

COLONIA ENCANTADA HOMEOWNERS' ASSOCIATION

Managed by Heywood Community Management

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Dear Colonia Encantada Homeowners,

Those homeowners who attended the Board meeting on May 8, 2024 heard an informative exchange about issues relating to public safety, security and the role of our Gatehouse staff. A number of important points came out of that discussion, which the Board feels need to be communicated to all homeowners.

1. **Security guards are not law enforcement personnel.** Our Gatehouse staff are not responsible for enforcing local, state or federal laws and regulations, and do not have the legal authority to do so. Rather, our Gatehouse staff help enforce the rules and policies of the Colonia Encantada Homeowners' Association, under our Service Agreement with Community Action Security (CAS), their employer and a private company, licensed under the laws of Arizona and the Arizona Administrative Code to provide security services.

Unlike law enforcement personnel, the focus of our Gatehouse staff is to help avert crimes in the community, not to respond to crimes that already have been committed. In fact, our Gatehouse staff have no more powers than private citizens to make arrests or to investigate crimes. A.R.S. 32-2634. Therefore, under a newly revised policy, Gatehouse staff now are directed by the Association to notify the Scottsdale Police Department if the staff observe possible trespassers in the community, so that such individuals may be arrested by the Police Department.

2. **Our CC&Rs define the role of the Gatehouse staff as providing manned entry control services.** Specifically, Article III, Section 1, subsection W of our CC&Rs states:

W. Manned Entry Control Services. The Association may, but is not obligated to provide manned entry control services at the street entry of the Properties from McCormick Parkway. . . .

By their presence in the Gatehouse and by monitoring who is allowed to enter our community, our Gatehouse staff provide a deterrent against the commission of crimes, such as thefts, burglaries, vandalism, etc. in the neighborhood. Similarly, the Gatehouse staff help prevent crimes by receiving and managing the distribution of mail and packages to homeowners. The Gatehouse staff wear uniforms with shoulder patches, a breast patch and the word SECURITY written across the back of their uniform shirts and jackets with letters that are at least three inches tall, because they are required by state law to do so. A.R.S. 32-2635, Ariz. Admin. Code §13-6-501.

3. Our Gatehouse staff are not responsible for providing security services beyond those described in our governing documents and our Service Agreement with CAS. Article III, Section 1, subsection W of our CC&Rs continues:

. . . The Association shall not, however, be liable to any Owner, Occupant, family member, tenant, guest, licensee or invitee for any reason by virtue of maintaining or failing to maintain such manned entry control services, nor shall any such manned entry control services (nor any other entry control mechanism or service) be deemed or otherwise interpreted as the Association providing or having a duty to provide security services to any Lot, Owner, Occupant, family member, tenant, guest, licensee or invitee.

Thus, the Gatehouse staff perform very valuable functions in managing access to the community by non-residents, protecting our mail and packages, and performing sundry other tasks to assist homeowners including calling for emergency vehicles, monitoring contractor hours and forwarding mail, to name just a few. Notably, by acting as a visible deterrent and reporting suspicious activity to law enforcement, our Gatehouse staff help prevent crimes before they occur. Although we sometimes refer to them as security personnel or guards, it is important to remember that they are not law enforcement personnel, they do not have the authority of law enforcement personnel, they do not protect homeowners from crimes, and they are not responsible for providing security services to homeowners or their individual properties beyond those described in our governing documents and Service Agreement with CAS.

The Board hopes that this communication provides all homeowners with a clear explanation of the purpose of our Gatehouse staff and the limits of their role in providing security services to the community.

Sincerely,

Board of Directors
Colonia Encantada Homeowners' Association