received complaints about your mail box lid being left open. Please be aware that there are a number of other homeowners that also use this location to retrieve their mail. When your box is open, it prevents them from driving up to the box. Therefore, we are asking that you keep it closed or remove the lid. We are asking that you accommodate this request and be respectful of your neighbors.

Secondly, throughout the summer the board has noticed a wire fence placed around your plants in the front yard. According to the covenants, article 1 number 11 "No fence shall be permitted to extend beyond the front line of a main residential structure. No fence shall be of the chain link or wire types". Though out the summer we have been waiting for the fence to be removed but it has not. We are therefore requesting that you remove the fence by 12/27/04.

Thirdly, there has been a number of times that, your garbage can has been left outside. According to article 1 number 9, "No garbage or trash can or container shall be permitted outside, except for pickup purposes". We therefore are asking that you remember the covenants and try to abide.

If you don't think that you can accommodate these requests, please contact me and let me know your concerns.

Thanks

Renee' Osborn
President
493-2539

Torrey Pines Homeowner Association
P.O. Box 540913
Omaha, NE 68154
November 27, 2004

Terry & Kim Chome
15101 Sahler Street
Omaha, NE 68116

Dear Homeowner,

Enclosed is the last three minutes from the Torrey Pines Homeowner Board meetings. For additional copies of the newsletter or last year minutes please visit our web site at www.torreypinesomaha.com.

Also, just as a reminder, according to the covenants the wire fence around the plants in the front yard still needs to be removed as stated in article 1 number 11 "No fence shall be permitted to extend beyond the front line of a main residential structure. No fence shall be of the chain link or **wire** types". We are therefore requesting that you remove the fence by 12/10/04.

If you don't think that you can accommodate this request, please contact me and let me know your concerns.

Thanks

Renee' Osborn
President
493-2539

Torrey Pines Home Owners Association
P.O. Box 540913
Omaha, NE 68154
April 1, 2005

Mr. & Mrs. Choma
15101 Sahler Street
Omaha, NE 68116

Dear Resident

This is the third and last letter that we will be sending to communicate the covenants violation of the wire fence in your front yard. According to the covenants set forth for the Torrey Pines subdivision, you are currently in violation of Article 1 – 11 “No fence shall be permitted to extend beyond the front line of a main residential structure. No fence shall be of the chain link or wire type, etc”. Please see the entire article via the web site at www.torreypinesomaha.com.

We are asking that you have the above stated violation (wire fence) correct by 4/18/05. Since winter is now over, the board feels that this can be accomplished. Please note that failure to comply will result in a **fine** or other **legal** action being taken.

If you feel that there is some reason why you can't accommodate with this request, please contact me and let's work together to get the issue resolved. More then anything, I would like to keep communication lines open and would hate to take further action.

If you need a copy of the covenants, please contact a board member or visit our web site at www.torreypinesomaha.com.

Thanks

Renee' Osborn
President – Home owner association
493-2539

PANSING HOGAN ERNST & BACHMAN LLP

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JAMES D. BUSER*
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LISA M. MEYER
STEPHEN M. KALHORN
RICHARD D. DUNN*
SUSAN R. KOESTERS
MARK J. LAPUZZA
DONALD J. KLEINE

*ALSO ADMITTED IN IOWA

April 25, 2005

Renee Osborn
Torrey Pines Homeowners Association
P.O. Box 540913
Omaha, Nebraska 68154

RE: Terry and Kim Choma, 15101 Sahler Street

Dear Renee:

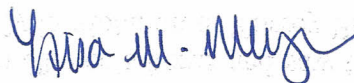
It was a pleasure to speak with you last week concerning enforcing the covenants of Torrey Pines. I have driven by Terry and Kim Choma's home and saw the fencing around the plants in their front yard. This fencing is clearly in violation of Torrey Pines' covenants.

I am attaching a copy of a letter that has been sent to Terry and Kim Choma. I have provided the Chomas 10 days to remove the fence and comply with the covenants. Please call me on May 6, 2005 and let me know if the Chomas have removed their fencing.

We discussed the Torrey Pines Homeowners Association's options in regard to the Chomas. I have reviewed your covenants and it appears that the Declarant (Bennington Company), or any lot owner may enforce the covenants by a proceeding at law. As we discussed, a lawsuit to enforce the covenants can be filed but this is a timely and can be costly procedure. Hopefully, the Chomas will cooperate and remove their fencing.

I look forward to working with you on a resolution of this matter with Chomas. Please feel free to call me with any questions concerning the Chomas or any other matter.

