

PROTEST

Domestic partners policy fires up crowd in Sun City West

By Tina Gamez
DAILY NEWS-SUN

Morality and money took center stage at the Sun City West Fire District workshop Tuesday as residents opposed to the new domestic partners benefits policy urged board members to reverse their position.

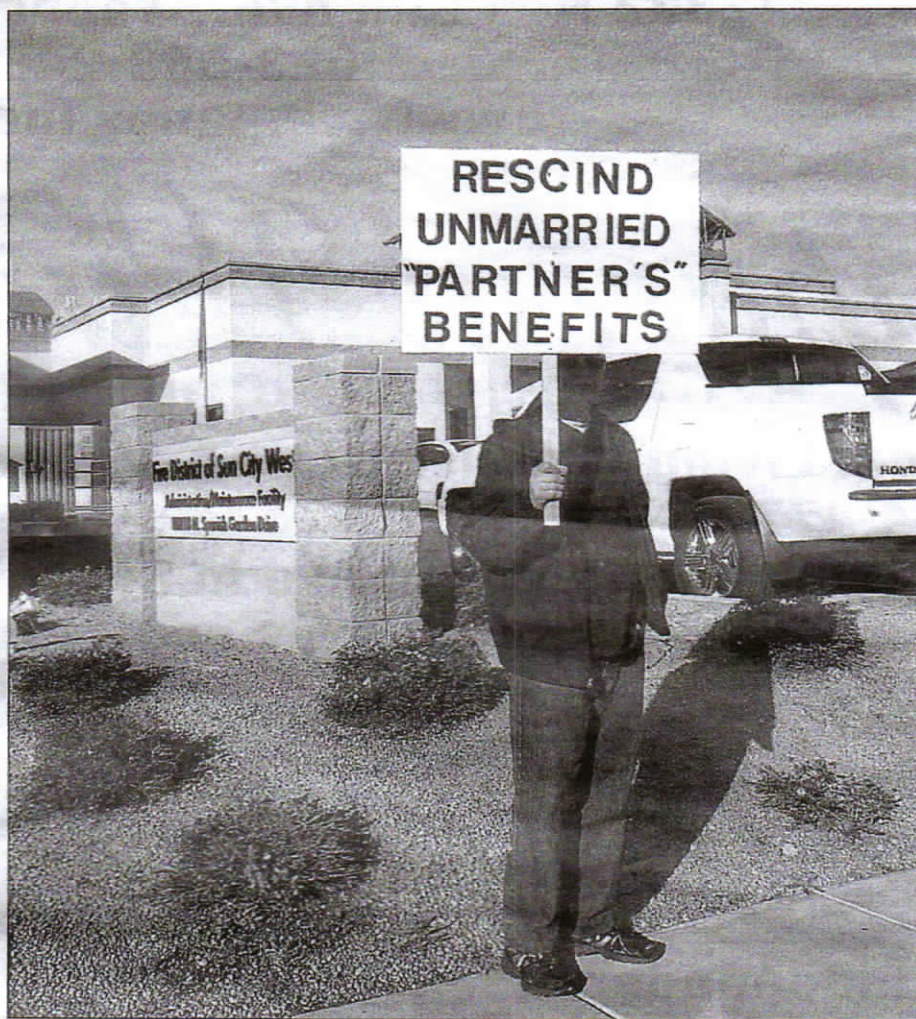
Board members Jack Meyer, Bill Hamel and Russell "Smitty" Smith listened to the comments that invoked morality, money and God.

With approximately 40 people in attendance, the board gave everyone an opportunity to speak. Seventeen spoke with the majority in favor of getting rid of the domestic partners policy. Because the issue was not on the agenda, board members could not respond.

The rallying of people to the workshop was done by a group of residents who encouraged others to send emails, call board members or attend the fire district workshop to voice their opinion.

David W. Owen started out complimenting the firefighters and paramedics for their outstanding job but said he is unhappy with the action the fire board took in adopting the policy. He said there is no binding contract for partners to stay together.

"It seems some in the fire district board feel they need to be progressive and partisan by being trendsetters with a policy I believe the majority of us seniors do not ap-



Sun City West resident Glenn Seeley protests outside the Sun City West Fire District administrative offices Tuesday over the new domestic partners policy. (Tina Gamez/Daily News-Sun)

prove of."

