



# GVB Board Brief

RE: Adjacent Lot Assessments

April 2, 2025

## **Community Establishment:**

Our journey as a GVB community commenced in 2004 with the establishment of the East Side, followed by the development of the West Side in 2007. The Declaration of Covenants, Conditions, and Restrictions (CC&Rs) was adopted on July 2, 2004. At that time, Tennessee Land and Lakes (TL&L) served as the Declarant, which was operated by former land developer, Mr. Jim Macri. TL&L initially recorded the CC&Rs and as the Declarant and subsequently recorded thirteen amendments to the CC&Rs.

## **Explanation of CC&Rs:**

The CC&Rs are a set of rules and guidelines that, among other things, govern how a property within a particular community can be used and establish obligations for all GVB property owners to pay annual assessments in order to maintain the community. These rules are put in place for the benefit of all property owners to support the quality and value of the community and to ensure that all members adhere to a consistent standard.

Your elected board of the Grande Vista Bay Property Owners Association (POA) plays a vital role in managing and supporting our community. Here are some key functions of a POA:

1. **Enforcing CC&Rs,** The POA ensures that all members follow the community's CC&Rs to support property values and provide a cohesive community appearance. In addition, creating Policies and Procedures can be used to outline guidelines and processes for managing various aspects of the

community. They can help provide clarity for the CC&Rs and ensure consistency, transparency, and fairness in the POA's operations.

2. **Maintaining Common Areas:** The POA manages the upkeep of shared facilities such as roads, pools, clubhouses, docks, and landscaping in communal spaces.
3. **Financial Management:** The POA collects annual assessments from its members to fund maintenance, repairs, and community improvements. They also fund the administration of the POA and contributions toward financial reserves.
4. **Communications:** The POA keeps members informed about community news, upcoming projects, and important announcements through a variety of ways including newsletters, personal letters, emails, or meetings.

Overall, the POA works to enhance the quality of life for members and protect property values by supporting a well-managed and harmonious community.

#### **Explanation of Letters Sent to Adjacent Lot Owners:**

With this background and understanding, when evaluating the request to put a shed on an adjacent lot, last year's BOD discovered that improved adjacent lots were not being correctly assessed as per the requirements defined by the CC&Rs.

As a result, a letter dated October 4, 2024, was sent to members of the POA identified as being affected by the adjacent lot assessments. The letter informed them about the requirement for annual assessments on improved adjacent lots, which had not been previously enforced. It also proposed a meeting with the POA's attorney and those affected to provide background and guidance on the CC&Rs involved. After members stated their intention to bring their own attorney, the meeting was subsequently canceled on the advice from the POA's attorney to avoid any potential legal confrontation.

In addition to notifying affected Members with improved adjacent lots, a similar letter, dated October 14, 2024, was sent to the POA Members with unimproved adjacent lots, informing them that future improvements could result in annual dues assessment for the improved lot.

Both last year's and this year's BOD have thoroughly evaluated the issue with the POA's legal counsel reaffirming their duty to administer the CC&R's regarding adjacent lot assessments as written.

#### **Both letters regarding adjacent lots stated the following:**

It has recently come to our attention that the Association has not been administering the Grande Vista Bay Declaration of Covenants, Conditions, and Restrictions (CC&R's) as written with respect to assessments of adjacent lots.

Per CC&R's Article VII Section 2 (f) Homeowners association assessments will only be waived for lots that meet all the following criteria:

1. The lot is owned by the same party that owns another lot that is subject to assessments,
2. The lot is adjacent to a lot owned by the same party and
3. There are no improvements upon the lot except landscaping.

Where:

A 'lot' is defined by the CC&R's Article I, Section 6. "Lot" or "lots" shall mean and refer to the plots of land designated on the recorded Subdivision Plat.

Based on legal review, we were given the following guidance from our GVB attorney:

- Given the plain language of the CC&R's, it is correct that the assessment exemption applies only to owners meeting all three criteria (i.e., same owner, adjoining lot, and no improvements).
- There is no provision in the C&R's which authorizes any individual property owner to combine lots for any purpose (including reducing assessments).
- The Association does not have the authority to waive the adjacent lot assessment provision or "grandfather" in any owners that may not have properly been invoiced for assessments on adjacent lots in the past.
- The Board's obligation is to enforce the documents as written, despite the past administration of other Boards, particularly those administered by the Declarant.

After receiving the letter shown above, several community members requested a meeting with the GVB Board on an informal basis.

### **Analysis of Adjacent Lot Legal Issues:**

On February 26, 2025, the GVB Board convened with several community members to address concerns regarding the Adjacent Lot Assessments and Policy & Procedure 200.4, as discussed at our annual meeting. This gathering was an informal meeting of the GVB community membership, with no attorneys present and no official minutes recorded.

Since most of the Board's Directors were new, having been recently elected for the first time at the Annual Meeting, they wanted additional guidance on the legal issues at hand based on questions and comments from the community members. The POA's legal counsel provided this guidance to the new Board at a working session on March 7, 2025. After an hour and a half of discussing points raised by our community members, the following facts remain:

First, our community has the right to amend the CC&Rs about adjacent lots, with a 90% approval vote from the voting membership.

Second, the Board is required to fulfill its fiduciary responsibilities and enforce the current CC&Rs as written. According to these restrictions, if an improvement has been made on an adjacent lot, the owner is obligated to pay an annual assessment for that lot.

Our follow-up meeting with community members took place on April 1, 2025, to address our legal obligations as Board members.

**What's the meaning of Fiduciary:**

Fiduciary responsibility refers to the duties and obligations of the Board to act in the best interest of the community and its membership. **Compliance with Laws and Regulations: Board members must** ensure that the POA complies with all relevant laws, regulations, and governing documents, including the association's bylaws and covenants. If the board fails to fulfill its fiduciary responsibilities, it may face potential legal actions.

GVB Board remains committed to upholding its fiduciary responsibility to the community.

"The 2025 GVB Board invites all inquiries and concerns as we continually strive to enhance our beautiful community's success."