

Daybreak Community Association Grandfather Clause Resolution

WHEREAS, The Daybreak Community Association Board of Directors is empowered to conduct, manage, and control the affairs and activities of the Association, and has this authority pursuant to Chapter 3, C. Powers and Duties of the “By-Laws of Daybreak Community Association”.

WHEREAS, Daybreak has been established and is administered pursuant to various documents, describe in Chapter 1 of the Community Charter for Daybreak, that have a legal and binding effect on all owners, which includes the resolutions the Board adopts to establish rules, policies and procedures for internal governance and Association activities and to regulate the operation and use of property the Association owns or controls.

WHEREAS, the Initial Rules of Daybreak states that “it is expressly intended that the Reviewer under Chapter 5, and the Board, as appropriate, have discretion to approve or disapprove items, or to enforce or not enforce technical violation of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. As such, while something may be approved or permitted for one Unit under one set of circumstances; the same thing may be disapproved for another Unit under a different set of circumstances.”

WHEREAS, The Board of Directors of the Association finds there is a need to adopt a rule to allow the grandfathering of certain structural modifications related to the modifications restrictions described in Exhibit D: Initial Rules at section 2. Restricted Activities, specifically subsection (o).

NOW THEREFORE, IT IS RESOLVED that the Daybreak Board of Directors adopts the following grandfather resolution regarding modification restrictions described in Exhibit D: Initial Rules, section 2. Restricted Activities, subsection (o), as follows:

An unapproved modification, otherwise restricted in the Initial rules by subsection (o), may receive approval if:

- (i) the unapproved modification (1) is over five years old, (2) the Owner has documentary evidence (photos, invoices, etc.) that the modification is over five years old, and (3) the unapproved modification would have been approvable at the time it was installed; or
- (ii) a subsequent purchaser of the Unit on which the unapproved modification was made (1) had requested, prior to closing on the Unit, a property inspection by the management of Daybreak, (2) had closed on a Unit in reliance on the property inspection wherein the management of Daybreak did not discover the unapproved modification prior to closing on the Unit, and (3) the modification is compliant with South Jordan City Code at the time of installation of the modification

If the Owner cannot provide documentary evidence that an unapproved modification is over five years old, the Owner may submit the modification to Daybreak's Design Review Committee for approval, as if it was a new request. The request will then follow the same guidelines and procedures outlined in section 5.3 of the Charter.

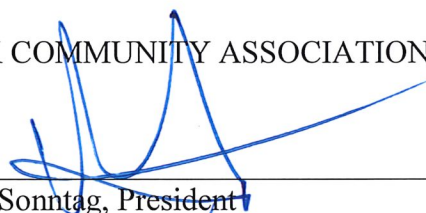
This grandfathering resolution does not apply to unapproved modifications that have been previously denied by the review process outlined in Chapter 5 of the Charter.

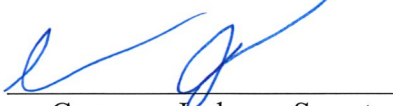
This grandfathering resolution does not limit the application of Chapter 5 of the Charter to any unapproved modification, nor does this grandfathering resolution limit the Reviewer's discretion to approve or disapprove a modification.

Neither management of Daybreak, nor the Association are responsible to ensure compliance with state or local laws. The burden to demonstrate that an unapproved modification under this Rule should receive approval is on the party seeking approval for the unapproved modification

IN WITNESS WHEREOF, the said Board of Directors has caused this Resolution and Policy to be signed by its President and Secretary, this 27th day of November, 2018, and directs its distribution to all homeowners.

DAYBREAK COMMUNITY ASSOCIATION, INC.

By:  Date: 11/25/18
Rich Sonntag, President

By:  Date: 11/27/18
Cameron Jackson, Secretary