Owen said the board should be more concerned with fire department operations and cutting costs. The partners policy would, he said, increase the taxes paid by seniors on fixed incomes. He said he

wants the policy rescinded because it undermines the moral fiber of the community.

The board voted in October in favor of the policy with two votes by David Wilson and Smith. Jack Meyer, who

participated in the meeting by telephone, abstained. Bill Hamel and Dusty Rhodes were not present.

Paul W. Preston also thanked everyone for the job they perform but opposed the

» See Protest on page A5

Protest

» From page A1

policy for moral and economic reasons.

David Hoffman said he loves gay people "enough to tell them the lifestyle they're living is going to bring them destruction." He asked the board to "be a real friend to the gay community and vote no on the domestic partnerships."

Opposed to same-sex marriage, Ray Caldwell said that most people regardless of the sexual identity have a human need for a relationship; but taxpayers are against paying domestic partners benefits to "couples who are so lacking in commitment to one another that they chose not to make their relationship legally binding, yet expect we taxpayers to support their freedom of choice."

Bill Curley researched Sun City West before moving into the community and mentioned the firefighters and medical facilities. "I have no personal religious convictions or agenda influencing or dictating my actions" and he said he doesn't believe such an agenda belongs at the table when making public policy.

He added that employees of the fire district are mature and continually show enough responsibility to handle residents' lives and property in an emergency. "If they are going to save your life or house, is a concerned citizen really going to first ask if they are married, partnered, and is it with Adam or Steve?"

Fortune 500 companies are approving domestic partner benefits, Curley said, "and with Boomers coming in, they're used to it."

Ken Tischer disagreed. "This nation was founded under God. God does not condone homosexuality. He loves the people who are involved,

but not the act."

Sun City West doesn't want to be punished because of the homosexual firefighters and Tischer said he loves the firefighters and respects them, but they just made a bad choice. "We don't need change. We need moral law," Tischer said.

Ramona Boon could barely speak from emotion. "We love firefighters." She said she wants the policy amended to give benefits to lawful marriages.

Dennis Lake said "the opposition who's been here in force, needs to get its head out of the '60s and into the 21st century."

Pastor David Mills asked for a show of hands on "who's a Christian?" He opposes the policy because it "recognizes a relationship I am morally against and grants the participants the same benefits as a legally married couple."

Patricia Shanholtzer said there is no difference in paying the benefits for the spouses of 83 employees versus 83 employees with some married and some in long-term relationships.

She reminded everyone the fire department not only puts out fires, they show up when residents fall, don't feel well, have an accident, a heart attack, a stroke. "They come when we die. They come professionally. They come with calm and with reason. They bring us a sense of security when they come. They provide solace in a time of grief. They provide comfort in a time of anxiety."

Shanholtzer asked: "And who, among you, is going to ask them before they treat you, what their lifestyle is? None of you."

The policy issue will be discussed at the 9 a.m. March 18 workshop by the whole board.

Rec Centers to be responsible for enforcing deed restrictions

By CHRIS RASMUSSEN
Independent Newspapers ¹⁹⁹⁷ /NO 4/2/7

PORA will turn over authority July 1

The Recreation Centers of Sun City West has taken over the responsibility of overseeing and enforcing the community's deed restrictions, an activity formerly handled by the Del Webb Corp. and the Property Owners and Residents Association.

"It's time to step into Del Webb's shoes," says Carole Hubbs, president of the Rec Centers Governing Board.

Mrs. Hubbs says it will be the Rec Centers' responsibility to file liens against homeowners and take possi-

ble legal actions against residents who refuse to comply with the community's Covenants, Codes and Restrictions.

Ernie Edison, PORA deed restrictions investigator, says PORA doesn't have the right to place liens on homes or take a resident to court over CC&R violations

"They (Rec Centers) have the right to sue, they have the right to put a lien on a home and they have the right to fine any homeowner," Mr. Edison says. "That gives them real clout."

Mr. Edison says Del Webb Corp.

wrote the CC&Rs, but it has always been the job of PORA to enforce deed restrictions.

"The Rec Centers and PORA have an agreement that in the event PORA does have a problem with enforcement, the Rec Centers will participate and get involved."

The duties will be officially shifted over to the Rec Centers on July 1.

