

**John & Susan Picon**  
**9717 Sorrel Road**  
**Castle Rock, CO 80108**

**October 3, 2022**

Megan Westberg  
9052 N. Palomino Dr.  
Castle Rock, CO 80108

**Re: Response to E-Mail Regarding  
Fencing Along Horse Trail**

Dear Megan,

We apologize for the time it has taken us to address your concerns regarding the fence erected at our new home located at 9717 Sorrel Road, Filing 3, in Surrey Ridge. Your e-mail of 8/29/22 was directed at the Architectural Control Committee ("ACC") but it appeared more prudent for us to respond with some background added. We were saddened by the approach you took concerning an issue that was properly addressed and approved in 2020 and 2021. The purpose of this letter is to summarily address the fence issue but more importantly to try and avoid misunderstandings similar to what led to Surrey Ridge's ("SR") first lawsuit that has left some residents with some bitterness.

We properly submitted the plans for our home to the ACC in 2019. At the time, Lesca Grant and Connie Helgoth remained on the ACC to finish the approval of our house plans. I (Susan) had been appointed earlier that year along with Marvin since Lesca was moving off the committee. Connie Helgoth subsequently stepped down from the ACC due to the sale of her property. To avoid any conflict of interest, I recused myself from any matters regarding the approval of our home. In the following year (2020) Brian Miller agreed to step in and fill the vacant spot in the ACC. On May 7, 2021, I submitted our plans to the ACC for our proposed fencing that you are questioning. I was still recusing myself from any voting on the matter. There were numerous meetings with Marvin onsite, i.e., July, August, and October 2021, regarding the color of the fence, the material type of the fence, the height of the fence, and the location. Ultimately, the fence was approved by the ACC in October 2021.

Please understand, that the lawsuit that occurred in Surrey Ridge in 2013 was so bitter that a majority of the members of the SRHOA filed a declaration that declared "all powers and duties" of the ACC "withdrawn and suspended" as of 4/8/13 with no clear direction afterward regarding the ACC. The Covenants, however, for Filing 3 are quite clear that even if we had taken the absurd and irreverent position of commencing erection of the fence without submitting to the ACC, paragraph 16 states that "if no suit to enjoin the construction has been commenced before the completion thereof, approval will not be required, and the related covenants shall be deemed to have been fully complied with."

We chose to not take such a position and looked at all circumstances regarding the horse-riding trail next to our property off of Sorrel Road. The horse trail easement is actually on our neighbor's property to the north. We chose a color that blended better than the typical grey or silver of a metal fence and even coated the fencing and top wires. We chose a material that was more durable than most and required less upkeep. We chose a height (6 feet) that would prevent outside animals from coming in and harming our pets or even us. We considered the entire width of the horse trail easement as well as the Colorado legislature's statement of the "inherent risks of equine activities" when it adopted C.R.S. §13-21-119 (signs are even posted along the SR horse trails reminding riders of the statute).

Here is a photo of the trail you are referring to next to our property and fence with a rider following a non-vegetative path that has been created over the years. It should be noted that the area provided for riding in the same photo is more than 10 feet, which means the rider can easily control



their horse and move further to the right providing for safe passage. This next photo, which was taken in Surrey Ridge Estates shows a similar circumstance except for a much more dangerous situation. The rider and horse have no other alternative but to either not use the trail or ride in close proximity to scrub oaks and barbed wire, each of which poses dangers to the horse and rider. These same circumstances exist within Surrey Ridge, sometimes with similar dangers posed on either side of horse and rider, as well as overhead.



The ACC in 2019, 2020, and 2021 did its utmost to abide by the Covenants in existence, the Guidelines for the SR ACC, the Equestrian Compliance Standards approved by Douglas County, as well as taking into consideration the Colorado legislature's recognition of the inherent risks involved in horseback riding. Any rider should easily be able to see the fencing and determine whether they feel uncomfortable or unsafe as to their proximity to our fence while riding and then make a choice to move within more than a 10-foot-wide section that is clear and safer taking them out of what they might perceive as a risk of harm. It should also be noted that the fence we took down was barbed wire.

Megan, all of the above factors were taken into consideration before our fencing was approved by the ACC. We are not insensitive to our neighbors or members of our Surrey Ridge HOA. We want to try our best in living harmoniously with everyone in the community whether they ride horseback or not. We hope that after reading this you will feel comfortable approaching us and discussing further the issues so that you will get to know us as reasonable, fair, and loving people.

To demonstrate our level of empathy for horseback riders, John and I are also considering speaking to our neighbor to the north to see if he will allow us, at our cost, to go into his horse

trail easement and grade it next spring to reidentify the trail as being more in the center of the easement rather than following the existing non-vegetative trail close to our fence, and then seed it to control erosion. This is an example of how an amicable solution can be discussed and explored rather than jumping to the initial contact of implying or threatening legal action.

Thank you and don't hesitate to call if you have any further questions.

Best regards,

A handwritten signature in blue ink, appearing to read "John & Susan Picon". The signature is written in a cursive, flowing style.

John & Susan Picon

Cc: ACC & SRHOA