Very truly yours,



Lisa M. Meyer

LMM/jlf
Enclosure

PANSING HOGAN ERNST & BACHMAN LLP

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Email: LMeyer@pheblaw.com

April 25, 2005

*ALSO ADMITTED IN IOWA

Mr. and Mrs. Terry Choma
15101 Sahler Street
Omaha, Nebraska 68116

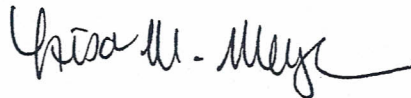
Dear Mr. and Mrs. Choma:

This law firm has been retained by Torrey Pines Homeowners Association. It has come to our attention that you have placed chicken wire type fencing around the plants in your front yard. These fences are in violation of Article I, paragraph 11 of the Declaration of Covenants, Conditions, Restrictions and Easements of Torrey Pines. This covenant provides that "No fence shall be permitted to extend beyond the front line of a main residential structure" and prohibits all chain link and wire fences.

The Torrey Pines Homeowners Association has provided you with previous notices of this covenant violation as well as opportunities to rectify it. The Association desires to resolve this matter. The wire fencing in your front yard should be removed within 10 days. If this is not feasible please contact me to discuss a timetable for removal of the fencing.

Your anticipated cooperation is appreciated.

Very truly yours,



Lisa M. Meyer

LMM/jlf

cc: Torrey Pines Homeowners Association

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May 4, 2005

*ALSO ADMITTED IN IOWA

Renee Osborn
Torrey Pines Homeowners Association
P.O. Box 540913
Omaha, Nebraska 68154

RE: Terry and Kim Choma, 15101 Sahler Street

Dear Renee:

I received a phone call from Kim Choma in response to the April 25, 2005 letter I sent to her concerning the fencing covenant violation. Kim Choma indicated that she does not believe the Torrey Pines Homeowners Association ("Association") is uniformly enforcing the covenants. Choma believes there are other covenant violations in the neighborhood that are not being addressed. Choma believes that she is being singled out. I asked Choma to report the other covenant violations and she declined to do so. Choma indicated that she did not want to "tattle" on other people in the neighborhood. Kim Choma indicated that you live near her and she alleged that you leave your trash cans out on days that are not trash days.

Kim Choma stated that this is not the first letter she has received from the Association. She reported that she has a folder of letters from the Association regarding a trailer, trash cans, sod and the fence. She alleged that the Association is harassing her.

I received a voice message and a fax from Kim Choma this morning and she called my office this afternoon. I am attaching copies of the fax and Kim Choma's voice message. Kim Choma does not believe she was treated fairly at the May 3, 2005 Association meeting and was called a "hillbilly" living in Beverly Hills. I wanted the Association to be aware of Kim Choma's allegations.

This situation between the Association and Kim Choma is escalating. I suggest that the Association board meet with the Chomas privately. The Association board should discuss with the Chomas how covenant violations have been addressed with other Torrey Pines residents. It may be helpful to demonstrate to Kim Choma that she is not being singled out and that the Association is proactive in enforcing the covenants. I will be glad to attend this meeting and attempt to work out a compromise between the Association and Chomas.

Renee Osborn

May 4, 2005

Page 2

In our initial conversation, we discussed the option of filing a lawsuit against the Chomas to enforce the covenants. Now that I have received and reviewed your covenants, I want to point out that Article II of the covenants describes the Homeowners Association's duties. The Association is responsible for the operation and maintenance of the common facilities such as the park, green areas, signs and entrances for Torrey Pines and collecting fees from homeowners to finance this maintenance. Pursuant to Article IV.1 the Declarant (Bennington Company) or any owner of a lot has the right to enforce by a proceeding at law the restrictions in the covenants, not the Torrey Pines Homeowners Association. The Declarant can assign its rights pursuant to Article IV.4. To my knowledge the Declarant has not assigned or terminated its status pursuant to Article IV.4. Any lawsuit filed against the Chomas to enforce the covenants at this time would need to be brought by Bennington Company or a lot owner or group of lot owners.

I would be happy to prepare and file a lawsuit against the Chomas on behalf of the Declarant or any lot owner in Torrey Pines to enforce the covenants. Before this step is taken, however, I would like to meet with that lot owner(s) or the Association to address questions concerning a lawsuit. Litigation expenses through trial of this matter would be in the \$5,000-\$10,000 range. The sole remedy that a judge could award would be removal of the fence. The covenants and Nebraska's common law do not provide for monetary damages or attorney fees/legal fees in this type of a case. As I previously indicated, one of the defenses that the Chomas could raise in a lawsuit is that the covenants have not been uniformly enforced and that is something that the court will take into consideration.

I informed Kim Choma that myself or someone from the Association would respond to her after I had a chance to speak with the Association.

Please let me know how the Association would like to proceed in this matter. I would be happy to sit down with you, the Association or any group of lot owners to discuss how to handle the Choma situation.

