



SCOTTSDALE COUNCIL OF HOMEOWNERS ASSOCIATIONS

# SCOHA NEWSLETTER

IN OUR 43<sup>rd</sup> YEAR

January 2017

non-profit corporation organized  
under the laws of Arizona

## Rule Enforcement - January 24

Happy New Year SCOHA Members! Our next luncheon meeting will be at **11:45 a.m. on January 24, 2017.**

The topic for the January luncheon will be **Rule Enforcement.**

This panel-discussion will feature SCOHA board members Curtis Ekmark and Kathy Knecht, and manager Katie Barns. They will cover common questions about rule enforcement, you will not want to miss out!

We look forward to seeing you on January 24! Please Call Andrea Moscarello at 480-427-2884 or send an e-mail to **andream@carpenterhazlewood.com** by 2:00 p.m. on Friday, January 20 to make your reservation for the January 24 meeting.

### SCOHA ANNOUNCEMENTS

#### Upcoming meetings:

February 28  
March 28  
April 25  
May 23

WISHING EVERYONE A HAPPY  
2017!

[www.scottsdalehoa.com](http://www.scottsdalehoa.com)

SCOHA  
DATA TO  
REMEMBER:

Tuesday,  
January  
24, 2017 at  
11:45 a.m.

Lakeview Room  
McCormick Ranch  
Golf Club  
7505 McCormick Pkwy

\$15.00  
Reservations  
Required

Call Andrea Moscarello  
at 480-427-2884 by  
Friday, January 20



480-427-2884

[andream@carpenterhazlewood.com](mailto:andream@carpenterhazlewood.com)

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# Litigation Issues

## Summary of the November 2016 Meeting

At the November 2016 meeting, our speaker was Curtis Ekmark. He spoke to the group about Litigation Issues and the things he has learned over the past year.

Curtis began his presentation by detailing his transition from managing an office full of attorneys and staff to joining forces with Carpenter Hazlewood Delgado & Bolen. He said the transition has been going well and that, contrary to popular belief, he is not sick or dying. In fact, he has been able to slow down and focus on the parts of practicing law he enjoys most, as well as traveling and enjoying more time with family.

Curtis thought a quote by basketball coach John Wooden applied to his newfound legal world. Wooden said "It's what you learn after you know it all that counts". Over this past year, Curtis has learned to keep evolving and learning, and that being able to practice more in litigation has made him a stronger attorney.

Another thing Curtis has realized is the concept to "speak softly and carry a big stick; you will go far". If you as a board are acting in a reasonable manner, things will go more smoothly for you and your community. This way, you are able to stand in front of a judge, should a situation arise, and explain how your decisions were reasonable and good for the community. It is important to remember to slow down and be careful in any decision making the board is doing. And make sure that your insurance covers fair housing claims - just in case!

Curtis also explained the importance of not doing the "crime" if you can't do the time. Within this point, he expressed the fact that the board needs to make sure that they are compliant with all rules. For example, it is important to follow the open meeting laws because this is something that could really come back to bite you if you do not follow them. Similarly, it is best to focus as a board on the process and not the result. If you ensure that you are playing by the book with the certain processes, you should not have any problems should issues arise. One example of this was a case in which a disabled man in a golf community requested a handicap accessible golf cart, but wanted one for each course within the community. The board was able to follow processes they had in place to sit down with the man and discuss the options and pricing and come to a conclusion that worked for each party. In another example from Texas, the board of a community tried to take action against a resident, and the resident's defense was that the board did not follow the appropriate methods in their election, and that the board members were not properly elected. The resident was successful in this defense because the board did not appropriately follow the guidelines that they had set in place.

Next, Curtis described how on our boards, we should try and be the superhero or wear the white hat. We need to focus on who we are helping and how what we are doing as a board is helping the community. For this, Curtis explained a case he was working on this year. The issue was that a condominium building downtown was built and a billboard was installed alongside one of the walls on the condo building before the new board obtained control. The new board of the condo tried to request that the billboard company remove the sign, as it was on their common elements, however the company sued the Association, citing a very particular phrase in the Condominium Act, and saying they wanted to leave the billboard up long-term. After an intense battle in the courtroom, the judge eventually decided that it was not fair to the people living in the condo who had the billboard installed without allowing them to vote on it. The billboard company's actions were not helpful to the community.

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Another example that Curtis discussed stemmed from a Ben Stiller movie, "Meet the Parents". In this particular scene, a flight attendant will not let Stiller's character board the plane before all boarding groups are called, but the airport is completely empty and he is the only one waiting to board. On this example, Curtis emphasized that it is important to not over-do it as a board. Sometimes it is just not worth enforcing every single rule to a tee if it makes sense to ease up on the rule, as long as it is not harming anyone.

