



SCOTTSDALE COUNCIL OF HOMEOWNERS ASSOCIATIONS
SCOHA NEWSLETTER

IN OUR 38th YEAR

MARCH 2012

*non-profit corporation organized
under the laws of Arizona*

Making Board Meetings Better

SCOHA ANNOUNCEMENTS

FUTURE MEETING DATES AND TOPICS:

Mar. 27 Board Meetings
Apr. 24 To Be Announced
May 22 Legislative Update

SCOHA's WEB SITE:

Don't forget to check our web site!

SCOHA's web site address is
www.scottsdalehoa.com.

You can enter the member section by typing hoamember for the password.

Several changes to Arizona law over the past few years have added more requirements to noticing and holding board meetings. Attorney Lynn Krupnik will discuss these changes and how to make board meetings better at SCOHA's next meeting on Tuesday, March 27 at 11:45.

Ms. Krupnik is an attorney with Ekmark & Ekmark where she practices exclusively in the area of community association law and has assisted many associations with fair housing issues. She graduated first in her class from Arizona State University College of Law, where she was named outstanding law school graduate. Ms. Krupnik is a member of the College of Community Association Lawyers, has taught as an adjunct professor on legal issues and has been involved in drafting and reviewing proposed legislation for community associations.

We look forward to seeing you on March 27. **Reminder:** the lunch begins at 11:45 a.m. Please make your reservations by calling Nancy Fagan at 480-945-7098 or e-mailing Jeanne Malys at jeanne@ekmarklaw.com. The deadline for reservations is noon on Friday, March 23.

**SCOHA
DATA TO
REMEMBER:**

**Tuesday,
March
27th
11:45 a.m.**

**Lakeview Room
McCormick Ranch Golf
Club
7505 McCormick Pkwy**

**\$15.00
Reservations
Required**

**Call Nancy Fagan at
480-945-7098 by
Friday, March 23**

480-922-9292

jeanne@ekmarklaw.com • www.scottsdalehoa.com

Annual Update on HOA Cases Around the Country

Summary of the February 21, 2012 Meeting

SCOHA 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.

SCOHA Board Members Re-Elected

Thank you for submitting your ballots for the SCOHA Board election. All seven board members were re-elected.

The April Newsletter will publish the board's contact information.

Senator Michele Reagan Supports HOAs

Thanks to those of you who have been contacting your legislators regarding the harmful HOA bills per our e-mailed Action Alerts.

SCOHA President Curtis Ekmark met with Senator Michele Reagan recently, and she specifically mentioned she had received calls and e-mails from SCOHA members. She assured Curtis that she would vote no on bills that are harmful to HOAs.

Curtis and Senator Reagan had a very good meeting. As a former HOA Board President, Senator Reagan understands HOA issues. We are fortunate to have Senator Reagan's support.

Do you receive the SCOHA meeting announcements, newsletters and legislative Action Alerts by e-mail?

If not, e-mail Jeanne Malys, SCOHA Recording Secretary, at jeanne@ekmarklaw.com and let her know you would like to be added to the e-mailing list.

A bonus for being on the e-mailing list is that you will receive an HOA Tip by e-mail on a regular basis.