Very truly yours,



Lisa M. Meyer

LMM/jlf



~~HA~~
Attn: ~~Est~~ Lisa
Please call
Kiw Choma
493-8180

* Against covenant to publically
attack people? *

Torrey Pines Homeowner Association
P.O. Box
Omaha, NE
November 16, 2004 - Received 11/18 in mail

11/19 - Telephoned Renee asked for
actions taken by board to
homeowners - copies -
* Reason - selective enforcement
is going on, I've talked to
neighbors.

Terry & Kim Choma
15101 Sahler Street
Omaha, NE 68116

Dear Homeowner,

No one
complained!
No + assn
business

* The Torrey Pines Homeowner Board would like to take this opportunity to point out a number of concerns that have surfaced over the summer. First, we have received complaints about your mail box lid being left open. Please be aware that there are a number of other homeowners that also use this location to retrieve their mail. When your box is open, it prevents them from driving up to the box. Therefore, we are asking that you keep it closed or remove the lid. We are asking that you accommodate this request and be respectful of your neighbors. Depth of lid is 9 inches - that does not prevent anything!

mailboxes
15026
15102
15101
15025

Secondly, throughout the summer the board has noticed a wire fence placed around your plants in the front yard. According to the covenants, article 1 number 11 "No fence shall be permitted to extend beyond the front line of a main residential structure. No fence shall be of the chain link or wire types". Though out the summer we have been waiting for the fence to be removed but it has not. We are therefore requesting that you remove the fence by 12/27/04. (Rabbit guard fence around plants)

* Thirdly, there has been a number of times that, your garbage can has been left outside. According to article 1 number 9, "No garbage or trash can or container shall be permitted outside, except for pickup purposes". We therefore are asking that you remember the covenants and try to abide.

← but
Renee
does

If you don't think that you can accommodate these requests, please contact me and let me know your concerns.

Thanks

* Please provide list of all those who recieved letters about garbage cans and rabbit fencing. Mine are out less than others!!

Renee' Osborn
President
493-2539

* 15026 - Bellinghere - 496-7087
Did not and would not call assn.

15025 - Kanne - 493-9422
Did not and would not call assn

15101 - US

No one complained. None of those two have a problem and both assume its probably kids who open it as one has problems too.



Attr: Lisa

MELISSA

Asson. Meeting

Kim Choma

1. Annie stood up at voting time of board members and began YELLING at me right away telling me I was the worst covenant violator in our subdiv., and how would I enforce the covenants.

*I TRIED to answer but Annie interrupted me and said I was a Beverly Hill billy.

*I TRIED again to talk but was interrupted again. I was NEVER allowed to finish my comments.

2. Rene told everyone the dues had to be raised because of me to hire the attorney, but earlier Annie said the dues needed to be raised to ~~be~~ pay for mowing.

3. Barry (I believe name) told me my comments with my dues payment were not necessary, (I had said they would have the freedom to publish ^{my} names for non payment of dues in newsletter as per their comments, but it would not deter people from paying \$20.) I had paid though

It was all attacks, defamation of character, the purpose being to keep me off the board, they succeeded.

I'm tired of all this harrassment! Years of it.

I'm really a great person but no one on the board would know-constant complaints.

I would have been very willing to put up a decorative border fence but figured that wouldn't be allowed either-although a house does use it for decoration-of course no threats. This is all ridiculous and the board blames me to all neighbors, but I see no one else has gotten this treatment!

MEMORANDUM

TO: FILE
FROM: JEANNE
FILE: TORREY PINES/CHOMA MATTER
RE: V/M FROM KIM CHOMA ON 5/3/05
DATE: WEDNESDAY, MAY 04, 2005

Lisa Meyer, I need you to call me immediately in regard to the Torrey Pines Homeowners Association. They had a meeting tonight and I went to the meeting and I ran for the board. Right before voting an Annie Brewer stood up and said I was the worst violator of the covenants that they had in the neighborhood. They attacked me then Renee Osborn said she is the reason that we have to hire the attorney; you are a hillbilly; and made other remarks before the voting was to be done for running for the neighborhood association. I will contact my attorney to see what can be done. You want a lawsuit with people that are doing things like this; going to represent this. I was at the board meeting everything was fine and they did not give me any time to respond. They verbally attacked me I tried to respond to them they just continued to say she is the reason that we have to do this, she is the reason that this, she is the biggest violator that we have had on the board, and they wouldn't let me respond they cut me off they said we are not going to get -- lets vote, lets vote right now so there is a huge problem, a very huge problem. Kim Choma 493-8180.

