

San Ignacio Vistas, Inc.
Homeowners Association
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October 12, 2010

Re: Use Easements

Generally our lot lines either run to the sidewalk in front, to those of a neighbor on either side and perhaps to the common area in the rear. Along the side and rear lot lines there is a wall sometimes referred to as a "patio wall".

But this is not always the case. For some their lot line extends beyond their patio wall. These situations are addressed on pages 6 and 7 of our CC&Rs. The purpose of this memo and the four diagrams that are attached is to provide a summary of those provisions for those who might not want to dig out of the CC&Rs for the same information.

For purposes of this discussion we shall assume we are the owner of Lot B. In three of the four diagrams we find that our lot line is outside our patio wall. In the fourth our neighbor's lot line is inside our patio wall. We will discuss each in turn.

Our first situation is set out in Diagram 1. This is an instance where the builder decided to build a portion of our patio wall on the lot of our neighbor, the owner of Lot A. This parcel is designated by cross-hatch in the diagram. The wall effectively prevents our neighbor access for the purposes of maintaining this parcel without crossing our property. To ensure proper maintenance and avoid possible disagreements over landscaping and access rights our CC&Rs grants us, the owner of Lot B a "use easement". This means we are solely responsible for all landscaping and maintenance of the parcel up to the patio wall that