

2012

WVHOA Newsletter

OCTOBER 2012



WEST VALLEY HOMEOWNER ASSOCIATIONS

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UPCOMING MEETINGS:

November 15 HOA Litigation Issues
February 6 HOA Legal Seminar

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.

OCTOBER'S LUNCHEON MEETING: GUNG-HO TO TOW?

The next meeting of the West Valley Homeowner Associations will be October 18 – Gung-Ho to Tow? Attorney Adrienne Speas will discuss the issues to consider in determining whether your association can tow vehicles.

We'll be meeting on October 18 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, October 12.

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.

FALL IS IN THE AIR!

That means along with lower air temperatures, our WVHOA luncheon meetings will resume in October. We have worked diligently to provide an assortment of luncheon topics that we are sure will please you.

We look forward to meeting with returning and new members for what will prove to be an informative and interesting year. Thank you for your support and continued interest in West Valley Homeowner Associations.

Best regards,

Colleen Lombard, PCAM

2013 MEETING DATES

Please note that WVHOA's meeting dates will change effective January 1, 2013. We will begin meeting the 1st Wednesday of the month. The 2013 meeting dates will be:

January 2
February 6
March 6
April 3
May 1
October 2
November 6

2012 HOA LEGISLATIVE UPDATE

During this year's session, the Legislature passed two new laws pertaining to homeowners associations. They became effective August 2, 2012.

HB 2471 – Conflicting Enactments Regarding Political and Real Estate Signs

This new law reconciles the conflicting enactments relating to real estate and political signs passed last year by the legislature. This new legislation amends both the Planned Community Act (A.R.S. § 33-1808) and the Condominium Act (A.R.S. § 33-1261).

Political Signs (Planned Communities Only). Under the new law, an association may prohibit the display of political signs earlier than seventy-one (71) days before the day of an election and later than three (3) days after an election day. Also, if the city, town or county in which the property is located does not regulate the size and number of political signs on residential property, an association may not limit the number of political signs, except that the maximum aggregate total dimensions of all political signs on a member's property shall not exceed nine (9) square feet.

Political Signs (Planned Communities and Condominiums). The new law clarifies that associations may not require political signs to be commercially produced or professionally manufactured.

Real Estate Signs (Planned Communities and Condominiums). The new law further clarifies that, for both condominiums and planned communities, an association may not prohibit or charge a fee for the use of, placement of, or the indoor or outdoor display of a for sale, for rent or for lease sign and a sign rider by an association member on that member's property in any combination. Also, an association may not prohibit real estate signs in any other way than as is specifically authorized by A.R.S. § 33-1261 (for condominiums) or A.R.S. § 33-1808 (for planned communities). However, an association may prohibit the use of real estate signs that are not commercially produced. Finally, please note that the new law retains the 6 month lien forfeiture penalty for any association or managing agent that violates real estate sign law.

SB 1476 – Transfer Fees; Architectural Committee Composition, Security Deposits, Construction Review Process

While the portions of the new law pertaining to transfer fees will apply to both condominiums (A.R.S. § 33-1260) and planned communities (A.R.S. § 33-1806), the remainder of the law applies only to planned communities (adds A.R.S. § 33-1817). This new law contains the following provisions:

1. With respect to both condominiums and planned communities, the new law clarifies that an association may not charge a fee for resale disclosure or other administrative services related to the transfer to an escrow agent.
2. With respect to planned communities, SB 1476 sets forth new guidelines for architectural committee composition, architectural security deposits, and the construction review process. These guidelines will apply regardless of the provisions in an association's governing documents. The specific requirements are as follows:

Committee Composition:

The members of any design review committee or architectural committee must include at least one member of the association's Board of Directors, who must be the committee's chairperson.

Security Deposits:

- For new construction of the main residence or for rebuilds of the main residence, if an association has: (i) enacted architectural guidelines; (ii) the governing documents allow the association to charge a security deposit; and (iii) if a member is required to provide a security deposit to secure completion of their construction project in compliance with approved plans, then:
 - The deposit must be placed into a trust account.
 - The cost of the trust account must be equally shared between the member and the association.
 - Any interest on the deposit shall become part of the deposit.
 - If the construction project is abandoned, then the association's Board may determine the appropriate use of the deposit. Abandonment is likely best determined by waiting the 180 days detailed below for the construction review process. Any approval also should state the start and end date to the project to help show abandonment.
- While these provisions only strictly apply to the types of projects listed, the best practice in some cases may be to enact a uniform policy and handle all security deposits in this manner going forward. We suggest you contact legal counsel to discuss your specific design review process.

Construction Review Process:

- For new construction of the main residence or for rebuilds of the main residence:
 - The association or the design review committee must hold a final design approval meeting for the purpose of approving the plans, and the member or their agent must be allowed to attend this meeting.
 - If the plans are approved, then the association or design review committee must provide written acknowledgement that the approved plans, along with any approved amendments to the plans, are in compliance with all applicable rules and guidelines, and that the refund of the security deposit requires completion of construction in accordance with the approved plans.
 - The association must conduct at least two on-site formal reviews during construction to determine compliance with the approved plans. The member or their representative must be allowed to attend these reviews.
 - The association must issue a written report specifying any deficiencies, violations or unapproved variations from the approved plans within five business days of the formal review.
 - Within 30 days after the second formal review, the association must provide the member the written report specifying any deficiencies, violations or unapproved variations from the approved plans. If the written report does not specify any of such items, then the association shall promptly release the security deposit to the member.
 - Note:** This last provision is poorly drafted and does not mesh well with the prior requirement to hold at least two on-site reviews and issue reports for those reviews within five business days. Therefore, we suggest that the second on-site review be held as close to the end of a construction project as possible, with the report being issued within five business days to help ensure compliance.
 - If there are identified problems, then the association may hold the security deposit, if any, for 180 days or until receipt of a subsequent report of construction compliance, whichever is less.

Do we have your e-mail address?

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.