



NORTH OGDEN CITY

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MEMORANDUM

TO: City Council, North Ogden City
FROM: Dave Carlson, City Attorney
DATE: May 19, 2011
RE: *Deer Meadows CC&R'S Amendments*

Dear City Council Member:

If you approve the amendment of the Deer Meadows CC&R'S, you will remove the MBA as the enforcement authority and establish a committee of homeowners to do the enforcement activities.

The MBA was the developer of the Deer Meadows Subdivision. It named itself as an enforcement authority in the CC&R'S that were recorded in connection with the subdivision. The CC&R'S also give the MBA the unilateral authority to make amendments.

It is unorthodox for any developer, let alone the MBA, to remain as an enforcement authority in CC&R'S once the majority of lots have been sold to private owners. This is not a proper role for the MBA to assume. The MBA puts itself in a potentially adversarial position with property owners in a subdivision where it no longer has an interest. It subjects itself to unnecessary liability.

I strongly recommend making this amendment. It does not prejudice the homeowners in any way. It puts them on the same footing as owners of lots in any other subdivision.

The City will agree to help them with plan checks for the last few undeveloped lots in the subdivision but the City should not continue to police the CC&R'S which are matters for private property owners to sort out amongst themselves. It is not a proper role for government.

Please give me a call if you would like to discuss.