separates our lot from that of our neighbor. Because our lot is in effect expanded we are the beneficiary (lot B) of the fortuitous placement of the wall outside our property line and our neighbor (lot A) is "burdened" since his/her lot is diminished.

In Diagram 2, the situation is reversed. A portion of the patio wall between us and our neighbor, the owner of Lot C, is on our lot (again cross-hatched). So we are burdened and Lot C is benefited to use the terminology of the CC&Rs.

In either case there are limitations to the easement. The beneficiary (lot B in the first example, lot C in the second) cannot “improve” the easement with such things as walkways, water effects or patios. Nor can the beneficiary attach equipment or fixtures to the walls (plants are ok). With proper approval (see notes in the diagrams), the beneficiary might be able to place a bench or perhaps a grill on the use easement.

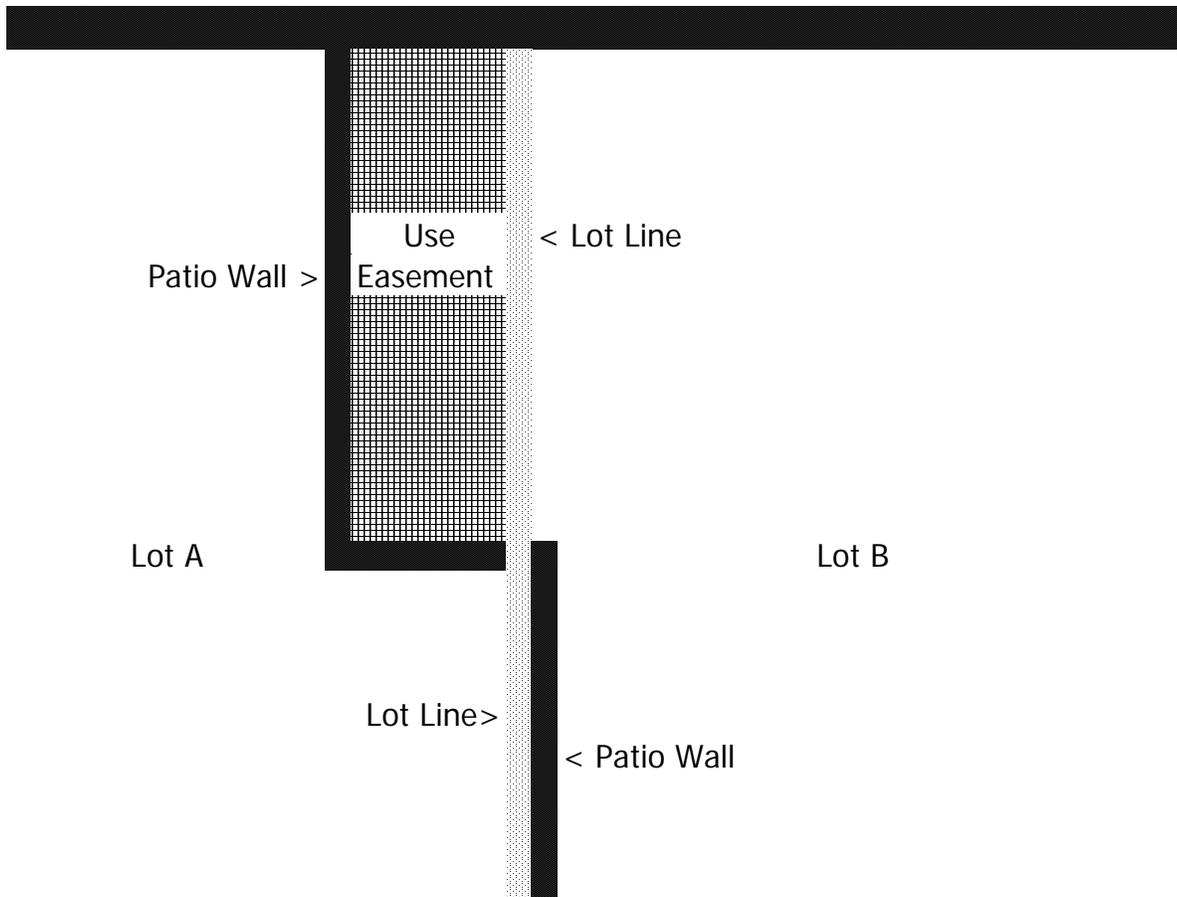
A similar resolution occurs where the portion of our lot line that is outside our patio wall abuts or adjoins the Common Area (area cross-hatched in Diagram 3). As in the second example this space is burdened with a use easement. The beneficiary in this instance is the Association. As before the beneficiary (the Association) is responsible for all landscaping and maintenance. And, as before, the easement must remain unimproved. But here the CC&Rs go one step further and declare the easement “will be deemed a part of the Common Area for the use and enjoyment of all Owners.” Sometimes this easement is referred to as “uncommon common ground.”