Other action discussed at the board's March meeting:

- A copy of the Rec Centers of

See ■ DEEDS, Page 7

■ DEEDS

From Page 1

1NO - 4/2-8/7

Sun City West's 1996-97 audit of financial operations has just been completed and is available to the public at the community's library.

- Pebblebrook Golf Course will be testing a new fertilizing method that Rec Center officials hope to implement on the rest of Sun City West courses.

The method involves mixing fertilizer into the course's sprinkler system.

- Board President Carole Hubbs presented former board member Joe Kirshisnik with a plaque honoring him for his tireless effort on the board. Mr. Kirshisnik resigned due to health conditions.

- The Rec Board announced 20 saguaros have been bought and will be planted around the community.

Webb lends 'bite' to deed restrictions

FEB 28 1986

NEWS-SUN

By **MARIA ARELLANO**
Staff Writer

SUN CITY WEST—Deed restrictions here will soon have real bite behind their bark—in the form of Del E. Webb Communities Inc. financial support.

The move is the result of an unprecedented policy agreement between Webb, the Property Owners and Residents Association (PORA), the Recreation Centers governing and advisory boards and the Condominium Association boards of management.

The policy broadens the enforcement agents of deed restrictions for both single-family dwellings and condominiums to include the recreation centers of Sun City West and, ultimately, the Webb corporation itself.

The policy, agreed upon Thursday, establishes that PORA and the Condominium Association boards of management remain as primary enforcers of restrictions for their respective units.

But, if after failing to persuade an owner to correct a violation, the associations may ask the Recreation Centers for assistance.

In seeking to rectify the problem, the

Recreation Centers may suspend the violator's recreation card, prohibit use of recreation facilities and/or revoke a member's voting rights.

"And, if the dispute goes to court, and is determined to be meritorious and to have a communitywide effect, Webb has agreed to financially support the litigation," said Timothy Hoyt, vice president of legal and community affairs.

Hoyt said the policy becomes effective immediately in Unit 21 and future units.

But, he said he was unsure what effect the policy would have if other deed restrictions, patterned closely after Webb's are not adopted by the owners of single-family dwellings and condominiums.

PORA is putting the new restrictions to a vote by single-family dwelling owners in units 1-20, as is the Condominium Association for duplexes, condominiums and garden apartments.

Both sets of restrictions are virtually like the Webb version.

Webb is advocating that the new, proposed restrictions be adopted.

The major difference between the single-

family restrictions and those of the condominiums' are the inclusion of recreation center provisions in the single-family dwelling version.

Those provisions address the rights of recreation centers to impose fines and assess other fees.

Hoyt said further discussions on the effects of the policy would be held if the new proposed restrictions are not adopted by the single-family and condominium owners.

In the meantime, the recreation center bylaws are also being amended, to among other things, grant the governing board deed restriction enforcement power.

Hoyt said the bylaws can be amended by the Governing Board of Directors or by residents.

Residents could vote to supercede any action taken by the Governing Board, Hoyt said.

The new policy drew praise from PORA President Aubrey Johnson.

Another PORA board member, who did not want to be identified, said the policy finally makes PORA a viable organization.

Webb takes over deed enforcement

By MIKE GARRETT
Daily News-Sun staff
SUN CITY WEST — Del Webb Communities Inc. has assumed all legal responsibilities for enforcing Sun City West deed restriction violations, effectively removing the Property Owners and Residents Association from the courtroom.

Sun City West General Manager Chuck Roach told PORA officials at a recent meeting that Webb will assume attorney and court costs for enforcement of unresolved Sun City West deed restriction violations.

"It was never PORA's obligation to assume such legal costs," said Martha Moyer, Webb Sun City West manager of public and community relations. She said Webb has always been willing to reimburse PORA for such costs. "We're just taking it one step further now."

PORA director Ralph Hahn informed the board of Webb's action at the monthly PORA board meeting Tuesday.

The decision was precipitated by the John Rapp controversy where some 18 of Rapp's neighbors have filed formal complaints over the condition of Rapp's yard at 12831 W. Blue Bonnet Drive.

PORA was considering legal action against Rapp before Webb took the controversy out of PORA's hands.

Moyer said Webb is investigating whether to take legal action against Rapp along with other alternatives.

"We were just about at the end of our rope as to what to do with this particular case," said Hahn, who along with Bob Emmons, Dick Egan and Ernie Edison met with Roach this week.

