

2012

WVHOA Newsletter

MARCH 2012



WEST VALLEY HOMEOWNER ASSOCIATIONS

www.wvhoa.org

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UPCOMING MEETINGS:

April 19 Financials

May 17 Legislative Update

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.

March's Luncheon Meeting: Major Maintenance Issues

The next meeting of the West Valley Homeowner Associations will be March 15 – Major Maintenance Issues facing homeowners associations. Our panel of experts will address painting, landscaping and roofing.

We'll be meeting on March 15 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 5:00 p.m. on Friday, March 9.

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 March 15!

NATIONAL HOA LAW UPDATE

WVHOA Vice President, Curtis Ekmark, provided his annual legal update concerning HOA laws around the country and what these cases mean to Arizona HOAs.

REASONABLENESS

More courts are establishing a reasonableness test for determining whether associations are complying with the governing documents and laws. In some cases, reasonableness is appropriate; however, in quite a few cases, it is very difficult to predict how a court will determine "reasonable."

ENFORCEMENT

In a Georgia case, the Board of Directors waited 24 days after noting that a homeowner was constructing a pool in violation of the documents before it decided to start the process of enforcement. The court ruled in favor of the homeowner because it felt the association waited too long before enforcement and the homeowner incurred great expense with the pool construction. Mr. Ekmark pointed out that it is usually advisable to act upon enforcement quickly, especially when expensive construction is involved.

BANKRUPTCY

Several HOA cases pointed out that association assessments due prior to a homeowner's bankruptcy filing date are wiped out. However, association assessments incurred after a homeowner files bankruptcy are not wiped out and the homeowner is still required to pay them.

KNOWING WHAT COMPRISES THE BALANCE OWED

A Missouri judge ruled in favor of the homeowner when the association could not explain what comprised the owner's beginning balance when a new management company was hired to manage the association. Mr. Ekmark emphasized the importance of knowing and being able to prove what amounts comprise a homeowner's balance.

INSURANCE

In Florida, an association was sued because it was insuring things that the association was not obligated to insure. In this case, the association was accused of wasting the association's money by purchasing insurance coverage that was not needed. Mr. Ekmark stated that this illustrates what can happen when associations do not acquire insurance in compliance with its governing documents - it's very important to review the documents' requirements with the association's insurance agent.

COMMON AREAS

In another Florida case, the association was responsible for maintaining the common areas. The board decided to build a maintenance shed on the common areas and was sued. The judge ruled against the association and indicated that anything that significantly affects the common areas should be put to a vote of the members.

PETS

A North Carolina association had a limitation of two household pets per unit. A court ruled that goats are considered household pets.

In Colorado, a court held that an owner who was using her home for her pet psychology business violated both the business use of the home and the pet policies.

GOVERNING DOCUMENTS

In Massachusetts, an owner constructed a baseball field in his backyard. When the association tried to enforce the CC&Rs and claimed the field was in violation, the homeowner sued stating that the field did not violate the county and city zoning ordinances and therefore did not violate the CC&Rs. The court rejected the owner's argument stating that the CC&Rs are separate and distinct from the zoning ordinances and the owner was not in compliance with the CC&Rs.

CONSTRUCTION DEFECTS

The developer of a Washington condominium conversion was sued for construction defects by the association. The court ruled in favor of the developer because he did not build the condominiums - he only converted them from apartments.

In California, an association sued its contractor for defects. The contractor claimed that the association could not sue according to the contract - it could only go through arbitration. The court ruled in favor of the association stating that it was unreasonable to expect the association to participate in arbitration.

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You'll receive the WVHOA newsletter, meeting announcements and legislative updates quickly by e-mail.

If you would like to receive WVHOA correspondence by e-mail, please send your e-mail address to jeanne@ekmarklaw.com or call her at 480-922-9292.