Our final example (see Diagram 4) addresses those situations where the lot line extends beyond the patio wall to the sidewalk, curb or street (area shown in diagonal lines – or in some cases might print as dark dots). Because we can access this parcel without crossing the property of another owner (by using the street or sidewalk if necessary) we continue to enjoy all the responsibility for its landscaping and maintenance as if the wall were not there.

One or more disclaimers are in order. First the parcels covered by easement are neither necessarily rectangular in shape nor significant in size. Second nothing should be taken from this memo that is in contradiction with the CC&Rs. If an owner seeks to clarify their easement rights or obligations they should contact the Association Secretary.

Diagram 1

Use Easement where Lot B is "Benefited"



Notes:

In this example rear yard of Lot B encloses part of Lot A.

Use easement on Lot A (shown as cross-hatch) where Lot B is benefitted and Lot A is burdened.

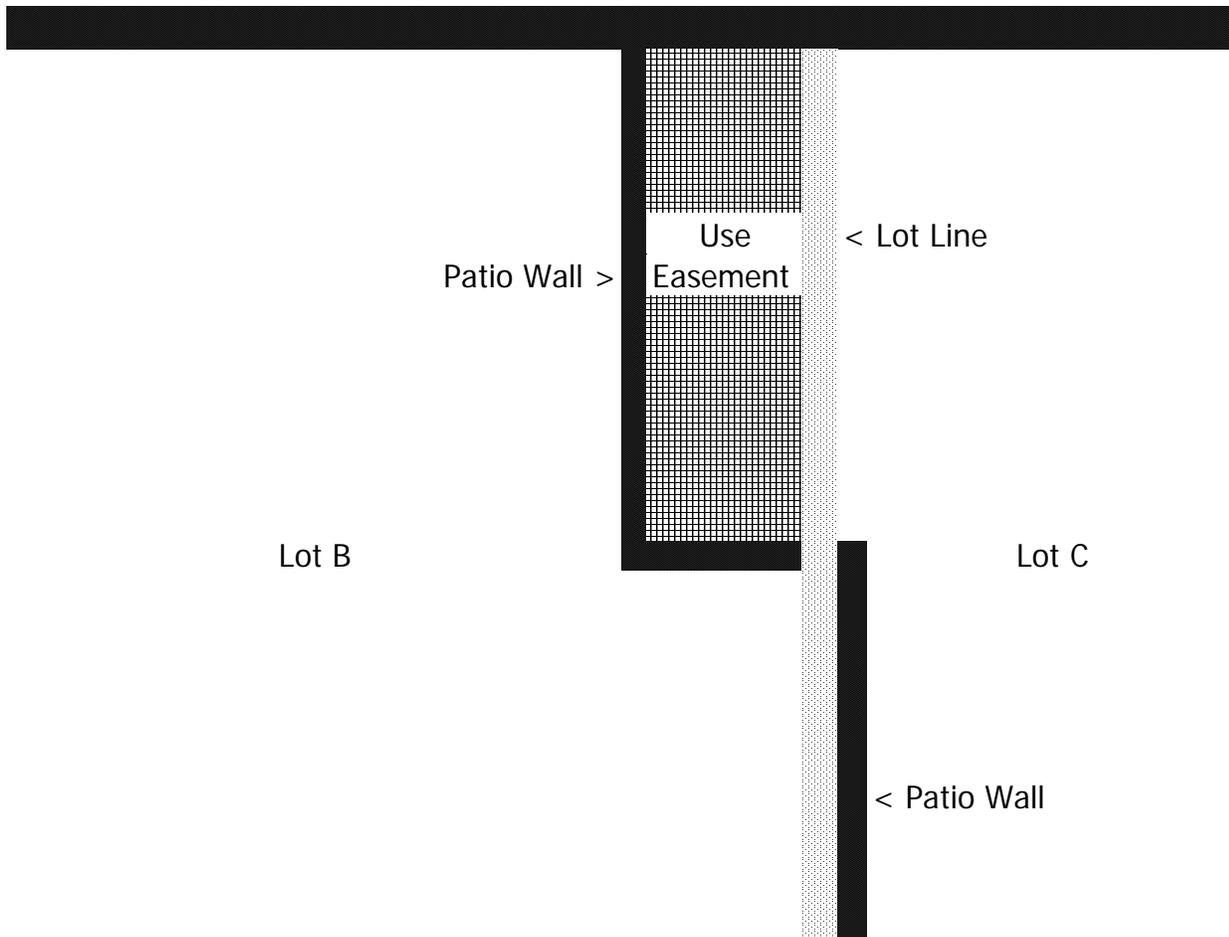
See Section 4.7 (pages 6 -7) of Second Amended and Restated Declaration of Establishment of Covenants, Conditions and Restrictions for San Ignacio Vistas, dated January 23, 2006 for definition of Use Easement.

Section 4.7 states that "each owner benefited" by a use easement "is solely responsible for all landscaping and maintenance related thereto and must keep the easement area in a clean, neat and well-landscaped condition."

Section 4.7 states that the easement area is "intended to free of all Improvements", including walkways or patios, nor "may they attach any equipment or fixtures to said walls". If permitted by Pima County and the Architectural Committee limited structures such as barbecues or benches may be permitted in the easement area.

Diagram 2

Use Easement where Lot B is "Burdened"



Notes:

In this example rear yard of Lot C encloses part of Lot B.

Use easement on Lot A (shown as cross-hatch) where Lot C is benefitted and Lot B is burdened.

