

Official Letter of Complaint / Cease and Desist

Complainant:

Cody LeClerc
29595 SW Camelot St.
Wilsonville, Or 97070
503-757-4138

Date: April 29, 2025

Respondent:

Board of Directors
Park at Merryfield Owners Association
PO Box 1116
Wilsonville, OR 97070

Re: Notice of Retaliation, Harassment, and Intimidation by the Park at Merryfield Owners Association President Bryan Smith, and Architectural Committee (AC)

This document shall serve as a matter of public and association record. In accordance with ORS 94.616 (3)(c).

Purpose:

Homeowners' associations are bound by fiduciary duty to act in the community's best interest. As such, these duties require fair, consistent, and good-faith rule enforcement. Additionally, fiduciary duty obligates associations to act responsibly and honestly, without malice. Failure to comply with these obligations can be affirmed by a reasonable person as Selective Enforcement.

As a homeowner in good standing, it is my duty and responsibility to notify the Board of Directors of targeted Retaliation, harassment and intimidation violations by the Association President Bryan Smith; directly and indirectly. It is also my conviction that the Architectural Committee is operating in a direction, and on behalf of Mr. Smith, either willingly or unknowing with information presented by him; and are participating in these violations.

Evidence:

In June of 2024, after reviewing city permitting requirements, Association CC&R's, and surveying the footprint of a preexisting deck in front of my dwelling, a replacement deck was built out of safety interests. During the construction, foundational markers were identified and used to replace this deck and cover. No city permit was required as per the City of Wilsonville ordinance or the Oregon Residential Specialty Codes.

This deck is 130 square feet, (below the 200 sq ft permit requirement), no more than 30 inches off the ground, made of ground contact wood, anchored and affixed using approved building materials, setback from the road and pathway 20 ft 2 inches. The Gazebo is likewise within the perimeters where a permit is not required, as it is below the maximum dimensions to meet the criteria for permitting, in addition, there are no fixed plumbing or electrical outlets installed, and is a free-standing structure with no walls.

In early August of 2024 shortly after its completion; while walking his dog, Bryan Smith; the Association President and I, had a conversation as he passed by my dwelling. He stated at that time that he thought my gazebo and deck “looked great” and then asked if I had Architectural Review (AR) approval. I explained to him that an AR was not required because it was a replacement deck, and that a permit was not required per city ordinance, this I believed, vacated the need for an AR approval. I also explained that the gazebo was there to reduce sunlight from entering the home, prevent sun reflection off the window and burn the landscape, and created a safe place for my children, and the other students, to be during school pickup and drop off when there is inclement weather. Mr. Smith stated that he understood and agreed with me that an AR Approval was not needed, he additionally stated that he was “just asking in case someone asked”. I, as a homeowner, took this conversation as a verbal approval by a board member if anyone asked me personally; even though an approval was not required.

Cause:

January 30, 2025, during the Annual Homeowners meeting, A topic of concern was raised regarding the Easement on Library Hill. At the heart of the issue was whether the Association should approve a request by a non-association homeowner to pave a legal easement driveway. Bryan Smith, in his comments to homeowners expressed his desire to refuse this request under the assumption that it posed a safety and liability issue.

I expressed my concern over the legal and financial impact that this refusal would have on all parties involved. Additionally, I believed that this topic of debate required a special majority vote by Homeowners and not the Board of Directors given the financial burden and consequences that could impact each homeowner.

It should be noted that in the follow-up meeting minutes required by the organizational Bylaws, there was no mention of opposition listed. Even though many of the homeowners that were present shared these concerns.

Cause for Retaliation claim:

On February 11, 2025 I received the following email from Bryan Smith’s personal email account 10 days after the Annual meeting:

“Cody and Julia,

Bryan Smith Home <blkj.smith4@gmail.com> Tuesday, February 11, 2025 10:29 AM
marinesgt503@gmail.com

HOA: Your front Gazebo

*The Architectural Review Committee(ARC) would like to talk to you about the addition to the front of the house. We have had a couple of comments from residents. Given you never tilled out a form for the structure for approval we would like to cover that with you at your earliest convenience **before** you fill out the forms. <https://parkatmerryfield.org/forms/>*

I will be out of town from February 21 st to March 12th and I know you travel for your job so let me know when would be a convenient time to talk.

Bryan Smith

Blkj.smith4@gmail.com

503-680-6299"

Upon receiving this email, I called the number provided by Mr. Smith and asked him what the issue was. He stated that the board had recently met to specifically talk about my gazebo after receiving "Comments" about it. When asked what the comments entailed and who made them, Mr. Smith would not elaborate.

