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FRONT PAGE STORY

<http://www.yourwestvalley.com/news/case-6961-homeowners-rcsc.html>

# Viewpoint homeowners win case against RCSC

by Jeff Dempsey, Daily News-Sun

The members of the Viewpoint Lake Homeowners Association have won their case against the Recreation Centers of Sun City.

Superior Court Judge Edward O. Burke has ruled the RCSC cannot raise the annual assessment charged to Viewpoint Lake homeowners by more than the amount of the Consumer Price Index, nor can the association stop maintaining the lake. "We are glad to have these issues behind us, and we look forward to working with RCSC in the future to ensure everyone in Sun City can continue to use and enjoy all the Lake has to offer," said Nancy Mangone, the attorney who represented the homeowners.

Six homeowners filed a class action lawsuit in February after the RCSC said it would raise the annual assessment on lakeside property owners.

The homeowners maintained that the contracts were valid and long-standing and should be honored. RCSC General Manager Jan Ek said in explaining the decision to ignore the agreement that the RCSC believed it was unenforceable.

In deciding the case late last week, Burke disagreed, finding that the RCSC is required to comply with the terms of two agreements: a 1975 agreement, which provided that RCSC, as the owner of the lake, is required to pay 50 percent of the costs off the top; and a 1979 settlement agreement, which provided a fixed formula for allocating water usage and maintenance costs for Viewpoint Lake among the lakefront property owners. The Court also ruled that the 1979 agreement is a "fair and

equitable" settlement of a prior dispute that "has been honored for the past 30 years."

The RCSC argued that the homeowners association was not a legally constituted organization when the agreement was reached and was therefore unable to lawfully execute the terms of the agreement. Burke wrote in his decision, "One who deals with an association as a legal entity capable of transacting business and who thus receives money or value from that organization is estopped from denying its existence or its right to contract."

Estoppel is a legal doctrine preventing one party from making an allegation or a denial that contradicts what that party has previously stated as the truth. In this case, the RCSC honored an agreement and benefited from it for 30 years and cannot now argue that the agreement was unlawful, the judge decided.

As for where the RCSC goes from here, be it compliance or an appeal of the decision, that will not be known until the summer break is over.

"Since board members are on their summer recess, no action regarding the Viewpoint Lake ruling will be made until they return," said RCSC spokesman Tim Gallen.

The board returns from recess for a regular meeting at 9 a.m. Aug. 27 at the Sundial Auditorium. A director-member exchange meeting will take place the week prior, at 9 a.m. Aug. 17 in Lakeview Social Hall No. 3.

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