Webb will also try to resolve deed restriction differences between opposing parties through arbitration or bringing the opposing parties together to discuss the problem, Hahn said.

"I think we've gotten ourselves out of a real big hole as far as future legal action against us goes," said Hahn.

"We also now see ourselves clear of this problem of having to bring any legal action against any resident in alleged violation of our CC&R (covenants, conditions and restrictions.)"

The board tabled Hahn's motion of whether it has the responsibility to listen or provide legal assistance to non-members' CC&R deed restriction complaints.

Egan, who is second vice president, said such a vote should be delayed until he checks with legal counsel whether such action could endanger PORA's tax-exempt status. Most board members indicated they favored serving only PORA members in such cases.

PORA President Emmons said withholding PORA's help on such matters would apply only to deed restriction complaints

■ WEBB

From Page 1

burse PORA for costs incurred in legally defending the community's deed restrictions.

"We just took this one step further and (now) Del Webb will take responsibility for hiring lawyers and pursuing legal action in deed restriction complaint cases," says Ms. Moyer.

Regarding the situation with the homeowner in question, Ms. Moyer says Webb will explore all alternatives to solving the problem, including legal action.

Mr. Hahn says the changeover

has gotten PORA "out of a really big hole" as far as legal action against alleged deed restriction violators is concerned.

Legal action against one of their own residents, says Mr. Hahn, often created a "negative" image of PORA.

"In the past, when we have started legal action, we've made some real enemies out there in the community and developed somewhat of a negative attitude toward PORA," he says.

"We hope this will be one step in

minimizing this particular problem," says Mr. Hahn.

In other business during the March 5 meeting, Mr. Hahn re-introduced his proposal to require non-members to pay PORA to handle their deed restriction complaints against neighbors.

Mr. Hahn first presented the idea at the Jan. 31, 1991, board meeting.

Action on the decision was postponed until PORA's April 2 board meeting to give the board time to study its impact on the association's tax-exempt status.

SUN CITY WEST

Your Community Weekly

INDEPENDENT

Volume 31, Number 11

COVERING THE NEWS OF SUN CITY, SUN CITY WEST AND YOUNGTOWN

MARCH 13-19, 1991 • 25 cents •

INSIDE	
COMMUNITY NEWS	2
OPINIONS	4
POLICE REPORT	5
CALENDAR	6
HEALTH	8
ARTS	10-11
CROSSWORD	13
RELIGION	14
CLASSIFIEDS	15-19

Webb assumes role of enforcing deed restrictions

PORA to 'arbitrate' disputes in SCW; Webb responsible for any legal action

By LAURIE HURD-MOORE
Sun Cities Independent

Those who contest or violate Sun City West deed restrictions may now have to do battle with the Del E. Webb Corp. rather than wrangle with the local homeowner association.

Chuck Roach, vice president and general manager of Del E. Webb operations in Sun City West, announced last week that his firm will assume full responsibility of enforcing community deed restrictions if legal action is required.

Until now, the responsibility of enforcing community deed restrictions — including pursuing legal action if necessary — had been the responsibility of the Property Owners and Residents Association.

"From this point in time, you'll not see PORA ... take legal action against someone with an alleged violation of our CC&R's (covenants, conditions and restrictions)," says Ralph Hahn, director of PORA's Deed Restrictions Committee.

PORA will, however, continue to arbitrate complaints and differences between opposing parties in all future deed restriction disputes.

Del Webb's intentions were announced by Mr. Hahn at the March 5 PORA board of directors meeting.

He says Webb's willingness to

pursue legal action against alleged deed restriction violators stems from one particular case involving a dispute between a local resident and PORA.

Several years ago PORA began receiving complaints about the condition of the property of a Sun City West resident. Despite several requests from PORA, the homeowner has failed to clean up the property.

"It's been ongoing since 1983 and we are just about at the end of our ropes as to what to do with this particular case," explains Mr. Hahn.

He says one final step before taking legal action against the resident was to meet with the Webb Corp.

"We asked Chuck (Roach) if he'd be willing to take over the responsibility of any future action on that case," says Mr. Hahn.

"He (Mr. Roach) accepted without any particular argument."

The PORA director then asked Mr. Roach if Webb would be willing handle all future cases that could not be settled through arbitration and seemed destined to go to court.

"Chuck (Roach) again being very amiable and agreeable said he saw no problem with it," adds Mr. Hahn.

