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SCOTTSDALE COUNCIL OF HOMEOWNERS ASSOCIATIONS
SCOHA NEWSLETTER

IN OUR 39th YEAR

SEPTEMBER 2013

Scottsdale's City Manager to be Speaker at September 24 Meeting

SCOHA ANNOUNCEMENTS

FUTURE MEETING DATES AND TOPICS:

Oct. 22 Pavement Maintenance
Nov. 19 Litigation Issues

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.

We're looking forward to our September 24 speaker: Scottsdale City Manager Fritz Behring. He'll update us on city projects and his direction for the future of Scottsdale.

The Scottsdale City Council voted unanimously May 22, 2013 to hire Mr. Behring as City Manager effective July 1, 2013. Mr. Behring has more than 20 years of experience in government administration. He has previously served as city manager of Central City, Nebraska, Fort Meade, Florida and Deltona, Florida and county manager of Clay County, Florida and Pinal County, Arizona. Mr. Behring holds bachelor's and master's degrees from the University of South Dakota.

THIS IS A 2-FOR-1 MEETING: TWO OF YOU CAN ATTEND FOR THE PRICE OF ONE!

Please make your reservations as soon as possible, and please note that we must have a reservation to guarantee a lunch and a seat at the meeting.

Call Nancy Fagan at 480-945-7098 by 5:00 p.m. on Friday, September 20 for reservations or e-mail your reservation to jeanne@ekmarklaw.com.

**SCOHA
DATA TO
REMEMBER:**

**Tuesday,
Sept.
24th
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, Sept. 20**

480-922-9292

jeanne@ekmarklaw.com • www.scottsdalehoa.com

2013 HOA Legislative Update

Summary of the May 28, 2013 Meeting

The Legislature passed three new laws pertaining to homeowners associations. They will become effective September 13, 2013.

SB 1278 – Planned Communities: Public Roadways

This new law adds A.R.S. § 33-1818. It prohibits a planned community, after the period of declarant control, from exercising authority over any roadway for which ownership has been dedicated to or is otherwise held by a governmental entity. This new law only applies to planned communities for which the declaration is recorded after December 31, 2014.

SB 1302 – Planned Communities: Design Review Process

This new law applies to planned communities.

The new law clarifies that the complicated design review process for the construction of main residential structures adopted last year (A.R.S. § 33-1817) does not apply unless a security deposit is required.

SB 1454 – “HOA Omnibus”

The legislation contained in this bill will affect planned communities and condominiums in a number of ways. For condominiums, the new law amends A.R.S. §§ 33-1250, 33-1261 and adds A.R.S. § 33-1260.01. For planned communities, the new law amends A.R.S. § 33-1812 and adds A.R.S. §§ 9-461.15, 11-810, and 33-1806.01. A.R.S. § 41-2198.01 is amended for condominiums and planned communities relating to the ALJ process.

Specifically, the bill contains the following provisions related to community associations:

Planned Communities; Local Governments; Zoning (planned communities only)

- Asserts that a developer cannot be penalized because a real estate subdivision or development does not constitute or include a planned community.
- Effective September 13, 2013, a city or county may only require a developer to create a planned community to maintain private, common or community owned improvements.
- States that these provisions do not prohibit the establishment or authority of any planned community otherwise established pursuant to statute or limit a developer or association from requesting and entering into a maintenance agreement with a municipality or county.

Management Services; Lawful Actions (planned communities and condominiums)

- Specifies that association employees and the officers and employees of a management company may act on behalf of the association and its board by:
 - o Recording a notice of lien or notice of claim of lien in collection actions if all of the following apply:
 - The person is specifically authorized in writing by the association to record notices of lien or notices of claim of lien on behalf of the association and the person is a certified legal document preparer;
 - The recordation of notices of lien or notices of claim of lien is not the person’s primary duty with respect to

the association and is a secondary or incidental duty to the association;

The association is the original party to the lien and the lien right is not the result of an assignment of rights; and

The lien right exists by operation of law pursuant to section 33-1256 (for condominiums) or 33-1807 (for planned communities) and is not the result of obtaining a final judgment in an action to which the association is a party.

o Appearing on behalf of the association in a small claims action if all of the following apply:

The person is specifically authorized in writing by the association to appear on behalf of the association;

Appearing in small claims actions is not the person's primary duty with respect to the association and is a secondary or incidental duty to the association; and

The association is an original party to the small claims action.

Voting; Alternative Forms of Delivery (planned communities and condominiums)

• Allows an association to provide for voting by use of electronic mail and facsimile delivery and states that votes cast by the use of electronic mail and facsimile count towards a quorum.

• Still requires associations to provide for voting in person and by absentee ballot.

Office of Administrative Hearings; Filing Fee; Refund (planned communities and condominiums)

• Requires the filing fee related to an administrative law judge (ALJ) claim to be

refunded to the petitioner upon dismissal of a petition at the request of the petitioner before a hearing is scheduled or by stipulation of the parties before a hearing is scheduled.

Rental Property (planned communities and condominiums)

• A unit or property owner may use their unit or property as a rental property unless prohibited in the declaration and shall use it in accordance with the declaration's rental time period restrictions.

• Allows a unit or property owner, through a written designation, to authorize a third party to act as their agent with respect to all association matters regarding the rental property.

o Directs the unit or property owner to provide the association with the written designation, which authorizes the association to conduct all business relating to the rental property through the designated agent.

o Specifies that notice by the Association to the designated agent regarding a rental property serves as notice to the owner.

• Prohibits an association from requiring an owner or designated agent to disclose any information regarding a tenant, other than the following:

o Name and contact information for any adults occupying the unit or property.

o Time period of the lease including the beginning and ending dates of the tenancy.

o A description and license plate number of the tenants' vehicles.

o If the unit or property is in an age restricted community, a government issued identification that bears a photograph and date of birth.

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- Permits an association to charge no more than \$25 as an administrative fee for each new tenancy for a unit or property, but not for the renewal of an existing lease.
 - o Requires the \$25 fee to be paid within 15 days of the post marked request.
 - Prohibits an association from the following:
 - o Assessing or levying any other fee or fine or otherwise impose a requirement on a rental property that is different than on an owner-occupied unit or property in the association.
 - o Requiring a unit or property owner to provide them with a copy of a rental application, credit report, lease agreement, rental contract or any other personal information.
 - o Requiring a tenant to sign a waiver or other document limiting their civil rights to due process as a condition of their occupancy of a rental property.
 - o Restricting or prohibiting a unit owner from serving on the board of directors based on the owner not being an occupant of the unit.
 - o Imposing any fee, penalty, assessment or other charge of more than \$15 for incomplete or late information.
 - Determines any attempt by an association to impose a fee, penalty, assessment or other charge not authorized by statute to void the fee authorized by statute and the requirement to provide information to the association.
 - Allows an association to acquire a credit report on a person in an attempt to collect a debt.

Political Signs in Condominiums (condominiums)

- Allows a unit owner to display political signs, indoors or outdoors, on that unit owner's property, on common element ground adjacent to the unit, or limited common elements for that unit, except:
 - o An association may prohibit the display of political signs earlier than 71 days before or later than 3 days after an election.
 - o An association may regulate the size and number of political signs that may be placed a unit owner's property, common element ground, or a limited common element for that unit, if the association's regulations are no more restrictive than any applicable city or county ordinance that regulates the size and number of political signs on residential property.
 - o If there are no applicable governmental regulations, the association may not limit the number of political signs, except that the maximum aggregate total dimensions of all signs on the unit owner's property shall not exceed nine square feet.
 - Defines "Political Sign" as a sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, questions or proposition or the recall of a public officer.
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