

## H. ARB AND THE BCC COVENANTS

### H.1. BURKE CENTRE CONSERVANCY COVENANTS

Article VI, Section 1 of the Covenants is very explicit regarding the conditions for Architectural Review:

*"Conditions for Architectural Control. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work, which in any way alters the exterior of any lot or common area or the improvements located thereon from its natural or improved state, existing on the date such property was first subject to this Declaration shall be made or done without the prior written approval of the Architectural Review Board. No building, residence, or other structure, fence, wall or landscaping in lieu thereof, shall be commenced, erected, maintained, improved, altered, made or done on such property without the prior written approval of the Architectural Review Board."*

This paragraph clearly states that prior ARB written approval is required for any changes to the exterior appearance of one's property or common area. It is important to understand that this ARB approval requirement applies to all exterior alterations. Repairs and maintenance that do not change exterior appearances (modifications to the existing materials, style, color, texture, function or dimension) of the property do not require ARB approval, unless specifically required by these Standards.

### H.2. MEETING THE RESPONSIBILITIES OF THE COVENANTS

The ARB is required to:

- a. Within 45 days of submission to the ARB, review and approve, modify, and/or disapprove all written applications filed by owners and the Conservancy for improvements and/or additions to lots, living units or common areas.
- b. Inspect the properties for compliance with architectural standards and guidelines and approved plans for alterations.
- c. Adopt architectural standards and guidelines subject to the approval of the Board of Trustees.
- d. Adopt procedures for the exercise of its duties.
- e. Maintain meeting minutes and records of all actions taken.
- f. Enforce standards and make recommendations to the Board of Trustees regarding continued violations of standards.

**Improvements or Changes within the Open Space (Conservancy or Cluster):** Any natural or artificial material installed or changed on the Burke Centre Conservancy or Cluster open space must have the approval of the Board of Trustees based on the recommendation of the ARB and OSC. Nothing shall be installed or changed to any lot or area that encroaches upon the open space. No part of the open space may be put to the exclusive use of fewer than all Conservancy members without the prior, expressed written consent of the Board of Trustees. The Board will consider any request for changes to open space after review by the appropriate cluster and the ARB, and a determination made with respect to the best interests of the Conservancy as a whole.

## I. KEY PARTICIPANTS

Various parties have a role in revising and upholding the standards:

### I.1. CONSERVANCY MEMBERS

Each owner and tenant within Burke Centre is a member of the Conservancy, and has a direct and important role in the ARB process. The member's role is ensuring the property is maintained, being knowledgeable of the architectural standards, and participating directly in the ARB review process on an individual, cluster or a volunteer basis.

### I.2. NEIGHBORHOOD CLUSTER ARB REPRESENTATIVES (CLUSTER REPS)

Appointed cluster committee members have the responsibility of reviewing their cluster's individual homeowner applications and making recommendations to the ARB for consideration.

**I.3. OPEN SPACE COMMITTEE (OSC)**

A committee composed of volunteers, appointed by the Board of Trustees, the OSC is charged with monitoring and analyzing the community's open space areas and amenities. The committee provides recommendations to the ARB and BOT concerning open space use, maintenance, modification, revitalization, and preservation.

**I.4. BURKE CENTRE COMMUNITY SERVICES-ARB (CS-ARB) STAFF**

Architectural Program Management: The Director of Administration oversees and provides direction to the CS-ARB staff for the management of applications, standards, motor vehicle parking and towing violations, etc.

Community Services-ARB Coordinator: The coordinator acts as a liaison to the Director of Administration, the Board of Appeals, and the ARB. The CS-ARB Coordinator reviews and prepares applications for submission to the ARB. The role of this staff member and the interaction with the homeowner/applicant are crucial to the smooth transition of the applications for review. Commercial property applications and violations are also submitted through the CS-ARB Coordinator.

Community Services-ARB Representative: The representative conducts inspections required for Property Owners' Association Act (POAA) resale disclosure packets, and property maintenance violations.

**I.5. ARCHITECTURAL REVIEW BOARD (ARB)**

The ARB is composed of Conservancy owners from all five neighborhoods appointed by the Board of Trustees, for two-year terms, to complete duties in accordance with Article IX of the Burke Centre Conservancy bylaws. Duties include but are not limited to regulating the external design and appearance and improvements to the property. Prior to the monthly meetings each ARB member reviews each application scheduled for ARB consideration, and visits properties with significant changes so as to ensure a clear understanding of these properties and the respective application(s).

