

2014

WVHOA Newsletter

JANUARY 2014



WEST VALLEY HOMEOWNER ASSOCIATIONS

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February's Luncheon Meeting: National HOA Law Update

The next meeting of the West Valley Homeowner Associations will be February 5 - National HOA Law Update. WVHOA Vice President, Curtis Ekmark, will be providing his annual update on HOA cases around the nation and how the outcome of these cases may affect your HOA here in Arizona.

We'll be meeting on February 5 at 11:45 a.m. in the Hopi Room, Chaparral Center in Sun City Grand, 19781 N. Remington Drive in Surprise. Cost for the luncheon is \$10. Lunch will be served from 11:45 to noon and the program will start promptly at noon.

Please make your reservations by contacting Colleen Lombard at calombard@cox.net or 602-795-2363. Reservations must be received by 3:00 p.m. on Friday, January 31.

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.

Benefits of Attending WVHOA Meetings

As part of your membership in WVHOA, you receive the WVHOA Newsletter. While this contains information regarding homeowners associations, you still derive additional benefits by attending the meetings. For example, our speakers usually provide detailed handouts pertaining to our meeting topics. Also, you get to meet other association board members and discuss and share ideas.

We hope to see you on February 5!

Meetings are held in the Hopi 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.

PAVEMENT MAINTENANCE FOR HOAs

Tom McDonald of PMIS, Inc. was WVHOA's guest speaker at the January 8 meeting.

A pavement maintenance program is setting up a plan and budget to keep your pavement at an acceptable condition and extend its life expectancy. This is accomplished for repairing current distresses and setting a budget and plan for future repairs based on the existing condition and distresses.

In order to prepare a proper maintenance schedule, you will need the following:

- a current and accurate distress inventory,
- a detailed scope of work and specifications to attach to a request for bid, which is attached to a comprehensive contract,
- develop future maintenance applications to establish future budget reserves.

A distress inventory is a list of all existing distresses (pot holes, alligator cracking, ruts, depressions, raveling, cracking, etc), complete with measurements. The distress inventory should be current within six months for accurate bidding purposes. It is also recommended to update your distress inventory every one to two years between applications for budget adjustments. Some distresses continue to grow and this growth will affect your reserves and can radically change the scope work.

A scope of work tells the bidding contractors what type of work you are requiring. It lists all the information needed to complete the work tasks.

Specifications tell the bidding contractor how to accomplish the scope of work.

Mr. McDonald stressed that the most important forms of communication between the association and the contractor are the scope of work and the specifications.

A request for bid (RFB) or quote is issued by you to the contractor, not the contractor to you. It tells the contractors what you want accomplished, how they are going to accomplish it and assures all bidding contractors are bidding the same scope of work. Without a concise RFB, you will receive a variety of bids.

A request for bid contains the following information:

- scope of work,
- specifications,
- and all other requirements to complete the project (insurance requirements, work hours, rules and regulations).

The contract is developed when a contractor is selected. It should have the RFB attached, and commits the contractor to complete the project and the HOA to pay the contractor

the agreed price when he completes all work tasks listed in the RFB. Any change orders and addendums are attached to the contract which can increase or reduce the initial contract price.

Use only a contract that has been tried and tested legally, such as AIA, ASCE, or an approved independent contract. DO NOT use a one-page contract supplied by the contractor.

Contracts should contain the scope of work, specifications, name and address of the property, names of owner and management firm (and consultant if one is used), name of contractor and all subs. It should also include the signed RFB, any plans or details, permits and anything that is unique to the project. Consideration should be given to include these additional items: method of payment, terms of payments, work hours and start/completion dates (may involve a penalty clause).

Once the project begins, Mr. McDonald emphasized that the association should always inspect the job, and the inspections should be conducted during the entire project. This will give you and the contractor time to adjust application rates and materials. Check materials during the job for compliance, such as tons of asphalt used vs calculated tons, gallons of sealer used, dilution rate of sealer, cleaning prior to installing, etc.

The inspection should be done with the contractor's knowledge.

Adverse (weather) and unique (islands in cul-de-sacs, unconfined roads, soft spots, etc.) conditions need to be taken into account to successfully complete the job.

Hiring an experienced and knowledgeable consultant can add to the quality of the project and logistics of the job. They can adjust and correct items during construction and can also verify any changes that can occur.

The closing paperwork for the project include certificates of substantial and final completion, which assures the project is completed to the scope of work and specifications, and all waivers from material suppliers, subs and general contractors should be submitted before final payment is issued.

You need to do your due diligence with inspection and observation of the work and the materials being used.

In some cases you may need independent testing. Keep track of the amount of materials being used by collecting weigh tickets, bills of lading, supplier certificates of compliance and other documentation.

You need to obtain certificates of substantial and final completion to assure the tasks listed in the scope of work are accomplished to specifications.

When completed, make sure you have all waivers of liens from all suppliers, subcontractors and the main contractor.

All these documents should be in your possession before you release any payments.

Payments must be issued according to contract. If progress payments are scheduled, then each must be paid as stipulated after the contractor completes the required tasks. These types of

payments are usually issued to cover material costs on large projects that cover a lengthy period of time. Payments cannot be withheld for perceived or legitimate deficiencies.

Notice can be given notifying the contractor of any claims that need to be charged back to the contractor either by demand or arbitration.

Final payment (retention according to contract) can be withheld until punch list items are completed according to contract.

Arizona law states that the contractor needs to be paid according to the contract. Violation of the payment can be grounds for lawsuits for breach of contract. You do have 15 days to notify the contractor in writing if any funds need to be withheld for property damages only. All other claims must go to arbitration which will include costs for arbitration.

2014 LEGISLATIVE SESSION BEGAN JANUARY 13

It looks like it's going to be another tough battle at the State Legislature in 2014. WVHOA members need to continue to be active by putting our legislators on notice that we'll be watching them closely this session. To that end, please contact your legislators to let them know you exist.

Here are some suggested topics to include in your message:

1. Tell them to stop passing laws that hurt homeowners associations and boards of directors.
2. Tell them you heard Curtis Ekmark speak about the potential for proposed legislation that would make it easier to amend the governing documents and that you are asking for their support of any such legislation.
3. Currently, banks have first priority over an association's assessment lien. Given the currently economy, the banks are not foreclosing and so the homes sit vacant with no one paying assessments. Tell them you would support legislation that would flip an association's lien so it has first priority over the bank.

You can find your legislators by clicking on this link: <http://www.azleg.gov/> and then selecting the "How Do I Find My Legislators?" link under the FAQ heading on the left side of the page.

We appreciate your help in this important matter.