

COURT OF CHANCERY OF THE STATE OF DELAWARE

Elmer Yu, Trustee of the Elmer Yu Revocable Trust U/A/D 8/11/2021,
et al. v. James Cahill and Elaine Cahill

C.A. No. 2022-0014-SEM (MTZ) (Del. Ch. Jan. 21, 2026) · No. C.A. No. 2022-0014-SEM (MTZ) · Decided
January 21, 2026

SUMMARY

The Delaware Court of Chancery overruled exceptions to a Magistrate's Final Report in a dispute over a six-foot privacy fence allegedly violating Boulder Brook deed restrictions. The Court held that the restrictive-covenant violation caused irreparable harm, including harm to the neighborhood's social contract and parklike character, and supported a mandatory injunction requiring removal of the fence. The Court dismissed the respondents' exceptions and declined to consider medical issues not presented to the Magistrate.

CASE DETAILS

COURT	Court of Chancery of the State of Delaware
WRITING FOR THE COURT	Morgan T. Zurn
JURISDICTION	Delaware Court of Chancery
DECIDED	January 21, 2026
DOCKET	C.A. No. 2022-0014-SEM (MTZ)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Respondents filed exceptions to a Magistrate in Chancery's Final Report recommending summary judgment for Petitioners and a permanent injunction requiring removal of the respondents' fence. The Vice Chancellor reviewed the exceptions de novo without a hearing.
STANDARD OF REVIEW	De novo review of the Magistrate's rulings and the record before the Magistrate.
PRECEDENTIAL VALUE	Published Court of Chancery opinion
PARTIES	James Cahill, Elaine Cahill v. Elmer Yu, Trustee of the Elmer Yu Revocable Trust U/A/D 8/11/2021, Wilma Yu, Trustee of the Wilma Yu Revocable Trust U/A/D 08/11/2021, Christine Welch

TOPICS

covenants and restrictions

injunctions

declaratory judgment

summary judgment

civil procedure

PRACTICE AREAS

real estate

equitable relief

civil procedure

QUESTIONS PRESENTED

1. Whether an ongoing violation of neighborhood deed restrictions constitutes irreparable harm sufficient to support a mandatory injunction.
2. Whether the Cahills' fence violated the Boulder Brook deed restrictions.
3. Whether the Court should reopen the record on exception to consider the Cahills' medical issues.
4. Whether the Magistrate's Final Report should be sustained and the respondents' exceptions dismissed.

HOLDINGS

1. Under Delaware law, irreparable harm is nearly presumed when a deed restriction is violated; an ongoing restrictive-covenant violation may constitute irreparable harm per se, even when the harm is largely aesthetic and does not diminish property use or enjoyment.
2. The Cahills' six-foot closed fence violated the deed restrictions because it exceeded the four-foot height limit, was not open in style, and was erected without the required neighbor approval.
3. The Court would not reopen the record on exception to consider the Cahills' medical issues because they had not presented those issues to the Magistrate and showed no good cause for introducing them later.

KEY QUOTATIONS

“Irreparable harm consists of harm for which there can be no adequate recompense at law, i.e., an award of compensatory damages will not suffice.” (at 5)

“The irreparable harm analysis is unique in the deed restriction context.” (at 5)

“The case law indicates that ongoing violation of a restrictive covenant may constitute irreparable harm, per se.” (at 5)

“The owners of [the restricted] lots knowingly enter into a social contract with the other lot owners when purchasing their land.” (at 5)

“Once a restriction is breached, the Plaintiffs can never again regain the sanctity of the covenant.” (at 5)

FACTUAL BACKGROUND

The parties owned homes on Boulder Brook Drive in Wilmington, Delaware, whose deed restrictions prohibited fences absent specified neighbor approval and, even with approval, limited them to an open style no higher than four feet. The Cahills erected a six-foot closed stockade fence without obtaining the required approval. Petitioners alleged that the fence violated the neighborhood's mutual deed restrictions, destroyed the protected

open and parklike character of the neighborhood, obstructed wildlife movement and drainage, and caused flooding.

PROCEDURAL HISTORY

Petitioners sought a declaratory judgment and mandatory injunction enforcing neighborhood deed restrictions against the Cahills' six-foot closed privacy fence. The Magistrate denied respondents' motions to stay, issued a Final Report recommending summary judgment and an injunction, and respondents filed exceptions, including an objection to the irreparable-harm analysis. While the exceptions were pending, the Court stayed the Chancery proceedings pending related Superior Court litigation and later lifted the stay. The Court dismissed the exceptions.

DISPOSITION

dismissed

CASES CITED

- Slaughter v. Rotan, 1994 WL 514873, at *3 (Del. Ch. Sept. 14, 1994)
- Council of Ass'n of Unit Owners of Pelican Cove Condominium v. Yeilding, 2020 WL 2465725, at *2-3 (Del. Ch. May 13, 2020)
- RBY&CC East Side Homeowners Ass'n, Inc. v. Beebe, 2023 WL 3937932, at *20 (Del. Ch. June 9, 2023)
- The Cove on Herring Creek Homeowners' Ass'n, Inc. v. Riggs, 2003 WL 1903472, at *5 (Del. Ch. Apr. 9, 2003)
- DiGiacobbe v. Sestak, 743 A.2d 180, 184 (Del. 1999)
- Del. Human and Civil Rights Commission v. Welch, 2025 WL 2222967, at *1 (Del. Super. Aug. 5, 2025)

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