

## SCHOA not likely affected by ruling

Judge's order favors Sun City West homeowner

By Rusty Bradshaw

Independent Newspapers

While a court ruling upholding a homeowner's claim that he does not have to pay a PORA fine for a CC& R violation, Sun City HOA officials are cautiously optimistic they will not be affected.

An association member sued PORA in 2012, claiming the agency had no authority to levy a CC& R fine. The case was argued this year, and a judge agreed. Neither party appealed [Maricopa County Superior Court Judge Randall H. Warner's Aug. 29 ruling](#), and the period for appeals has expired, meaning the ruling stands, according to Matthew A. Klopp, the attorney represent-

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ing the homeowner, Donald Holmes.

Recreation Centers of Sun City West and PORA officials believe the ruling means they must alter the communitywide CC& R compliance enforcement system, RCSCW General Manager Mike Whiting told the association Governing Board at its Dec. 2 weekly operations meeting.

But Jim Stark, Sun City Home Owners Association board president, believes the Sun City agency will survive such a challenge.

"I am a bit alarmed, but we will be watching this closely," he said. "Four years ago our attorneys told us we could not assess fines and suggested we recover administrative costs instead."

SCHOA officials calculated the cost of sending notifications, time and gasoline for compliance officers per violation and other costs and established a set administrative cost. That is assessed homeowners who violate CC& Rs.

SCHOA and PORA were set up by Developer Del Webb to enforce community CC& Rs.

"It is a contractual agreement," Mr. Stark said. "Every owner signs that agreement saying they will abide by the CC& Rs."

While property owners do not sign a contract with SCHOA, a voluntary membership organization, they do sign a facilities agreement with Recreation Centers of Sun City. The SCHOA CC& Rs tie the RCSC facilities agreement to SCHOA's enforcement role.

In addition, Mr. Stark believes the ruling in favor of the Sun City West homeowner, Donald Holmes, is not precedent-setting. "I don't know if one judge with a minute order will stand as a precedent over time," he said.

Mr. Stark also believes SCHOA's enforcement methods would not provoke homeowners to oppose its enforcement authority.

"We are so gentle in our enforcement that I think we would have a good stance," he said. "We don't levy costs until way down the road."

Resident Anne Randall Stewart does not agree.

"If PORA does not have the power, then SCHOA most likely does not either," Mrs.

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Stewart stated on the Sun City Formula Registry website, [www.annereport.com](http://www.annereport.com). Mrs. Stewart encourages residents who believe they are victims of illegal fine enforcement by SCHOA to contact Mr. Holmes's attorney, Matthew Klopp of Phoenix.

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No decisions were made on any changes on either of the two options offered by Mr. Whiting to the RCSCW board, but they are expected to address the issue again this week.

One possibility would be for rec centers officials to retain PORA personnel for the task of responding to compliance issues. PORA presently uses its executive director, one full-time staff member and two part-time paid individuals to respond to

complaints or observed violations, according to PORA Executive Director Connie Scott. PORA uses office space within its headquarters, 13815 W. Camino del Sol, to process the cases.

A second option would be to move the entire operation to the rec centers, have RCSCW officials hire staff and find space. But Mr. Whiting noted that plan carries potential problems regarding the latter.

"We don't have office space," he said.

Investigating CC& R compliance issues is not totally unfamiliar to the RCSCW. The few cases that cannot be resolved through the normal process begun by PORA eventually make their way to the rec centers and their attorneys. Officials with both organizations said that amounts to less than 10 percent of the cases.

A factor involved in the ultimate decision is cost.

Another option would be for RCSCW officials to hire an outside management agency. That also would involve additional costs.

"Law firms do this for communities," noted Director Kay Williams.

*Editor's Note: News Editor Jeff Grant also contributed to this story.*

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