



SCOTTSDALE COUNCIL OF HOMEOWNERS ASSOCIATIONS
SCOHA NEWSLETTER

IN OUR 38th YEAR

OCTOBER 2012

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

Scottsdale's Mayor to Speak at October 23 Luncheon

We're looking forward to our next meeting: Mayor Jim Lane will be SCOHA's speaker on October 23. He'll provide an update on all things Scottsdale, and you'll have an opportunity to ask him questions about our city.

Mayor W. J. "Jim" Lane served for four years on the Scottsdale City Council beginning in June 2004, and began his first term as Mayor in January 2009.

Mayor Lane currently represents the city as a member of the Flinn Foundation Arizona Bioscience Roadmap Steering Committee. He is the immediate past president and a member of the Arizona Municipal Water Users Association, a member of the Executive Committee of the League of Arizona Cities and Towns, and a member of the Maricopa Association of Governments Executive Committee, Regional Council, Chair of the Transportation Policy Committee, and Economic Development Committee. Mayor Lane also serves on the Scottsdale Leadership Advisory Board.

Mayor Lane has owned and operated businesses in construction, mining, computer technology, telecommunications and regional aviation. He currently owns the financial consulting company of Chatham Hill Group LLC. Mayor Lane is also an Adjunct Professor of Business and Accounting at Scottsdale Community College.

We're offering a 2-for-1 special for this lunch meeting. Bring a friend and you can both attend for the price of one for \$15!

We look forward to seeing you on October 23. Please make your reservations by calling Nancy Fagan at 480-945-7098. The deadline for reservations is noon on Friday, October 19.

SCOHA ANNOUNCEMENTS

FUTURE MEETING DATES AND TOPICS:

Nov. 27 Litigation Issues
Jan. 22 HOA Insurance Claims
Feb. 26 Annual Legal Seminar

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.

**SCOHA
DATA TO
REMEMBER:**

**Tuesday,
Oct.
23rd
11:45 a.m.**

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

**\$15.00
Reservations
Required**

**Call Nancy Fagan at
480-945-7098 by
Fri. Oct. 19th**

480-922-9292

jeanne@ekmarklaw.com • www.scottsdalehoa.com

Trends in HOA Collections

Summary of the September 25, 2012 Meeting

SCOHA's guest speaker was Kathryn Battock, attorney with Ekmark & Ekmark, LLC.

Proactive Collections:

- Review your bad debt allocation in the association's budget. Based on the past few years' history, you may want to increase that allocation.
- Review your policy of settlement with owners. Consider taking action earlier when the debt is smaller.
- Evaluate each payment problem on a case-by-case basis to determine how quickly to move forward with collections.
- Review the last ten years' history of delinquencies within your association to determine an average delinquency rate.

Possible Collections Remedies:

- It is generally not recommended to use water restrictions as a collections remedy. An association's documents may allow water restrictions, but they may also have specific restrictions with which to use it. The association may not know what is going on inside the home and it may present some dangerous conditions. Ms. Battock's recommendation is if an association uses this as a remedy, it should still allow a nominal flow of water into the home.
- In order to use gate access restriction as a remedy, it is important to check your

governing documents first to ensure the association is allowed to restrict access. If an unmanned gate is the only way into the community, the association cannot completely restrict access because the owner has to be allowed to gain access to his home. However, if the association uses a manned guard gate, it may be able to make it more inconvenient for the owner to gain access by requiring him to check in with the guard each time he enters the community.

- After obtaining a judgment for delinquent assessments, be sure to properly record it with the county recorder's office. This will put the public on notice that the association has a claim against the owner's property.
- Associations may garnish the rent collected by delinquent absentee owners; however, the association must first obtain a judgment before proceeding with any type of garnishment.

Bankruptcy and Foreclosure:

- It is generally not recommended that an association file a motion for relief from stay if a delinquent owner files for bankruptcy because it can be an expensive process to do so. If an owner files Chapter 13 bankruptcy, all the secured debt is still included in the bankruptcy and the owner has to pay the association in full to complete the bankruptcy case. If an owner files Chapter 7 bankruptcy, it generally takes four to six months to resolve and
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it may be more advantageous for the association to wait for that bankruptcy to be completed.

- An association's assessments are automatically secured by the owners' property per state statute; therefore, an association is not required to record a notice of lien. However, if the association wants to record a notice of lien with the recorder's office, it may do so.
- For units that are acquired through non-judicial foreclosures, the association must treat them like it would any owner.
- Get a title report before filing a foreclosure action to check on any liens that may take priority over the association's lien (the first deed of trust, for instance).
- For short sales, request a copy of the HUD-1 statement to check on the amounts of fees intending to go to the realtors and being charged for other services. If other entities are not getting a reduction in their fees, the association may consider making a demand that these other fees need to be reduced before the association will consider reducing the delinquent assessments.

Know of an Association That Could Benefit From Membership in SCOHA?

**If so, please contact Jeanne Malys at 480-922-9292
or jeanne@ekmarklaw.com.**

We always invite potential members to come check us out!



Dear SCOHA Members:

It is crucial that all SCOHA members contribute to a legislative action fund in order to protect associations from harmful legislation. We anticipate a difficult challenge again this year at the Arizona legislature and will have no chance of protecting associations and the people who live in them unless we hire a lobbyist. We cannot, however, hire a quality lobbyist without the financial assistance of our membership.

During the past few years, we have seen things change for the worse down at the legislature. Over the years, the legislature has passed new laws pertaining to community associations. We expect similar battles this year.

The bottom line is that we need a lobbyist in order to make sure that any new laws regarding associations are good for associations and the people who live in them. We cannot hire a good lobbyist without a substantial financial commitment from our members. To that end, we are asking that every association make the best possible donation that it can. At a minimum, we are asking for \$1.00 per home from every association. Please make your check payable to SCOHA and mail it to 6720 N. Scottsdale Road, Suite 261, Scottsdale, Arizona 85253.

This is certainly a worthwhile investment when you think of the risks associated with harmful legislation. It is a small price to pay in order to ensure that we have laws that will make our communities better rather than worse.

Thank you for your consideration with respect to this important issue. As always, please do not hesitate to contact me with any questions.

Sincerely,

Curtis S. Ekmark

Curtis S. Ekmark

President
