

A tree grows in Gilbert, neighbors threaten lawsuit

Emily Gersema

The Arizona Republic

Jan. 17, 2008 10:54 AM

A tree has been the seed of a couple's troubles with their neighbors and the HOA board in an affluent Gilbert community.

The Jensens, neighbors of the LaFleurs, recently planted a palm tree on the property line without getting the full board's approval, but the board says the couple didn't need to ask for the OK.

Diane Chambers-LaFleur, a resident of Gilbert's Val Vista Lakes community whose husband is Chandler Municipal Court Magistrate Gary LaFleur, says she worries now that the Jensens will plant other trees still sitting in pots outside of their home without the board's approval. Those are Italian Cypress trees, which can grow up to 60 feet, and could block a portion of the LaFleurs' lakefront view and perhaps even hurt their property value, Chambers-LaFleur says.

She says she is perturbed with how board members and the HOA attorneys have handled her concerns about Gordon and Janet Jensen's plantings. She complains that the board hasn't made the couple go through the community's proper procedures of notifying her and other residents next to them before getting the trees and planting a palm near the wall.

The nine-member board has recommended that the neighbors turn to mediation to resolve their dispute, a method that Gordon Jensen says he and his wife would prefer. And the board is likely to repeat that recommendation at a meeting today.

But Chambers-LaFleur says mediation with the Jensens won't address what she views as the board's failure to fairly and consistently enforce the community's restrictions on landscaping. She also says that the Jensens should be required, like all the residents, to notify neighbors when changing their property and ask approval from the local architectural committee and then the full board.

As it is, the board "is playing fast and loose with its rules," she said.

She also wonders why one of the board members, Dianne Havertine, a friend of the Jensens, has declined to recuse herself from the situation.

The board, however, has defended its conclusions and decisions, saying that the Jensens didn't need special approval to plant a fan palm near the wall and that the couple's rapport with Havertine is not relevant. It has cited legal opinions on the dispute but it declined to hand them over to the LaFleurs, citing confidentiality.

The president of the board, Pat Harfst, and the Jensens deferred questions about the situation to the HOA lawyers. Havertine did not return a phone message seeking comment.

Steve Cheifetz, a Phoenix attorney advising the board about the dispute, says the disagreement is emotional and not rooted in logic, so he is suggesting again that the neighbors settle it through a mediator.

Cheifetz says he normally represents homeowners who have complaints, but he says the Val Vista Lakes board hired him for advice. In this case, "the HOA is really trying to do the right thing," Cheifetz said.

The dispute has been simmering since last April and could spill into a courtroom. Chambers-LaFleur and her husband have told the board through letters and discussions "we are not afraid to go to court; it's not our first choice but it is a comfort zone we know and trust."

If the board at its meeting today tells the LaFleurs again to go through mediation, Chambers-LaFleur warns "at this point, I'm pretty sure I'm not going to allow this to go on."