

PCA bill gets committee OK Appears to be headed for House floor fight

By Rusty Bradshaw

INDEPENDENT NEWSMEDIA

Recreation Centers of Sun City officials continue to call for residents to express their support of a bill making its way through the Arizona Legislature, but some disagree with their arguments.

In an email blast to members, RCSC officials called for them to send emails to Arizona House Government Committee members to request they pass the bill to the next step. The call drew success as more than 1,100 messages were sent, according to Jerry DeLano, RCSC board president. The committee Feb. 7 passed House Bill 2374 on to the Rules Committee by a 6-5 vote.

RCSC officials maintain HB 2374 would, if passed into law, clarify that RCSC is not subject to Arizona Revised Statutes Title 33 Chapter 16, the Planned Communities Act. District 21 Rep. Kevin Payne sponsored the bill on the behest of RCSC officials after **Arizona Superior Court Judge Roger E. Brodman ruled Sept. 4, 2018 that Recreation Centers of Sun City is subject to the Arizona Planned Communities Act, ARS 33-1801.** However, the judge ruled plaintiffs did not satisfy all requirements of a class action lawsuit, and that portion of the lawsuit is now in the discovery phase, according to Sun City resident **Anne Randall Stewart**, one of the lawsuit plaintiffs.

“We will fight this in the Rules Committee and on the floor of the House, if it gets that far,” she said Feb. 11.

In their email blast to members, RCSC officials claim operating under the

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Planned Communities Act would jeopardize Sun City’s age-restricted character. However,

resident Ben Roloff, a former Sun City Home Owners Association board member, disputed that.

“RCSC is not the age overlay caretaker,” he told the board during the Feb. 11 member/director exchange meeting. “The age overlay is SCHOA’s job (to protect), and I think they are doing a great job of it.”

RCSC officials further claim operating under the Planned Communities Act would force RCSC officials to grant recreational facilities access to owners younger than 55 and living outside the community. But Mr. Roloff said RCSC can set policies that determine who can use the facilities. The Planned Communities Act includes wording that confirms that in a section covering rentals. “If the planned community is an age restricted community, the member, the member’s agent or the tenant shall show a government issued identification that bears a photograph and that confirms that the tenant meets the community’s age restrictions or requirements,” as stated in the act.

According to RCSC officials, this provision is actually less restrictive than what RCSC currently requires — not only proof of age but proof of residency in the form of a lease or owner affidavit documents.

RCSC documents do require its members to meet the 55-plus age restrictions. However, not all Sun City property owners are members. According to corporate documents, “A Member must be an Owner 55 years of age or older and occupy the Sun City AZ property as his/her primary Arizona residence unless his/her other Arizona residence is farther than seventy-five (75) miles from Sun City AZ in which case the Owner(s) must provide proof that he/she occupies the Sun City AZ residence as well.”

While RCSC officials were successful in getting more than 1,100 emails in support of the bill, Mrs. Stewart and several others were on hand to provide opposition testimony during the Government Committee meeting. But she believes they were kept from doing so.

"They started at 9 a.m. and took a break at lunchtime," she explained. "Usually when they do that they reconvene at 2 p.m., but this time started at 1 p.m. and we were not told."

Had her supporters been allowed to speak, she believes they could have swung the vote and the bill would have died in committee.

Other residents wanted clarification during the Feb. 11 exchange meeting. John McAllister wondered if there would be adverse effects for the community if residents did not provide input to legislators. Mr. DeLano said if there were no comments it would not be good for RCSC. Charlie Peterson asked if passage of HB 2374 would eliminate nuisance lawsuits. Mr. DeLano said it would not. The board president also said the bill would effect only two age-restricted communities in the state — Sun City and another in Green Valley.

Nancy Nixon said there were some opinions that if HB 2374 did not pass the age overlay would be in danger.

"I'm not sure if that's true," Mr. DeLano said.

"It would enhance the continuance of the age overlay."

RCSC board member Michael Kennedy said sending messages to legislators in favor of HB 2374 would correct misguided judges, referring to last fall's decision in the lawsuit. He also cited Youngtown as an example of what could happen under the Planned Communities Act. That town, adjacent to Sun City, was once an age-restricted community, but lost its age overlay when property owners older than the set standard dropped below 80 percent, the age overlay criteria.

Mr. Roloff urged residents to relax as the age overlay was safe. Mr. DeLano countered by urging residents not to relax.

"We don't want the public to become disalarmed," he said.

Sun City West operates under both Title 10 and Title 33 and has not seen the dire

consequences RCSC officials predict if Sun City operated under the Planned Communities Act. However, they believe comparing the two communities in that regard is like comparing apples to oranges, according to Joelyn Higgins, RCSC communications and marketing coordinator.

"There is no way of knowing what affect the act has had on Sun City West, but we do know that Sun City West is in many ways different than Sun City," she stated in an email.

Real estate has traditionally been priced higher in Sun City West, their annual assessments and property taxes are considerably higher and they have less recreational facilities and activities than Sun City, according to Ms. Higgins. Sun City West is not as centrally located in the Valley and therefore not as accessible to surrounding communities as Sun City, she added.

"If someone were looking to invest in rental real estate, it would seem that Sun City would be a better choice for return on investment due to these factors, plus the fact that Sun City offers the benefit of more and easily accessible recreational facilities and activities for personal use over Sun City West," Ms. Higgins stated.

RCSC officials believe many who reside in surrounding communities might have purchased homes in Sun City and taken advantage of its recreational facilities and activities several years before being qualified to live here had that opportunity been available.

"As a matter of fact, some may have never moved to Sun City at all, instead remaining in homes in the surrounding communities while taking advantage of the full benefits of RCSC membership (per the act), which not only would provide the opportunity to utilize the recreational facilities and activities, but to vote, serve on the board and participate on committees," Ms. Higgins stated. "With that being said, it is easy to see how this sort of change could transform the age restricted character of Sun City."

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Ben Roloff



Anne Randall Stewart



Michael Kennedy

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Under the Planned Communities Act, all board and committee meetings must be open to residents and anyone designated, in writing, to be a resident's representative. Under the act, RCSC can conduct closed door meetings under five specific discussion items — legal advice; pending or contemplated litigation; personal, health or financial information; job performance, health records or compensation of employees; and a member's appeal of violation. Prior to going into a closed session, the board must identify the general nature of the discussion as defined by the five exceptions for closed meetings.

The act also has provisions designed to make association records open to members or their designated representatives.

Regarding foreclosures, the statute prohibits the association from foreclosing on a property until a year of delinquency has passed or the amount owed reaches or exceeds \$1,200, whichever comes first.

The statute also limits fees the association can charge for services relating to a sale of property to \$400, which can be increased up to 20

percent per year but only if the fee was less than \$400 prior to Jan. 1, 2010. The association can also charge a rush fee of \$100 and an update fee of \$50, if either is requested or needed.

The Planned Communities Act does not have a provision for a fee equivalent to RCSC's preservation and improvement fee.

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