

Sainani v. Belmont Glen Homeowners Ass'n
There Goes the Neighborhood



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Case Summary



Supreme Court of Virginia

Decided August 26, 2019

Concerns covenant interpretation and enforcement

Emphasizes three (3) things for Directors:

- The need to be familiar with recorded covenants
- The need to narrowly interpret restrictive covenants
- The need for Board-adopted rules to comport with recorded covenants and to be reasonable

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Background



Belmont Glen Homeowners Association, Inc.

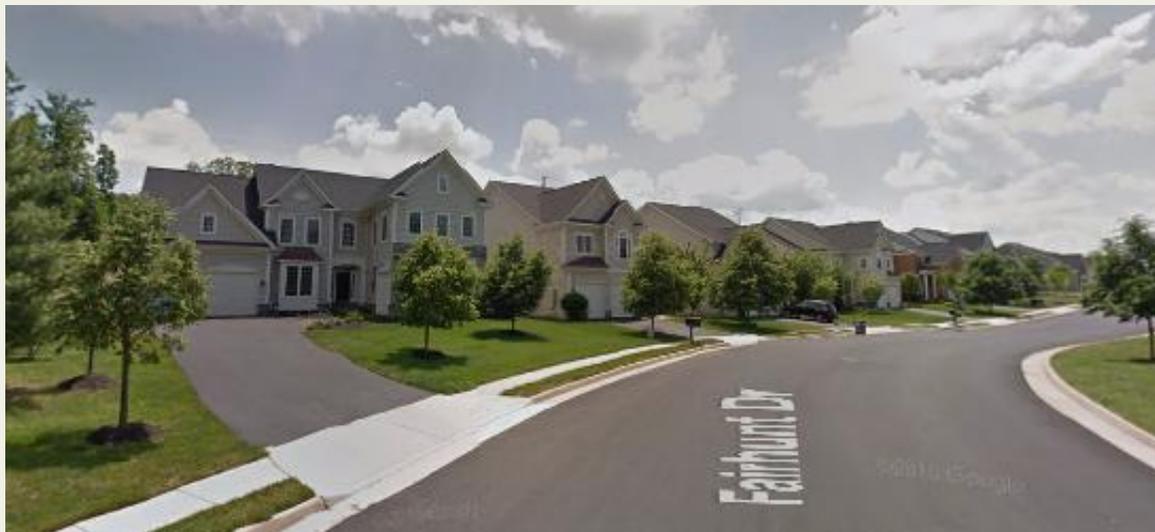
- Community developed in late-2000's
- Located in Loudoun County, Virginia
- Single family homes
- Appx. 5,000 sq. ft.
- 1/10 acre lots
- Houses initially sold for appx. \$6-700k
- Current values are appx. \$8-900k

Background



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Governing Documents



Declaration – Restrictive Covenants

- Article IX, Section 3 *Nuisances*

No noxious or offensive activity shall be carried on upon the Property, nor shall anything be done or placed thereon which is or may become an annoyance or nuisance to the neighborhood.

Governing Documents



Declaration – Restrictive Covenants (2014)

- Article IX, Section 3(c) *Lighting*

No exterior lighting on a Lot shall be directed outside the boundaries of the Lot. Exterior lighting which results in an adverse visual impact to adjacent Lots, whether by location, wattage or other features is prohibited. The ARB shall have the right to determine whether or not exterior lighting results in an adverse visual impact, which decision may be appealed to the Board.

Governing Documents



Declaration – Restrictive Covenants (2014)

- Article IX, Section 3(c) *Modification*

No modification or alteration of any Lot, Structure, or any portion thereof, shall be made, installed, constructed, erected, placed, altered and/or externally improved on any Lot or Structure until an Application has been properly filed with, and approved by, the ARB [...].

Governing Documents



Declaration – Rulemaking Authority (2014)

- Article IX, Section 8 *Rules and Regulations*
 - ✦ The Association has the authority to “adopt such rules and regulations regarding this Article as it may from time to time consider necessary or appropriate.”

Governing Documents



Declaration – Rulemaking Authority (2014)

- Article IVIII, Section 5 *Architectural Guidelines*
 - ✦ The ARB has the authority to “regulate the external design and appearance of the Property and the external design, appearance and location of the improvements thereon in such a manner so as to preserve and enhance property values and to maintain harmonious relationships among structures and the natural vegetation and topography.”