**I.6. APPEALS BOARD**

The BCC Declaration of Covenants and Restrictions is the basis and authority of the Appeals Board. Section 5, Page-15 - Paragraph 5 - (b) reads in part:

Powers. The Appeals Board shall have the power and duty to:

(1) Decide appeals to decisions of the Architectural Review Board; and

(2) Decide cases of alleged infraction of the Governing Documents; and thereupon to compel action or enjoin further action of parties found in violation of the Governing Documents; and

(3) Limitations. The Appeals Board may act upon an appeal only upon written petition of the member or members and shall act in accordance with the Bylaws and the Book of Resolutions. The Board of Trustees, upon its own motion, may reverse or modify a decision of the Appeals Board."

The function of the Appeals Board, when hearing an appeal is to review the ARB's decision in light of the following criteria:

- 1) The Architectural Review Board followed proper procedures in reviewing the application.
- 2) The applicant/other concerned/ directly affected person(s) received a fair hearing.
- 3) The decision rendered by the Architectural Review Board has a rational basis and was not arbitrary.

**I.7. BOARD OF TRUSTEES (BOT)**

The governing board of Burke Centre is obliged to establish, regulate and conduct the business of the association as stated in the Declaration of Covenants and Bylaws. The trustees are responsible for overseeing the enforcement of the governing documents and all other rules, regulations and resolutions. The BOT oversees the actions of both the ARB and Appeals Board. The BOT has the authority to assess monetary charges or to file a lawsuit against an offending homeowner after the member has been duly notified and given due process. Payment of monetary charges does not dismiss the violation.

The Board of Trustees (BOT) is the highest board of the Conservancy, and may be asked to consider requests to appeal decisions made by the Appeals Board and/or the ARB. The BOT has the authority to uphold or overturn decisions made by subordinate boards with a 2/3 majority vote of Board members in attendance (e.g., 3/5, 4/6 or 5/7). The BOT may hear cases brought forward by a member(s) or a cluster, or may hear an appeal from another Board or committee, or decide to address a decision on its own volition.

## J. ARB PROCESS

### J.1. THE PROCESS FOR REVIEWING YOUR APPLICATION

The Declaration of Covenants states that if the Architectural Review Board fails to approve, modify or disapprove in writing a correctly filed application that is **completed and accepted** within 45 days, approval will be deemed granted.

The staff will deliver the completed and accepted application to the assigned ARB member, and forward a copy of the application to the identified neighborhood cluster representative for cluster input.

**Approval authority rests only with the entire ARB.** Neither neighborhood cluster representatives, individual residents nor staff has authority to grant approval.

All applicants will be notified by the staff of the date, time and place of the meeting of the ARB at which their application will be reviewed. Agendas for ARB meetings including the addresses of applications will be listed on the BCC web site; agendas are subject to change prior to the meeting.

Additionally for all non-residential applications:

- BOT members will be notified of the application for inclusion in their monthly neighborhood meetings and
- Non-residential applications will be listed in the BCC Buzz as time and space permit.

**When the ARB reviews an application to modify a property, it considers the effect the modification will have on the following four levels:**

1. The property (dwelling and grounds). If okay, the ARB next considers...
2. The adjacent properties (next to, behind, across from), if okay, the ARB next considers...
3. The immediate neighborhood (properties on the same street, adjacent streets, the cluster and the specific neighborhood. If okay, the ARB next considers...
4. The Burke Centre community as a whole. If it appears the modification will be compatible with the property, adjacent neighbors, immediate neighborhood and Burke Centre, the ARB can approve the application.

If, at any level, the modification presents a problem with design compatibility, location and impact, scale, color, workmanship and timing, it fails, and the application is disapproved.

### J.2. ARB MEETINGS

Meetings of the ARB are held at a Burke Centre community center and are open to the public.

Residential applications identified by the ARB as routine modifications consistent with ARB standards may be approved as a group by a vote of the ARB. Prior to such approval, any Conservancy member may ask that a specific application be removed from this process and reviewed individually.

All remaining applications, including all non-residential applications, will be reviewed individually. During individual review:

- The applicant(s) will have an opportunity to provide additional information to the ARB and/or modify the application.
- The ARB will have an opportunity to ask questions of the applicant(s).
- Input will be sought of any interested resident(s) and/or cluster/neighborhood council representatives.
- The applicant(s) will have an opportunity to modify or withdraw the application, and
- For applications not withdrawn, the ARB renders an approval or disapproval by vote.

