

Lake Hills Maintenance Corporation  
Drainage, Erosion, Runoff and Mudflows

The Lake Hills development, as the name implies, includes numerous hills. During and after rain events, many properties within the development receive drainage, erosion, mud and debris from uphill properties.

Several owners contacted the Association regarding mud flowing from or across Association owned properties onto homeowner lots. This document sets forth the Board's policy for such scenarios.

Association Property. The Association owns or maintains 3 types of property: open space lots; park lots; and landscape maintenance easements.

The Lake Hills developer deeded several large, natural, "open space" slope lots to the Association. These lots are, by design, left in their natural condition and serve as habitat for numerous species and plants. To comply with the County Fire Department requirements, the Association hires a contractor to perform fuel modification services within fuel modification zones on the open space lots designated by the developer. Other than that, the Association leaves the open space lots in their natural state.

The developer also deeded several small park lots to the Association. The Association actively maintains these park lots.

Lastly, the developer reserved landscape maintenance easements over several of the homeowner lots in the development. The Association contracts with a landscape maintenance vendor to maintain the landscaping in those areas.

Brief Synopsis of California law regarding drainage and mudflows. California employs the "rule of reasonableness" regarding drainage issues between or across properties. A landowner's conduct in using or altering property in a manner which affects the discharge of surface waters onto adjacent property is subject to a test of reasonableness. (Locklin v. City of Lafayette (1994) 7 Cal.4<sup>th</sup> 327, 351.) Similarly, a downstream owner has a duty to take reasonable precautions to avoid or reduce the potential for injury. (Keys v. Romley (1966) 64 Cal.2d 396, 409.)

Many Association members that own property adjacent to an Association lot or easement area believe the Association has a duty to prevent any drainage, mud or debris from flowing onto the owner's lot. That is not a correct belief as the Association has no such duty. It is not the Association's job to maintain a water and mud-proof barrier at the intersection of the Association's lot or easement area and the owner's lot. Water and mud moved downhill before the Association was created. The creation of the Association did not change that law of nature! Water and mud will continue to move from uphill properties to downhill properties.

Association Policy. First and foremost, if you contend the Association is not acting reasonably regarding the manner in which it manages or maintains property, and as a result your property is

receiving mud or drainage that it would not otherwise receive, bring that condition to the Association's attention immediately and in writing.

As to the open space lots, these lots are in a natural condition. With the exception of periodic fuel modification as required by the Fire Department, the Association generally does not alter the property or take any action that changes the drainage. Thus, any runoff that occurs is likely a consequence of the natural drainage pattern. If you would like to discuss potential alterations to an open space lot to address drainage concerns, please forward a proposal (prepared by a licensed civil engineer) for the Association's consideration. The proposal needs to address potential impacts of the proposed alteration on other properties, not just your property.

For the park lots, the Association maintains the developer-installed drainage system. If there is a problem with the system, please bring the matter to the Association's attention, in writing. Similarly, if there is an irrigation issue (such as a sprinkler head that need adjustment or repair) notify the Association in writing as soon as possible so that the Association can take the matter up with its landscape vendor.

The landscape maintenance easement areas are located on homeowner lots. The Association does not own the properties on which the easements are located and, in most cases, does not own or control the adjacent properties. If there is a problem with water or mud from an Association-maintained easement area, or you are concerned about a potential problem, please bring the matter to the Association's attention in writing. The Association can then confer with its drainage consultants to see if the Association is causing or contributing to the problem and, if so, what reasonable measures might be available to attempt to improve the situation.