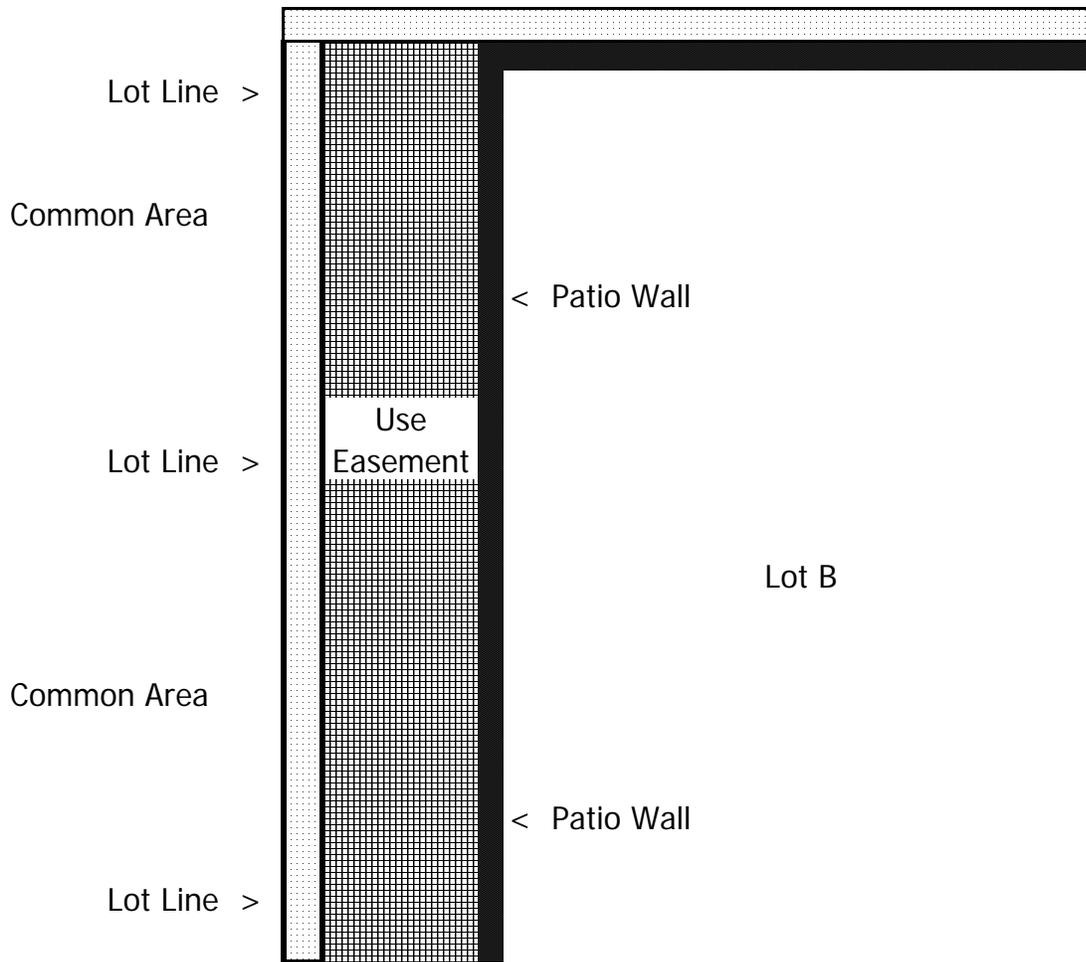
Note: See Section 4.7 (pages 6 -7) of Second Amended and Restated Declaration of Establishment of Covenants, Conditions and Restrictions for San Ignacio Vistas, dated January 23, 2006 for definition of Use Easement.

Section 4.7 states that "each owner benefitted" by a use easement "is solely responsible for all landscaping and maintenance related thereto and must keep the easement area in a clean, neat and well-landscaped condition."

Section 4.7 states that the easement area is "intended to free of all Improvements", including walkways or patios, nor "may they attach any equipment or fixtures to said walls". If permitted by Pima County and the Architectural Committee limited structures such as barbecues or benches may be permitted in the easement area.

Diagram 3

Use Easement where Lot B Abuts Common Area



Notes:

In this example Common Area encloses part of Lot B.

Use easement on Lot B (shown as cross-hatch) where Common Area is benefitted and Lot B is burdened.