Governing Documents



Rules and Regulations

- Community Association Handbook (2014)
- Seasonal guidelines
 - ✦ Designed to: (1) promote harmony in the community; (2) to avoid discourteous and unsafe conditions affecting property values; and (3) to avoid religious issues in the community
 - ✦ Permitted “tasteful special decorative objects and lighting that are consistent with recognized Federal Holidays, Religious Holidays, Valentine’s Day and Halloween” for a specific length of time for four holidays: Halloween, Thanksgiving, Winter Holidays and the Fourth of July

Governing Documents



Rules and Regulations

- Community Association Handbook (2014)
- Seasonal guidelines
 - ✦ Permitted additional displays outside of approved holidays; provided, however, that: (1) prior approval is obtained from the ARB; (2) residents are limited to 2 such applications per year; and (3) displays were permitted for no more than 11 days
 - ✦ All decorative lighting was to be turned off by midnight.

Governing Documents



Rules and Regulations

- Community Association Handbook (2015)
- Seasonal guidelines
 - ✦ Revised to provide that the state that the “purpose for these guidelines is to avoid the prolonged display of lights and decorations outside the respective holiday.”
 - ✦ Revised to specify Halloween light colors and to restrict lighted displays on Thanksgiving

Governing Documents



Rules and Regulations

- Community Association Handbook
- Exterior Lighting
 - ✦ Guidelines provided that “[n]o exterior lighting shall be directed outside of the applicant’s property” and that “[p]roposed additional lighting shall not be approved if it will result in adverse visual impact to adjoining neighbors due to location, wattage or other features.”

Alleged Violation



Sona Sainani was an original owner (2010)

Beginning as early as December 2013, the Sainanis displayed a string of lights on both the front door and the back-deck railing without seeking approval from the ARB

The Loudoun Circuit Court found that the Sainanis left the lights on 24/7 for at least 300 days a from at least December 2013 through at least February 2016

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Due Process



Violation Notices

- Association sent numerous violation notices between December 2013 and February 2016
- Notably, the notices did not mention the lighting guideline; rather, they cited the seasonal display guidelines

Violation Hearings

- Sainanis did not respond or correct the violation through October 2014
- A hearing was convened in November 2014
 - ✦ Sainanis did not attend
 - ✦ Violations charges of \$10/day for up to 90 days imposed

Due Process



Violation Hearings

- Association held a second hearing in January 2016
- Sainanis again declined to appear
 - ✦ Association imposed violation charges again and suspended voting rights and access to community facilities
- Third hearing scheduled for February 2016, but not held due to litigation
- Circuit Court later found that the Sainanis had deliberately acknowledged the lighting violations by increasing their assessment payments by \$.06 and \$.09

Legal Proceedings



General District Court

- In September 2015, the Association filed a lawsuit in the Loudoun General District Court
- Sainanis did not appear and a default judgment was awarded
- Sainanis appealed

Circuit Court

- Loudoun Circuit Court, after trial, entered judgment for the Association in the amount of \$884.17 for unpaid violation charges, \$39,148.25 in attorney fees and costs
- Court also enjoined the Sainanis from further violating the seasonal guidelines
- Sainanis appealed again

Holding



Supreme Court of Virginia

- Strict construction principle applies to restrictive covenants
- Covenants impinge upon one's "absolute right" to property
- Restrictive covenants are not favored and the burden is on the party seeking to enforce such covenants to establish that the activity is within their terms
- Restrictive covenants should be enforced where the intention of the parties is clear and the restrictions are reasonable.
- Design control powers do not include "an implied power to impose design controls for aesthetic purposes."

Holding



Supreme Court of Virginia

- *Express* design-control powers granted by statute or by the Declaration are generally enforceable, but implied powers are limited to governing or protecting common property and preventing “nuisance-like activities on individually owned property

Takeaway



Aesthetic design-controls must be expressly set forth in recorded covenants to be enforced

Restrictive covenants are narrowly construed

It is important to be reasonable in adopting design/maintenance standards and in taking enforcement action

Questions and Answers



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