I informed Mr. Smith that the timing of interest and email was suspect given that 10 days prior I had contested his decision on an issue stated above in this complaint. Furthermore, I explained that I believed this review and email were clearly implemented and executed out of malicious intent and constituted the definition of targeted retaliation. Mr. Smith stated " I thought that's how it might come off as" but denied that was the purpose.

Bryan continued and stated that they were not asking me to remove the Gazebo, but there was a "color" issue. Commenting that the Gazebo was not the same color as the house, and since it was connected to the house, it needed to match the color scheme. I informed him that the gazebo was not attached, and that the deck was only anchored as required, in sound structural condition, and visually appealing to the neighborhood; as I have received positive comments on it on almost a daily basis; with some pedestrians even taking photos as reference to building their own.

Mr. Smith expressed that the deck and Gazebo were "considered a fence" and that since there were no other structures like mine in the association, it would be treated as such. He continued to also state that they did not have an Architectural Review approval on file. Once again, I reminded Mr. Smith of our conversation the previous August shortly after this was built in late June of 2024 which he acknowledged.

He continued to say that the CC&Rs stated that both the deck and gazebo needed to be the color of the dwelling; even though no CCR rule was identified.

What Mr. Smith maybe referring to is the CC&R rule regarding RV placement, and at the request of the AR committee, the Fence would need to be painted the same color as the RV, not dwelling. Additionally, there is a provision in the 2014 Declarations signed by Mr. Smith in Section 5.2 (E) 3 "Exterior rim, fences, doors, railings, decks, eaves, gutters, and the exterior finish of garages and other accessory buildings shall be designed, built and maintained to be compatible with the

exterior of the dwelling they adjoin. Requirements for fences are specified in Subsection (L) of this section."

I believe it is because of this Declaration; Mr. Smith is attempting to classify my deck and gazebo as a fence.

I challenged Mr. Smith's definition of a fence versus a deck and gazebo, and likewise I asked if his viewpoints were correct, then the other gazebos within the association, visible from the street or not, would also need to be painted. The conversation ended with Mr. Smith requesting an in-person meeting scheduled at a time and date that worked for both our schedules.

This meeting was subsequently scheduled for April 29th, 2025 at 1700, to take place at my residence with Bryan Smith, Arnold Chase and Vikki Hamilton as board representatives.

Cause for Harassment and Intimidation (Count 1) Claim:

On 4/10/2025 at 1640, while preparing dinner for my family, I noticed an individual outside, in front of my dwelling, on the walking path. This individual had a measuring tape in his hand and had it extended along my property line. When this individual looked up and saw me, he quickly retracted the measuring tape, tucking it into the left sleeve arm of his jacket and began to walk away.

I returned to my kitchen and put down the items in my hand and went outside. The individual had turned off Camelot St. onto Parkwood Ln. where I confronted him. He was asked several times if he was measuring my property, which he initially denied until I explained that I had witnessed his actions, and that I could still see the measuring tape in his left sleeve. He admitted to his actions.

When asked as to his reasoning for doing so, he stated, "I was just curious". When pressed about what he was curious about, he initially offered no answer but offered his own question asking, "Do you have an HOA approval for your gazebo". Knowing the upcoming meeting on the 29th with Association members, I asked if he was a board member, he replied "Yes" when I asked his name he replied "Arnie Chase". Asked again why he was taking measurements, Mr. Chase claimed that he wanted to be "Prepared for our meeting".

I inform Mr. Chase that the purpose of our meeting was to discuss the gazebo, and that I considered his actions to be unacceptable and targeted harassment. Mr. Chase was warned that any further action on his or the board's part would be grounds for legal action. Additionally, I informed Mr. Chase that he is not welcomed on my property, and he was hereby notified that he is trespass. Mr. Chase apologized, we shook hands, and Mr. Chase continued to walk east down Parkwood Ln.

Cause for Intimidation (Count 2) Claim:

On April 19, 2025 at 0816 I replied to an email from Mr. Smith received on April 14th 2025 at 1143 wanting to confirm our in-person meeting schedule for April 29th 2025. In my reply, I confirmed the date and time provided there were no additional incursions taking place on my property. I further explained the event of April 10th 2025 regarding Arnold Chase.

On that same day at 1913, I received the following reply email from Mr. Smith:

"Cody,

Arnie will be at the meeting and he was actually measuring for your benefit. We did not want you to go through the changes that we require and then have the city come and say you need a permit and require more changes. It does not look like you would need a permit so that is not a concern.

We were not going to do anything that would make the City come out but someone else might have.

If we need to meet on the sidewalk out front or better yet at the Gazebo would this work for you.

