

2016

WVHOA Newsletter

JANUARY 2016



WEST VALLEY HOMEOWNER ASSOCIATIONS

WVHOA ANNOUNCEMENTS

Our group has been blessed with the use of the Apache Room at Sun City Grand.

THANK YOU SCG Board members.
You and your staff are very
much appreciated!

BOARD OF DIRECTORS:

Colleen Lombard, PCAM, President
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Curtis Ekmark, Vice President
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Karen Jones, Member At Large
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Michelle Phillips, Member At Large
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Meetings are held in the Apache Room of the Chaparral Center, 19781 N. Remington Drive in Sun City Grand. Sun City Grand is located on the west side of Grand Avenue, about five miles past the Bell Road intersection. Turn west onto Sunrise and take it to the second intersection, which is Remington. The Chaparral Center is located about .2 of a mile on the right side of Remington Drive adjacent to the Sonoran Plaza.



'TIS THE SEASON

Happy Holidays to our WVHOA members! We hope that you and your families enjoy the season and the coming year in the best of health and with much joy.

We are thankful and grateful for your continued support, and for the difference each and every one of you makes in service to your community. We at West Valley Homeowner Associations understand the unique challenges board members are tasked with. The tradition of bringing professionals in the field of community management to our monthly luncheon meetings will continue. The challenges of board and management are a priority. We look forward to meeting with you on January 6, 2016.

Best regards,

Colleen Lombard, PCAM

January Luncheon Meeting: Dealing With Difficult People

Whether it is within associations, communities, or even within the Board itself, dealing with difficult people is something we can all relate to. However, harmony is a key element in achieving a peaceful and enjoyable environment. Learn how to handle and communicate with those difficult people in your life at the next West Valley Homeowner Associations luncheon meeting on **January 6, 2016**.

Attorney Adrienne Speas will not only share stories of her own experiences with difficult people, but will also provide details on strategies with dealing with them. Please join us in the Apache Room, Chaparral Center in Sun City Grand, 19781 N. Remington Drive in Surprise. Cost for the luncheon is \$10.

Please arrive at **11:30 a.m.** Lunch will be served beginning at 11:45 and the program will start promptly at noon.

In order to provide plenty of food for the luncheons, it would be sincerely appreciated if reservations are made with Rocky Roccanova at rockyscg@yahoo.com or 623-293-8222. Reservations must be received by 5:00 p.m. on Wednesday, December 30, 2015.

Payment for the luncheon may be made by cash or check (personal or business check) at the door only. We are not able to accept "pre-payment" for the luncheon meetings.

Summary of November 2015 Meeting Litigation Update

The November 17 luncheon, featuring speaker Curtis Ekmark, focused on Litigation Issues. Curtis focused on litigation issues facing all associations, as well as potential legislation that will be addressed in the upcoming session.

The presentation began by detailing how litigation has changed over the past 20 years. Curtis described how what once was a more casual encounter in the courtroom and Judge's chambers has become a more formal process. Litigation has also become more expensive, so it is even more important to cross your T's and dot your I's. In order to avoid this costly litigation process, Curtis reminded us of some important tips.

The first reminder was to not delay. Deadlines are a huge part of litigation, and putting off any sort of notice or anything can end up costing you big time.

Additionally, on an insurance front, Curtis reminded us that not all insurance carriers are equal. Make sure to obtain good D&O insurance, because the time to be skimpy is not when you may be at risk for costly litigation. Also, Curtis recommended to ensure that the insurance covers breach of contract claims, as CC&R related claims tend to be. Make sure the policy covers non-monetary claims as well. Finally, make sure that the insurance allows for you to be able to choose your lawyer in the event that you get sued.

Curtis also shed some light on an important Latin term called "res judicata". In this instance, when a person is successful in his/her claims in his/her lawsuit, everyone with the same claims can then sue and win automatically. The claims cannot be relitigated once a final judgment has been entered on those claims, even if different people are suing the Association later. This is why it is important to remember that even if a matter looks small on the surface, it may have lingering consequences underneath.

Another area of possible costly consequences is Fair Housing. Curtis reminded us that if a person makes such a request in your community, you must make sure to have a reasonable dialog with the person making the request. It is also important to remember that you may request proof of disability but you have to be careful, and can only make such a request if the disability is not obvious.

Curtis also discussed that it is important to make sure that you have the authority to do what you are trying to do. He gave a few examples. In an ongoing case from this past year, one Association had an issue with their irrigation pipes breaking, and thus had to re-do the irrigation in the parks. The board decided to install half the common areas with normal landscaping and complete the other half with xeriscape landscaping. Some community members accused the board of being "ecological terrorists" for trying to destroy the natural grass and sued the Association. One of the arguments of the case is whether the board had the authority to change the grass in the Common Areas.

Similarly, we have seen two lawsuits this year regarding pickleball courts being added. In these cases, the currently standing sport courts were changed to include pickleball, and the Associations began receiving noise complaints and accusations that they did not have the authority to change the use of the Common Area. These types of cases serve as a reminder to be aware of what specifically you have the authority to do.

Another significant point Curtis discussed was the open records law. In this, Curtis mentioned how if you receive a records request from a homeowner, you must respond to the request, even if you are short on time or feel like there is not proper purpose for the request. The request for records must be answered, but you are not obliged to answer specific questions. It is important not to avoid or ignore these requests when they come in.

In addition, the open meeting law was another topic discussed. Curtis explained that if a majority of the board is discussing Association business, then it is considered an open meeting, and you must send proper notice and follow the guidelines of an open meeting. This also applies to emails. If you send a "reply all" message to the board in discussing Association business, it becomes a discussion and may violate the open meeting law. To combat this issue, Curtis suggested to "bcc" the board when you send the email, that way you are unable to reply to all parties at once.

Another point Curtis made regarding how to avoid costly litigation was to fully read and understand any contract you are involved in. Make sure to clarify the quality of work that is expected, the time frame, and to make sure that indemnification is in your favor. Indemnification issues become very important when you are sued so it is key to make sure that it is sorted out beforehand.

Curtis also made clear that litigation is inevitable in our society. He advised that you can seek to avoid it, but if you need to engage in litigation, try and make it as efficient and effective as possible. Always try and frame any lawsuit that you may encounter as a "who are we trying to protect" situation, instead of a "who are we trying to pick on" situation. This will help in making the judge more sympathetic and understanding towards HOAs. Moreover, if you are sued, carefully evaluate your settlement options and make sure it is a global perspective to determine what would be best for everyone now and in the future. Finally, if it looks like a lawsuit may be coming, or if you are currently engaged in a lawsuit, do not email your fellow board members regarding the lawsuit. Emails are discoverable, even if they are deleted or destroyed. Do not try and delete emails or anything off of your computer, as it can get you in big trouble and end up being very costly.

Latest News:

A warm welcome to our recently appointed At Large Board members, Karen Jones, CMCA Community Manager at Westbrook Village and Michelle Phillips, CMCA Happy Trails Community Manager.

WELCOME, LADIES, we are pleased to be serving with you.

Upcoming Meetings:

- February 3 - Annual Meetings
- March 2 - National Case Law Update
- April 6 - Online Defamation
- May 4 - Legislative Update

