

## **RRHOA Board Position on Trapping/Hunting Deer**

The Ruby Ranch Homeowners Association Board understands the issues of deer hunting, feeding, and overpopulation can be very sensitive with many property owners. Not all will agree on how to address the subject. Many neighborhoods have struggled with these issues for years. A very well known example is Lakeway, Texas.

These issues were discussed at the HOA annual meeting on February 16, 2010, and statements were made from the floor that trapping of exotic deer to control overpopulation was a violation of the deed restrictions. The board discussed this issue with the association's attorney. He stated that, in his opinion, this is not a violation and the HOA would not prevail if we tried to prevent property owners from trapping deer. The two restrictions mentioned specifically at the meeting were 8.07 and 8.18.

Restriction 8.07 - Noxious or Offensive Activities Prohibited. The attorney did not feel that trapping of exotic deer would qualify as noxious or offensive.

Restriction 8.18 – Prohibited Activities. This restriction references a professional business or commercial activity to which the general public is invited. There have been no reports of anyone allowing trapping by the general public.

In previous meetings with the Parks and Wildlife, they have explained any property owner has the right to net or trap the exotic deer or exotic antelope while they are on his property. Exotic deer belong to the person whose property they are on at the time. Whitetails are different and are regulated by the state. The Parks and Wildlife has also stated that the large population of exotic deer in the subdivision is actually harmful to the native whitetail deer population and that trapping and removal of exotics is beneficial.

The above applies to the hunting of exotics as well. It is against the Ruby Ranch deed restrictions to discharge a firearm in the subdivision, which includes shooting deer with a gun. However, it is not against the state

or county laws to discharge a firearm on your property. While it is very dangerous to shoot a gun in a subdivision like Ruby Ranch it is difficult to get the sheriff's office to take action against an offender. Other methods of hunting are not addressed in the restrictions. Many property owners also feel it is dangerous to shoot a bow and arrow in the subdivision, but again it is difficult to enforce unless the use of bow and arrow is in such a manner as to create a nuisance.

In summary, our attorney feels the current covenants and restrictions do not give the Board the authority to restrict the removal of exotics. It is important to remember that whenever the Board undertakes to enforce a covenant or restriction, the Board has the burden to prove that the activity violates the covenant or restriction.