

LEGISLATURE

PCA bill revived in Arizona Legislature

Effect of PCA bill continues to be chagrin of community

By Rusty Bradshaw

INDEPENDENT NEWSMEDIA

An Arizona bill designed to exempt the Recreation Centers of Sun City from a September 2018 order to operate under the state's Planned Communities Act died in the Arizona Senate but was revived in the Arizona House in a last-minute move March 25.

The bill, which started as House Bill 2374, was passed by the House but did not get a hearing in the Senate Government Committee March 21. That meant the bill would not make it to the Senate floor for debate. March 25 was the last day bills could be heard by the Senate.

However, District 5 Sen. Sonny Barrelli (R-Lake Havasu City) reintroduced the bill in the House as a "strike everything" amendment to Senate Bill 1094. The striker was scheduled on the House Government Committee for a hearing 9 a.m. March 28.

RCSC operates under Arizona Revised Statutes Title 10. The PCA is contained in ARS Title 33.

A "strike everything after the enacting clause" amendment proposes to delete the entire text of the existing bill and substitute new language, essentially making it

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a completely different bill, possibly on an entirely different subject, according to information on the Arizona Legislature website, www.azleg.gov. These amendments are sometimes used to allow legislators to circumvent the deadlines on introduction of new legislation, deal with an issue that arises after the deadline or revive a bill that has previously been defeated, according to the website information.

The original bill, first introduced by District 21 Rep. Kevin Payne (R-Peoria), and the striker are opposed by plaintiffs in the lawsuit that brought the September court ruling. Anne Randall Stewart, one of those plaintiffs, believes the striker bill was intended to fly under the radar.

"They hoped they would get this through without us knowing about it, like they were able to keep our people from testifying in the House committee," she

said March 26. "But we found out about it, and we're going to fight it."

Mr. Payne did not respond to email requests by press time about the striker bill. RCSC officials stated in an email they had no comment on the development.

District 21 Sen. Rick Gray (R-Sun City) did respond late in the day March 26.

"I don't think they have posted the striker language yet, but as I understand it the language will be similar to the previous bill," he stated in an email. "I believe Rep. Payne is having the amendment language included that came from stakeholder meetings and it will tighten up the language to further clarify who this would apply to so it does not need to be amended on the floor."

The language of the strike everything bill was released late March 26 after Mr. Gray responded to the Independent, according to Matthew Specht, Republican Caucus communications director.

HB 2374 was intended to amend two ARS sections that related to planned communities. The major change was to add language exempting any organization created for the sole purpose of supporting recreation activities in a real estate development. The proposed bill also defined planned communities as those incorporated or organized after 1973.

The striker bill, listed as Senate Bill 1094, does not include language exempting organizations based on recreation activities. Rather, the new language exempts organizations that do not have the authority to enforce covenants, conditions and restrictions. In Sun City, that enforcement is conducted by the Sun City Home Owners Association.

The striker does include language allowing a Title 10 organization to fall under Title 33 if approved by a majority of organization owners in an election. A notice of election would have to be filed by the nonprofit organization in question, according to the proposed striker bill.

Planned communities provisions

RCSC officials claim if the recreation centers must follow the regulations in the PCA, Sun City may be

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in danger of losing its age restriction. Sun City is restricted to residents 55 and older. The community, in an unincorporated area of Maricopa County, was established in 1960 as an active adult community.

Some residents dispute RCSC officials' claims the PCA would endanger the age overlay.

"We will not lose our age-restricted status because of falling under it," stated Bill Pearson, a Sun City resident and former RCSC board member, in a guest commentary submitted to the Independent.

"The Sun City Home Owners Association is responsible for the yearly accounting and monitoring of those living here. People already can buy at any age, we purchased our home when we were 51. We couldn't live here until we turned 55. That stays the same under Title 33."

Carole Martinez, who also served on the RCSC board, stated in a letter submitted to Independent there are 94 age-restricted communities in Arizona and all but two of them operate under Title 33.

"None have gone out of business because of that," she said.

One of those Title 33 age-restricted communities is Sun City West, just a few miles from and patterned after Sun City by the same developer. However, RCSC officials believe the two communities have significant differences.

"There is no way of knowing what effect the act has had on Sun City West, but we do know that Sun City West is in many ways differ-

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Kevin Payne



Anne Randall Stewart



Rick Gray

PCA

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ent than Sun City," Joelyn Higgins, RCSC communications and marketing coordinator, stated in an email in early March.

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 Sun City resident Ben 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 requires --- not only proof of age but proof of residency in the form of a lease or ownership 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."

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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