Martha Moyer, Webb's public relations manager, says several years ago Webb agreed to reim-

See WEBB, Page 3

PORA ponders future role in deed restriction clashes

Some say Webb Corp. should handle local disputes

By LAURIE HURD-MOORE
Sun Cities Independent

Questions concerning PORA's future role as enforcers of Sun City West's deed restrictions were raised at the Jan. 31 meeting of the association's board of directors.

Directors discussed a proposal which, if adopted, would allow the association to charge a fee for handling deed restriction complaints when they come from non-members.

On the other hand, one director suggested the organization refrain from handling future deed restriction disputes, saying the problem belongs in the hands of the Del Webb Corporation and not PORA.

Ralph Hahn, director of the association's Deed Restriction Committee, presented a motion to the board that would require non-members to pay \$12 to have their deed restriction complaints handled.

The fee would include membership in the organization for one year.

"I can see a lot of reasons why people living here should join PORA. As far as deed restrictions are concerned, you'll never sell anything if you're giving it away," says Mr. Hahn.

The director says his plan would encourage more residents to become active in the association and would add to PORA's financial stability.

Non-members, he adds, can still contact PORA for interpretations of the deed restrictions.

Board member John Bergh questioned the feasibility of such a proposal.

"PORA is a volunteer organization with a volunteer membership. You cannot press anybody to pay for services done by PORA. If you do, people will expect results and we have no jurisdiction ... we

cannot force anyone to do anything except in a civil lawsuit," he explains.

Handling deed restriction complaints, says Mr. Bergh, is often a no-win situation for PORA, especially when the complaint is brought on from a non-member and is directed toward a PORA member.

"They (members) say, 'Why should that guy complain against me? He's not even a member of the organization.'"

First Vice President Morey Jensen adds that as a tax-exempt organization, PORA probably cannot charge for a service.

PORA's Health and Human Services Director Larry McIntyre suggested the board consider discontinuing its role in the enforcement of deed restrictions and establishing an arbitration program.

See PORA, PAGE 3

SCW

Sun City
Independent
Feb. 13-19, 1991

"I think it's adverse publicity for this organization to perform the duties of the Del Webb Corp.," says Mr. McIntyre.

President Emmons asked Mr. Hahn to withdraw his motion to give the board more time to study his proposal. Board members will continue the discussion at the next board meeting March 5.

Turning to other matters, the appointment of Harold Richardson to the board of directors of the Sun City West Foundation, Inc. received the association board's unanimous approval.

Mr. Richardson will fill the unexpired term of Barbara Knudsen, who resigned effective Dec. 31, 1990. His term will expire Dec. 31, 1991.

Mr. Jensen questioned why it was necessary for PORA to "rubber stamp" appointments to the foundation board.

"You know originally, the Sun City West Foundation was the

PORA Foundation. And because it was the PORA Foundation -- it was set up by PORA -- we were involved in approving the directors," said Mr. Jensen.

"Now it's the Sun City West Foundation and operates independently.

"It runs the Thrift Shop, Lending Hands and the big facility over there and they need board members that have no relation to PORA," says Mr. Jensen.

"I question why we continue to require them to go through us to gain approval of their directors," he adds.

Mr. Jensen, who is also on the foundation board, volunteered to pursue the matter further, including whether or not a change would be necessary in PORA's bylaws.

Mr. Jensen also presented board members with the concept of issuing PORA approval logos to businesses for use in their advertisements.

These businesses would have to meet the standards set by the association's Consumer Services Department before they would receive such a logo.

He says the logo is good publicity for the association and would bring more attention to the Consumer Services Department. A Sun City West artist has agreed to design the logo.

When questioned how PORA could "police" the use of the logos, board member Glenn Weatherby suggested that the year be added to the design.

Mr. Jensen adds that as the PORA office becomes more mechanized, a letter can be sent to businesses asking them to verify their records.

The businesses could also be charged a \$10 fee to offset the costs of mailing, the logo and any follow ups if they are dropped from the listing.

The board unanimously approved

program which will be headed up by Mr. Jensen.

In other PORA business:

- Board members were asked by President Emmons to consider an executive committee proposal to combine the 1991 PORA general membership meetings, reducing them from eight to four meetings.

This suggestion was unanimously approved by the board.

