Fwd: Second Notice - Restoration of Property & Landscaping - 16834 N 103 Ave

From: Enola Ward <zbk231@gmail.com>
Date: 04/22/2026 17:43
To: Susanne Zavala <susanne.zavala@gmail.com>, Lynda <lyndag@sasktel.net>

I am sorry, I forgot to include you in the email below.

---------- Forwarded message ---------
From: **Enola Ward** <zbk231@gmail.com>
Date: Wed, Apr 22, 2026, 9:44 AM
Subject: Second Notice - Restoration of Property & Landscaping - 16834 N 103 Ave
To: mike oleary <olearyandcom@gmail.com>

Mike,

I am following up on my email from April 16. I am aware you were out of the office until last Friday; however, as I have not received a response since your return, I am sending this formal second notice.

I am acknowledging the Association's plan to address the "stumped" bushes in October. Please confirm for the record that the Association intends to replace these with mature, professional-grade landscaping that matches the community standard. As I did not sign a waiver authorizing the destruction of the original landscaping, I maintain my right to a community standard of maintenance and expect the exterior to be fully restored to its prior state of coverage and quality.

Furthermore, I am addressing the state of my front landing. On March 30, Lynda identified the previous outdoor carpet as a "potential tripping hazard" and volunteered to remove it. As the attached photos show, the area was left in a state of total disrepair with heavy industrial adhesive residue and scarring. This intervention has turned a maintained entrance into an eyesore and a new surface hazard.

By stumping the bushes and leaving the landing in this condition, the Association has failed to maintain the common elements as required by A.R.S. 33-1247 and has uniquely devalued my property compared to my neighbors. Identifying a maintenance issue is not a license to damage the property; the remedy must meet a professional standard.

Because this intervention was initiated by the Association and left in an incomplete state, I am requesting that the Association provide a professional remediation of the landing. This includes the professional removal of all adhesive residue and the restoration of the concrete surface to a finished, uniform state. I should not be expected to perform industrial chemical cleaning to fix a mess created by the Board's botched maintenance favors. I expect a written plan for this restoration, along with the landscaping plan, by the end of this week. - enola ward

On Wed, Apr 15, 2026, 5:27 PM Enola Ward <zbk231@gmail.com> wrote:

> Mike -
>
> The Board’s disagreement with the statute does not change the fact that the shrubs and groundcover in question are located on Common Ground, which is the Association's responsibility to maintain under A.R.S. § 33-1247. If the landscaping became overgrown, it is a direct result of the Association’s maintenance schedule; I have contacted the Association many times reporting that these hedges were out of control and needed

consistent trimming to keep the walkway clear. Furthermore, issues with the bubblers—which are Association property—could have easily created the damp habitat preferred by cockroaches. A homeowner cannot be held liable for the maintenance of common property or for pest issues caused by failing Association infrastructure.

To that point, I texted my landscaper today regarding the areas under my direct care. He confirmed that my backyard, which is professionally maintained, has no signs of pests. Additionally, my next-door neighbor and I already took care of having the tree taken down between our properties due to a bee infestation. There are no more bees. This indicates that any issues you described are localized specifically to the Association's common-area plants and bubblers.

Under A.R.S. § 33-1247(C), the Association is responsible for the prompt repair of damage caused by taking access for maintenance. Shifting the maintenance cost of a common element to an individual owner while the Association retains exclusive control over its removal and irrigation is inconsistent with the fundamental division of responsibilities in our governing documents.

I look forward to the removal of the shrubs this fall. I continue to expect the Association to fulfill its duty to restore the common area to a clean, vegetated state no later than November 30, 2026 - Enola Ward

On Tue, Apr 14, 2026, 2:08 PM Enola Ward <zbk231@gmail.com> wrote:

> Mike,
>
> I have received your latest email. I'm currently reviewing your points and will get back to you with a response shortly.
>
> Enola

On Tue, Apr 14, 2026, 1:53 PM mike oleary <olearyandcom@gmail.com> wrote:

> Enola - the Board disagrees with your interpretation of that statute, primary point being that isn't be addressed by you is this process began due to the "infestation of rodents - rats and cockroaches" on your property due to lack of maintenance and care by "you" the homeowner. Over the summer we will endeavour to keep this area clean so that "all" the homeowners can enjoy their property rights. We will contact you when the shrubs are being removed - Mike O'Leary
>
> On Mon, Apr 13, 2026 at 7:51 PM Enola Ward <zbk231@gmail.com> wrote:
>
> > Mike - as per your email, it is good we are in agreement that the CC&Rs do not require homeowners to purchase or plant anything in the common area.
> >
> > Regarding the 2022 Rules and Regulations, I would like to clarify that I am not requesting "new plantings." Per your letter, the current shrubs are being removed because they interfere with the Association's ability to maintain its own infrastructure (the bubblers).
> >
> > Arizona Revised Statute **A.R.S. § 33-1247(C)** states that if the Association must take access or perform work that inflicts damage on a common element, the Association is responsible for the prompt repair of that damage. Removing established landscaping to facilitate a bubbler repair is a "maintenance-related removal," not a homeowner "desire" for new plants.
> >
> > Essentially, I am satisfied with the current shrubs remaining. If the Board finds it necessary to remove them to fix Association infrastructure, then the Board is responsible for the restoration of that common ground. Leaving the area as bare dirt after a repair would be a failure of the Association's duty to maintain the common elements as required by law.

Be assured I am happy to wait until the fall for the Board to handle the removal. In the meantime, the Board should plan for the restoration of the area once their infrastructure work is complete, and I would expect that replacement landscaping be installed no later than November 30, 2026.

Enola

On Tue, Apr 7, 2026, 10:38 AM Enola Ward <zbk231@gmail.com> wrote:

> Dear Mike,
>
> Thank you for the letter regarding the common ground landscaping and the tree stump. I appreciate the Board's efforts to maintain the aesthetic and health standards of our community.
>
> Regarding the items mentioned, I would like to clarify the division of responsibility as outlined in our **1776 Bylaws and CC&Rs**:
>
> ## Common Area Maintenance
>
> The areas described—specifically the ground along the walls and the space between units—are designated as **Common Elements**. Per our governing documents and **A.R.S. § 33-1247**, the Association is responsible for the maintenance, repair, and replacement of the common elements.
>
> While I am happy to cooperate with the Landscape Committee on selecting new plant material, requiring a homeowner to pay for the replacement of plants on common ground appears to be an overstep of the Association's authority. If the current shrubs must be removed because they obstruct Association-owned infrastructure (the bubblers), the restoration of that landscaping is an Association expense, not an individual homeowner's assessment.
>
> ## Moving Forward
>
> I am committed to ensuring our community looks its best. To ensure we are proceeding according to our regulations, could you please:
>
> - Provide the specific section of the **CC&Rs** that shifts the financial burden of common area plant replacement to the individual owner?
>
> I look forward to resolving this in a way that aligns with our community's governing documents.
>
> Best regards,
>
> Enola Ward

Attachments (2 files, 11.5 MB)
- 202.jpg (4.3 MB)
- 201.jpg (7.2 MB)