

Height Limit Guidelines

Each lot in Tracts 3829 and 3738 has a pre-established height limit (a combination of pad elevation and house height). (Lots in Tract 4472, the Mall, are restricted to their existing heights.)

The Bylaws allow the Architectural Control Committee (ACC) to take many factors into consideration when deciding to approve or reject plans, submissions and variance requests. These criteria include, scale of site, aesthetic conformity, consideration of unreasonable blockage of view, and conformity of external design to neighboring structures. So, the height limit should not be construed to be overreaching nor does it take superiority over the other factors.

A plan submittal, while conforming to the height restriction, could be rejected by the ACC if it violates any of the other criteria. In short, the ACC has the right to determine that, even if an owner's home conforms to the height criteria referenced, the ACC can determine that the specification is not acceptable, so long as it's decision is neither arbitrary, capricious nor clearly unreasonable and follows the established criteria.

As also provided by the Bylaws, actions of the ACC can be appealed to the Monarch Bay Association Board, whose decision is final.

Clarification of Height Limits in Tracts 3839 and 3748.

The Monarch Bay Bylaws and the Monarch Bay Declaration of Subleasehold Restrictions for Tracts 3839 and 3748 prescribe finish grade elevations for lots, and limit the building heights above those finish grade elevations.

Section 12.12.5.1 of the Bylaws reads as follows: "in Tract 3839 and 3748 the height shall be based upon finished grade elevations as shown on the original grading plan, a copy of which is on file in the office of the Monarch Bay Association, and the Improvements shall not exceed the height set forth in each of the original subleases, and as set forth in the height limitation memorandum of Cabot, Cabot & Forbes, Inc., dated January 23, 1962. The maximum building height shall not exceed the limits herein set forth, or the City maximum, whichever is more restrictive."

Based upon available data, in 1997 The Architectural Control Committee compiled a list of finished grade (pad) elevations and allowable building heights for Tracts 3839 and 3748. The Committee found thirteen of the pad heights on the original grading plan to be missing or not legible, and four building heights (these have since been clarified based on sublease documents) in the Cabot, Cabot & Forbes memorandum to be missing or not legible.

In an effort to avoid misunderstandings between Owners and the Association, it is recommended that the following restrictions be enforced for future Type 1 (new construction following demolition) and Type 2 (additions and major remodel) submittals:

- In situations in which the pad height is missing or not legible, the pad height for new construction shall not exceed the pad height of the existing lot. "Pad height" shall be defined as the average grade elevation adjacent to the main living level.
- All submittals must be accompanied by a topographical survey of the property prepared by a California licensed surveyor or authorized, registered Civil Engineer. The surveyor shall use either "MGVD29" datum or "NAVD88" datum and this shall be specified on the survey drawing.

As information has become available, the Table of Pad Elevations and allowable Building Heights has been revised. Attached is a copy of the current Table.