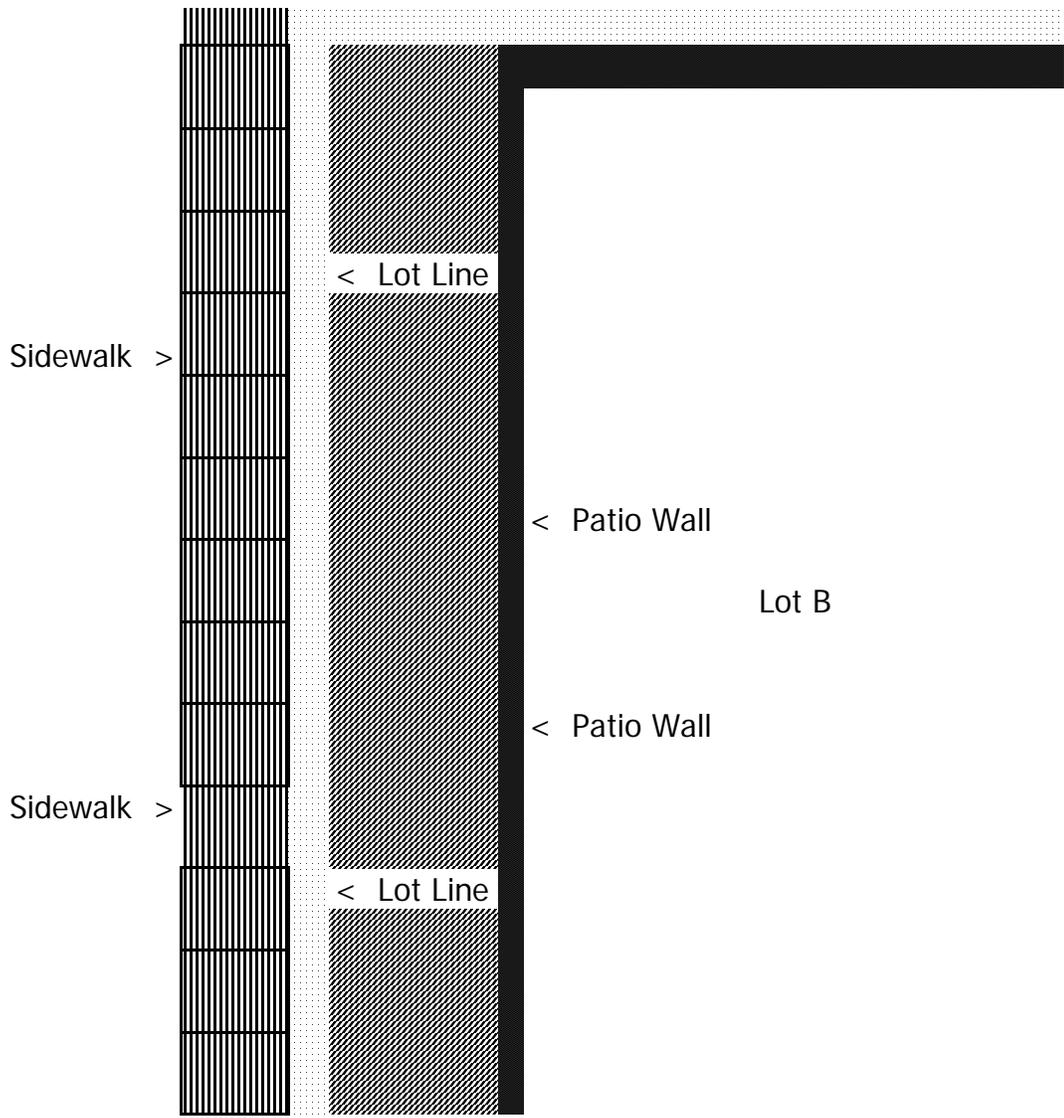
See Section 4.7 (pages 6 -7) of Second Amended and Restated Declaration of Establishment of Covenants, Conditions and Restrictions for San Ignacio Vistas, dated January 23, 2006 for definition of Use Easement.

Section 4.7 states that "Any easement onto a Lot benefiting a Common Area must remain unimproved and will be deemed a part of the Common Area for the use and enjoyment of all Owners."

Section 4.7 also states that each owner benefitted (including the Association) by a use easement "is solely responsible for all landscaping and maintenance related thereto and must keep the easement area in a clean, neat and well-landscaped condition."

Diagram 4

Lot B Property Line extends beyond Patio Wall



Notes:

In this example property line of Lot B extends beyond the Patio Wall to the Sidewalk.

Area between Sidewalk, Lot Line and Patio Wall (shown in dark dots) belongs to Lot B and Lot B is solely responsible for all landscaping and maintenance related thereto and must keep the the area in a clean, neat and well-landscaped condition.

Area is subject to such limitations on improvements, equipment, fixtures and limited structures as might be imposed by Pima County and/or the Architectural Committee.