Withdrawn applications may be updated and/or corrected as needed for future resubmission.

**J.3. DISAPPROVED APPLICATIONS**

When an application is disapproved, notification of the disapproval and reason according to ARB Standards and Guidelines is forwarded to the applicant. The applicant has (20) twenty working days from the date of the application's disapproval to file an appeal with the CS-ARB Coordinator by completing and delivering the appropriate appeal form.

Approval of an application may become invalid when discrepancies are found between the scope of work as described in the approved application and the actual exterior work completed at the property. A new application will be required in such cases.

**J.4. APPEALS**

Requests for appeals should comply with the timetable established for appeals to the Appeals Board:  
1) Verbal notice to the Conservancy staff within five *calendar* days of the Appeals Board's decision, and

2) Written notice to the Conservancy staff within 20 *calendar* days. Those requesting a BOT appeal should provide a written, reasonable basis for the request and a statement clearly defining the desired outcome. The BOT may decline requests for appeals at its discretion. BOT decisions made for appeals cases are final.

**J.5. ARB MEETING MINUTES**

Written minutes of all public ARB meetings are on file in the BCC office and serve as working documents for community records.

<b>K. CLUSTER SUPPLEMENTAL ARCHITECTURAL STANDARDS</b>
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The Cluster-Established Architectural Standards allow clusters to express their individuality and unique characteristics. A cluster also may wish to control design, color, scale, location or the extent of an alteration to enhance harmony of the cluster's appearance. Clusters develop their standards to establish compatibility and continuity in design, material, location and color within the cluster. **Non-residential clusters may not establish Cluster Architectural Standards.**

**K.1. GENERAL**

**Cluster Supplemental Architectural Standards may not conflict with or be less restrictive than the BCC Architectural Standards.**

**K.2. CLUSTER SUPPLEMENTAL ARCHITECTURAL STANDARD ESTABLISHMENT OR MODIFICATION**

For a cluster to establish, modify or rescind a Cluster Supplemental Architectural Standard, the following process must occur. The Cluster Committee is responsible for accomplishment of the cluster part of the process; the ARB chairperson is responsible for accomplishment of the ARB part of the process.

- a. The Cluster Committee must notify every owner of record (resident and non-resident) in the cluster of the proposed cluster architectural standard and request their vote.
- b. At least 75% of the owners must respond to the notification casting a vote.
- c. Among those voting at least 51% must favor the proposed cluster architectural standard.
- d. Once approved by the Cluster, the Cluster Committee forwards the proposed cluster architectural standard with a copy of the petition containing the Conservancy members' signatures or the cluster voting ballot returns to the ARB for review.
- e. Upon review, the ARB forwards the proposal to the Board of Trustees with a recommendation for approval or disapproval.
- f. The BOT reviews the proposal with final authority for approval.

If the cluster has followed the process as described above, and has been unable to achieve the required participation level within 180 days, the Neighborhood Trustee may seek a BOT approval for the proposed cluster standard, to be considered on a case-by-case basis.

**K.3. APPROVED CLUSTER SUPPLEMENTAL ARCHITECTURAL STANDARDS**

Once approved, all Cluster-Established Architectural Standards are maintained by the Conservancy until rescinded or modified. Cluster level Architectural Standards will be reviewed by the ARB during the review of the Burke Centre Conservancy Architectural Standards. In cases where a cluster has a Supplemental Architectural Standard and there is no longer a cluster committee, the neighborhood Trustee for that cluster shall be responsible for ensuring the Cluster Supplemental Architectural Standards are reviewed. **Owners and renters may obtain a copy of an approved Cluster Supplemental Architectural Standards by contacting the Conservancy office.**

**L. ARCHITECTURAL STANDARDS REVIEW**

**BURKE CENTRE CONSERVANCY ARCHITECTURAL STANDARDS REVIEW**

The BCC Architectural Standards are to be formally reviewed every five years. This includes a review of the Cluster-established Architectural Standards by cluster committees. Cluster committees may decide to update cluster standards through a formal vote of their members. Upon completion of the review process, recommendations for revisions will be sent to the Board of Trustees (BOT). When the BOT approves the final draft, the document is then published and made available to owners and residents. If the need to revise any part of the BCC Architectural Standards occurs between scheduled reviews, upon review and approval by the BOT, subsequent revisions become part of the Standards and will be made available to the owners and residents.