

# Property Improvements Requiring Approval by Town & River Civic Association

## Gary Hudson, Chair, Deed of Restrictions Committee

Planning a home improvement project, adding a dock/seawall/pool/fence or other project? If you are unsure if your project requires approval by the association, **ASK**. Asking will save time and potentially a lot of money (legal fees and/or having to re-do a project). For project approval please send an email to [archreview@townandriverfl.com](mailto:archreview@townandriverfl.com)

ARCDOR (Amended, Restated, & Combined Deeds of Restriction) covers most of Town & River. Units 6 and 11 have their own deeds of restriction. These as well as ARCDOR may be found at [www.townandriverfl.com](http://www.townandriverfl.com).

Per Section 3 of ARCDOR, virtually all improvements require approval. Just because a project is not specifically named in ARCDOR does not mean it doesn't need approval.

*"Improvements Requiring Approval. No building, structure, enclosure, fence, or other improvements shall be erected or altered until the plans, specifications and location of same shall have been submitted to and approved in writing by the Board of Directors. All docks, seawalls, pilings, boat lifts/boat elevators shall comply with Lee County Codes and other applicable laws and regulations."*

The association's bylaws provide for a Deed of Restrictions Committee. As stated in the bylaws, the primary functions of this committee are:

- To review and either approve, deny or suggest modifications to building plans for any exterior structure submitted to the Board as required by the applicable Deed of Restrictions.
- To investigate violations of the restrictions either noticed or called to their attention by members of the Association.

The deed of restrictions applies to "exterior" improvements. Although a county permit may be required (e.g., electric, plumbing), interior changes do not require approval by the association. Violations which are "investigated" are those which are either noticed or called to the attention of the committee.

Lee County periodically provides to the association a list of permits requested or issued for projects within Town & River Estates. This alerts the association to projects pending or approved. **The issuance of a permit does not constitute approval by the association.** Association approval is usually required **in addition to** permitting. Moreover, some improvements not requiring a permit may require approval by the association. When in doubt, **ASK**.

A couple of recent lists provided by the county to the association included the following permits (address has been omitted). Does a listed project require approval by the association?

- SWIMMING POOL/DECK-**YES**
- REPLACE FRONT ENTRY DOOR AND SIDE GARAGE DOOR - SIZE FOR SIZE WITH IMPACT-**NO**
- REPLACE (20) WINDOWS - SIZE FOR SIZE - IMPACT GLASS-**NO**
- ADDITIONAL DOCK AND BOAT LIFT-**YES**
- SEAWALL-**YES**
- NEW POOL SCREEN ENCLOSURE-**YES**
- ADDITIONAL DOCK AND BOAT LIFT-**YES**
- POOL ENCLOSURE-**YES**
- CONSTRUCT POOL, PAVER DECK-**YES**
- INTERIOR REMODEL, REMOVE A KITCHEN PARTITION WALL, ADD LIGHTS, WINDOW REPLACEMENT-**NO**
- RE-ROOF FLAT ROOF- [although an exterior project, the association has traditionally not required re-roofs to be approved]
- SEAWALL-**YES**

Some of these were already in the association approval pipeline. Others were not. For the latter, the procedure is for a letter to be mailed, by the association executive secretary, to the owner requesting that plans be submitted for review and approval by the deed of restrictions committee.

ARCDOR enforcement is specified in Section 7.

SECTION 7. ENFORCEMENT; GENERAL PROVISIONS. (A) ENFORCEMENT. ENFORCEMENT OF THESE COVENANT, CONDITIONS AND RESTRICTIONS MAY BE BY A PROCEEDING AT LAW OR IN EQUITY AND MAY BE INSTITUTED BY THE ASSOCIATION, ITS SUCCESSORS OR ASSIGNS, OR BY ANY LOT OWNER, AGAINST ANY PERSON OR PERSONS VIOLATING OR ATTEMPTING TO VIOLATE OR CIRCUMVENT ANY COVENANT, CONDITION OR RESTRICTION, EITHER TO RESTRAIN VIOLATION OR TO RECOVER DAMAGES, AND AGAINST ANY RESIDENTIAL LOT TO ENFORCE ANY LIEN CREATED BY THESE COVENANTS. FAILURE OF THE ASSOCIATION OR ANY LOT OWNER TO ENFORCE ANY COVENANTS, CONDITION OR RESTRICTION HEREIN CONTAINED FOR ANY PERIOD OF TIME SHALL NOT BE DEEMED A WAIVER OR ESTOPPEL OF THE RIGHT TO ENFORCE SAME THEREAFTER. IN ANY ENFORCEMENT ACTION, INCLUDING APPEALS, THE PREVAILING PARTY SHALL BE ENTITLED TO RECOVER ITS REASONABLE ATTORNEY'S FEES AND COSTS FROM THE NON-PREVAILING PARTY.