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CARPENTER HAZLEWOOD DELGADO & WOOD

E-NEWSLETTER

Legislative Update - What's the Status of HB 2034?

By Scott B. Carpenter, Esq.

Although the Arizona Legislature is currently meeting in Special Session to address the state budget challenges, we can report that the Arizona Legislature did not pass any bills that regulate community associations! There was one bill, however, that would have seriously undermined planned communities' ability to operate. HB2034 was a bill that purported to address parking but was much more than that. In the version that passed the House of Representatives, the bill stated as follows:

33-1817. Community authority over public roadways

Notwithstanding any provision in the community documents, an association has no authority over and shall not regulate any roadway, easement or other area for which the ownership or use has been dedicated to a governmental entity or that is otherwise under the legal authority of a governmental entity.

Using ellipses, the House Engrossed version of the bill stated as follows:

Notwithstanding any provision of the community documents, an association has no authority over and shall not regulate any...area...that is...under the legal authority of a governmental entity.

All community restrictions that govern planned communities would have been rendered null and void by HB2034. "Area" would have included the Lots where the homes sit, private gated streets, and all other areas including community pools and playground areas. Associations would have no longer been able to enforce swimming pool rules, playground hours of operation, architectural limitations, etc. This legal nullity of all use restrictions in planned communities would have resulted because every piece of property including the Lots in a planned community, common area pools, etc. in Arizona is under the legal authority of a governmental entity (the State of Arizona, counties, cities, towns, etc.) The sponsor conceded that this was not the intent and proposed amendments in the Senate. The bill was defeated in the Senate Government Institutions Committee by a vote of 3 in favor and 4 against. Significant lobbying was done by members of the Anthem communities to defeat this bad legislation.

As always, we will remain diligent and protect the interests of our clients at the Legislature, as we have for the last 15 years.



CARPENTER HAZLEWOOD

Carpenter, Hazlewood, Delgado & Wood, PLC

newsletter@carpenterhazlewood.com

Telephone - (480) 991-6949