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## Parking Enforcement – Really?

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Parking and parking enforcement is always a hot and timely topic in planned communities and condominiums. From restrictions about guest spaces to the issue of overnight RV parking on Association private streets, every homeowner, board member and community manager has a parking horror story.

In a recent news article about an Arizona master-planned community that is attempting to amend its CC&Rs to impose new overnight and guest parking restrictions, one owner's tirade was quoted in the newspaper: "What gives the HOA the right to interfere in our personal liberties as to the enjoyment of our home and knowing when we have people staying at our home?"

In almost all communities with people and cars, parking equals passion. In each community there are unique concerns about who is parking where and why the governing documents may or may not prohibit the hows, the whos and the wheres of parking. But cutting through all of the passionate opinions and the myriad of unique CC&R provisions about parking, there are some legal truisms that can guide Boards and community managers as they navigate in between the bumpers.

- The legislature will tackle parking in Arizona HOAs and Condos again in the future. It may not be this upcoming session, but rest assured parking is a constituent concern and therefore will continue to be regulated;
- The ambiguous phrase "it is the intent of the developer to limit on street parking in the community" is not a green light for a full-court press parking enforcement program. Be careful here and consult with the Association's attorneys for legal advice;
- Towing may be permissible by HOAs and Condos but the issue is document specific and regulated by both state law and municipal ordinance. Generally, an HOA should not tow vehicles from Association owned property without specific CC&R language and proper (statutory) signage posted in proper places. In limited cases, an Association's CC&Rs may authorize towing from public streets, but due to the statutory requirements and the nuances of CC&R parking provisions, ask the Association attorney for a safe-harbor opinion letter when considering enforcement options such as booting and towing;

- Consistent with Arizona statutes, your Association attorney can check license plate records to help identify improperly parked vehicles;
- Parking restrictions and their enforcement are a fair housing mine field. Resist the temptation to act on individual neighbor complaints without verification and community wide inspection; and
- There are parking services that assist Associations with enforcement. When contracting with these service providers, Associations should negotiate contract language that not only helps cure the parking woes, but clearly spells out who is liable should a parking situation go poorly.

These are some helpful hints to help with parking concerns. But there is no magic parking pill. So long as Americans love and drive cars, Associations will be challenged with these issues. Happy parking!

*For assistance with interpretation or drafting of parking regulations, or for assistance with enforcement issues regarding parking, from fines to towing to injunctions, contact any attorney in our firm.*

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