Bryan"

At no time during any conversation or correspondence other than my initial talk with Mr. Smith back in August of 2024 regarding this issue has the mention of involving the city permitting process surfaced. I believe Mr. Smith intentionally, although passively, is using this tactic to involve the city as a threat and intimidation factor to suppress my opposing viewpoint. As a note, I have already spoken with the city, and they concurred that no permit was required.

Concussion

The above listed connivances are hereby brought to the attention of the Park at Merryfield Board of Director. These events meet the definitions of Selective Enforcement, Retaliation, Harassment and Intimidation.

I believe that Bryan Smith; the Association President; is acting outside the rules, regulations, and law **without** the knowledge of the Board of Directors at large. It is for this reason that I hold them harmless up to the date of this notification.

However, failure to take administrative steps to correct these actions will constitute your willful participation in the above stated misconduct. I reserve the right to pursue all apparatuses available to me, including but not limited to legal action against the Association for events initiated under the association profile, and/or individually as these actions were malicious and targeted in nature and administered outside of the boundaries set forth in the Bylaws, and civil law; thus, removing the protections to board representatives. Additionally, Mr. Smith has failed in his position as president by taking malicious action against a homeowner over opposing viewpoints. Mr. Smith is not fulfilling his fiduciary obligations to act in the community's best interest and has weaponized his position to suppress and intimidate homeowners to his will.

No homeowner shall be targeted because they disagree with a board member. This is not only harmful, irresponsible, and reckless, it is illegal.

Timeline of Events:

- August of 2023- My family and I moved into our home. We applied for AR approval for exterior painting, and it was approved.
- June 2024 – Deck and gazebo constructed
- August 2024 – Conversation with Bryan Smith. If there was an issue Mr. Smith could have requested that I submit a AR, but did not.

- June 2024 – January 2025: During this period, there have been at least two “Board Walk-arounds”. At no point was I notified of any violations or related concerns
- January 30, 2025 – Annual Board Meeting takes place- I publicly challenge the Association President in which points were made that allowed other homeowners that were present to question his motives and tactics regarding the Library Hill easement request
- February 11, 2025 – First non-official notice by Bryan Smith regarding the deck and gazebo, on that same day, the Board of directors published the February newsletter to their website. This newsletter recaps the notes taken from the Annual meeting, failing to mention any opposition that was made. Only stating the boards option. In this same release, the Board of Directors also released new general guidelines
- April 9, 2025 – Board of Directors held their regular scheduled meeting. In the meeting minutes stated: *“The Committee reviewed the issues and steps taken for helping with a neighborhood issue. The Board voted and approved the updated General Guidelines for Exterior Home Decorations and Yard Maintenance which will be posted on the Website. The updated individual forms for Home Improvements are also posted”*
- April 10, 2025 – Arnold Chase is caught secretly measuring my property
- April 19, 2025 - Mr. Smith threatens me with city permit.
- April 29, 2025 – Meeting with the AR committee at my home

Reasonable administrative steps:

With the evidence presented in this Complaint, it is clear to any reasonable person that Bryan Smith is no longer fit for office within the Board of Directors.

1. Cease and desist all selective enforcement, retaliation, harassment, and Intimidation against my property and persons.
2. If, for administrative/records purposes only, Approval upon submittal of an AC review request.
3. Administrative review of all actions and enforcements performed or directed by Mr. Smith
4. Board members, at a minimum Censure Bryan Smith removing all powers, voting rights, and duties as President
5. Enact the powers and duties of Board members in accordance with ORS 94.640- Association board of directors; powers and duties; removal of director



Cody LeClerc



42 U.S. Code § 12203 - Prohibition against retaliation and coercion

- (a)Retaliation

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

- (b)Interference, coercion, or intimidation

It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

"Selective Enforcement occurs when government officials (such as police officers, prosecutors, or regulators) exercise discretion, which is the power to choose whether or how to punish a person who has violated the law. The biased use of enforcement discretion, such as that based on racial prejudice or corruption, is usually considered a legal abuse and a threat to the rule of law."

Verification on Oath or Affirmation

State of OREGON

County of Clackamas

Signed and sworn to (or affirmed) before me on (date) April 29, 2025

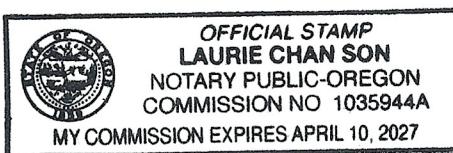
by (name(s) of individuals making statement) Cody Le Clerc

Laurie Son

Notary Public - State of Oregon

My commission expires Apr. 10, 2027

Official Stamp



Document Description

This certificate is attached to page 7 of a Official Letter of Complaint (title or Cease and Desist type of document), dated Apr. 29, 20 25, consisting of 7 pages.