Curtis also discussed the point of having proof of your meetings. Young kids often request pictures to show proof of their fun times, and for boards, it is important to have records of your meetings through taking down minutes. Curtis explained that often times, board will say that they discussed certain decisions in the meeting, but when he requests the meeting minutes to show that they discussed it, they explain that they do not have them, which is especially problematic in litigation. For minutes, the board just needs to record *what happened*, not *what was said* word for word, so it is an easy step that is important to follow.

The next thing that Curtis explained is that you cannot put toothpaste back in the tube. Similar to the meeting minutes situation, it is hard to make up for things that are already done that could hurt the board. Do not check with your attorneys/insurance companies/ etc. AFTER you have done something and an issue has come up. It is always better to plan ahead and be prepared. Similarly, he also discussed how often he sees things that are "too little, too late". If the board waits too long to read their insurance policy or read the contract with the vendors, it could be detrimental. Do not wait until there is a problem to make sure you read and understand everything.

Curtis also discussed his time at the Wisconsin Supreme Court. He said that within the walls of the Supreme Court building it was super contentious, but he appreciated their attitudes. They always said they could fight and disagree as much as they wanted inside the building, but once they are in public, they need to keep it civil, less they lose face with the community. The same concept applies to the boards in our communities, it is important to be civil so the community does not lose faith in the board.

Next, Curtis discussed the idea of being "old-school". He says he tells his younger associate attorney's that technology is good and helps us communicate, but it they should not over looked the quality of picking up the phone and calling clients to communicate with them, or meeting up with them face to face. It is important to be clear in communicating, but it also creates a deeper connection with people when you can see or hear them.

Finally, Curtis talked about his son Andrew and his college experience at Stanford. Curtis said that everyone was so happy to be there on the college campus because it is such an accomplishment and not everyone can do it. Curtis says that it is important to have a good attitude while serving on the boards as well, and do not overlook the importance of trying to recruit good, quality people to the communities boards. If you recruit the best your community has to offer, you will have a great board with great attitudes who want to be there.

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# 2017 Legislative Session

It looks like it's going to be another battle at the State Legislature in 2017. SCOHA 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.

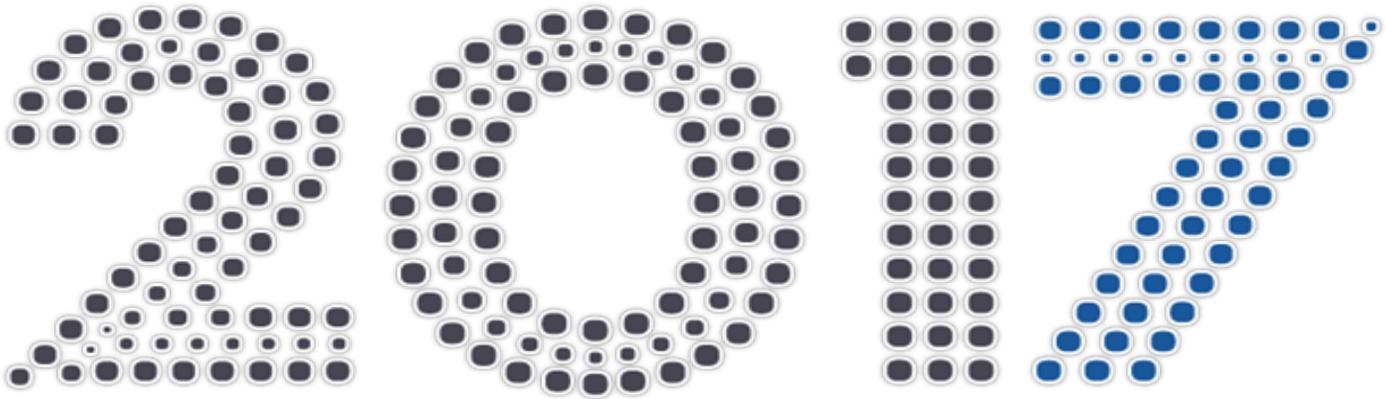
Here are some suggested topics to include in your message:

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.

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!



## **2017 DUES PAYMENTS:**

The 2017 SCOHA dues will be mailed and emailed out soon. Please note that your 2017 dues must be paid by the February 28 legal seminar in order to vote for the SCOHA Board of Directors and to attend the legal seminar. If you have not received your dues packet, please call Andrea Moscarello at 480-427-2884 or e-mail [andream@carpenterhazlewood.com](mailto:andream@carpenterhazlewood.com).

## **MEMBER UPDATES:**

Included with your dues packets are member update forms. Please be sure to send us your updates so we can ensure that the right people are receiving the newsletters and e-mail notifications.

## **LEGAL NOTICE:**

The February 28, 2017 luncheon meeting of SCOHA is designated as the Annual Meeting of the Scottsdale Council of Homeowners Associations, a nonprofit Arizona corporation. This January issue of the Newsletter serves as the advance and written legal notice of this Annual Meeting. Please note that a member association's 2017 dues must be paid in full in order to attend the Annual Meeting and legal seminar.

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