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Email: LMeyer@pheblaw.com

May 20, 2005

*ALSO ADMITTED IN IOWA

VIA EMAIL – renee.osborn@cox.net
Renee Osborn
Torrey Pines Homeowners Association
P.O. Box 540913
Omaha, Nebraska 68154

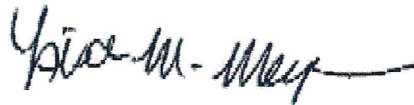
RE: Kim Choma

Dear Renee:

I have received your email indicating that you cannot meet before 5:00 p.m. on May 24, 2005. That is fine. I will plan on seeing you at 5:00 p.m. Please bring copies of the covenant violation letters that the Association has sent out in the past few years.

You inquired whether the Association could assess fees or place liens on the homes of individuals who are violating the covenants. The covenants do not give the declarant or Association or anyone who is enforcing the covenants the right to assess a fine or place a lien upon a home for a covenant violation. A lien may be placed, however, for failure to pay Association dues. If fees and liens is an option that the Association wants to pursue for covenant violations, the covenants would need to be amended to allow these remedies.

Very truly yours,



Lisa M. Meyer

LMM/jlf

Renee Osborn

From: Lisa Meyer [lmeyer@pheblaw.com]
Sent: Tuesday, May 10, 2005 4:39 PM
To: renee.osborn@cox.net
Subject: Kim Choma

Renee,

I believe that the best approach to take with Kim Choma is to schedule a meeting at my office to be attended by the Chomas and their attorney (if any), a member of the Torrey Pines Homeowners Association Board (the president), and myself.

~~At this meeting you can present to the Chomas copies of covenant violation letters that the Association has sent out (names and addresses redacted if you'd like) to other Torrey Pines residents. You can also outline how other Torrey Pines residents have complied i.e. the resident who removed his shed. We can explain to the Chomas that the Association is proactive in enforcing the covenants for all homeowners in Torrey Pines and request that they remove the fence in their front yard.~~

We will also let Kim Choma state her position and ask questions.

Hopefully, discussing this in a setting outside of the neighborhood and in a calm fashion will allow Kim Choma to realize that she is not being harassed or picked on. I note that Kim Choma has indicated that she was called a "hillbilly" at the last Association meeting. If that did occur, an apology should be made to her. (I don't know this happened or not.) The Association should pledge that it will continue to uniformly enforce the covenants and that she will not be a target. From a negotiation standpoint, it is important that Kim Choma believe that she is getting something out of this meeting.

~~I have never seen an outside mediator brought in in a situation like this. If you believe that a mediator is necessary, I can make some calls.~~

Lisa M. Meyer
Pansing Hogan Ernst & Bachman LLP
10250 Regency Circle, Suite 300
Omaha, NE 68114
Phone (402) 397-5500
E-mail: lmeyer@pheblaw.com

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11/?/04 Sent Mr and Mrs Choma a letter reminding them to keep the trash can inside and keep the mail box lid closed. They also were in covenant violation of the wire fence.

11/?/04 Received call from Kim Choma. She said that her attorney wanted a copy of our board minutes. I asked her to have her attorney send us the request. Again she stated that the board needed to provide. I told her that I would send them.

11/27/04 Mailed Kim Choma the last three minutes and a reminder letter about removing the fence.

11/30/04 Received call from Kim Choma asking for your attorney phone number

12/1/04 Renee returned a call to Kim Choma. Kim stated that she wants our attorney number. I told her to have her attorney send any request to the Homeowner association and then if needed we would forward that information to our attorney. She stated that we are discriminating against her and therefore she wants to see the list of other people that have received covenant violations. I told her that I could not share that information with her because it is confidential information. She then stated that she asked for them the last time we talked and I told her she asked for the minutes. She thought the minutes would include covenant violations. She has also talked to other neighbor and they have not received a violation letter therefore we are discriminating against her. I told her we have sent a number of letters to different people within the neighborhood and I would be following the same steps that I have with all of them. We will send three letters asking for the covenant violation to be fixed. At this time, the board would determine what action needed to be followed such as a lean or going to court. She said that she will wait for it to go to court so that she can find out our attorney's name. She has called the SID (Pat something) which told her that the board does not have an attorney and that we can't enforce the covenants. She has also talked to a number of the neighbors and they don't have any issues with her. She goes on to say that we need to find something to do instead of following our personal agenda. For example she said James West only concerned about the Prestige parking issue and no other issues. I told her we had openings on the board and that there are two board meetings a year where she could express her option. She said that she has had other things going on at those times and could not attend. She also said that there are a lot of people that leave their trash cans out and that she has been going around taking pictures. I reminder her that the letter was just asking her to keep the mail box closed and keep the trash can inside. Our major concern was the wire fence. I told her that if she had a complaint to file and she said no. Before I hung up, I reminded her that we would treat her like everyone else and send her another letter if they did not comply.