Publicity Director Howard Wilson established the following meeting dates: Feb. 14, April 11, Oct. 10 and Nov. 21.

All general membership meetings begin at 9 a.m. and are held in the R. H. Johnson Recreation Center Social Hall.

- Board members also unanimously approved a motion to continue their microfiche program.

The program gives residents the opportunity to check the accuracy of their tax assessment bills and can save residents trips to downtown Phoenix for the same purpose.

Sun City Westers seem to comply with deed restrictions, officials say SCW

By MARY DUMOND

News-Sun staff

SUN CITY WEST — Desert landscaping is fine.

But no landscaping at all or shaggy landscaping may bother the neighbors.

Apparently, most Westers have accepted the deed restrictions promoted by the Property Owners and Residents Association (PORA) and passed by residents in 1986.

At least, that's the conclusion of Sandy Goldstein, chairman of PORA's deed restriction, and Harold A. Nepereny, PORA's fairly new complaint investigator in that area.

"Most of our complaints are in the landscaping category," said Goldstein, whose committee rotated in answering complaint calls while Nepereny was on summer vacation.

Committee members include Vernon Caulty, Henry Healy, Harry Meehan, Orval Stamm, Cecil Vesey, Robert Weeks, Richard Marvin and Helen Holland.

"Actually, we have 16,000 residents or so," said Nepereny, who's back on the job. "We have gotten 106 or 107 complaints so far this year. That's really not very many."

Goldstein figured that's less than one percent of the community's population.

Deed restrictions regarding landscaping leave room for individual interpretation, Goldstein said.

In Section 8, on the document's eighth page, the restrictions dictate:

"Each owner shall, within ninety (90) days after he takes possession of a new and unlandscaped residence, or ninety (90) days after recording of these covenants for existing unlandscaped residence, substantially complete all landscaping of the premises. Each owner shall, at all times, keep all shrubs, trees, grass and plantings of every kind on his lot, including



HAROLD NEPERENY

setback and easement areas, neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material."

"Sometimes, we get complaints on houses that have been bought, but people haven't moved into yet," said Nepereny.

"Usually we counsel patience, unless the homeowner is unusually slow in getting the landscaping done."

Goldstein said, "Actually, we have no obligation to enforce these deed restrictions. We are providing a service to owners who complain. Basically, we serve all the residents out here, whether they belong to PORA or not."

"However, the deed restrictions themselves don't appoint us as enforcers," he said.

Actually, Article VIII, Section I deals with enforcement thus:

"The Sun City West Property Owners and Residents Association (PORA) or its successor, and rec centers may, but shall not be obligated to enforce these restrictions upon receipt of a written request from the owner or owners of one or more of the lots covered hereby. PORA, Rec centers, or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, covenants, reserva-

tions, liens and charges now ... Failure by Rec Centers, PORA, or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter."

Goldstein explained the procedure simply.

"We have a complaint form a person fills out," he said. "At the bottom of the form, which we keep in our files, is space for action taken."

Seldom does PORA have to take action, once the householder has been made aware he's goofed somewhere along the line, Goldstein said.

Nor has anyone taken anyone else to court over a violation, he said.

"We try to work things out with sweet reason if we can," Nepereny said.

Goldstein said, "If someone keeps on complaining, sometimes we will send out two or three members to check out the complaint and see if it is indeed reasonable."

Once in awhile, someone will expect the impossible from a neighbor, but seldom, he added.

"Some of the landscaping complaints we get come from owners of homes around golf courses," Nepereny said.

In Section 5 (Page 8), which deals with obstructions, as well as landscaping, wording leaves room for subjective interpretation, Nepereny said.

"... Landscaping shall be planned for any lot bordering a golf course so as to avoid undue obstruction of the view of the golf course from said lot and from any neighboring lots ..."

"Now that leaves a lot of leeway," said Nepereny. "I'll go out on a complaint about somebody's trees or shrubs obstructing a view of a golf course, and I have to ask, 'Now, what in this case amounts to undue obstruction?'"

"This is a subjective thing and sometimes we have to arbitrate," he said. "What constitutes obstruc-

tion of one person's view, and how much of the golf course is one home entitled to?"

These are emotional questions to some homeowners, Nepereny said.

Goldstein said, "Usually we can settle these things pretty peacefully."

The deed restrictions — and the PORA committee — try to make it clear that these restrictions apply only to single-family dwellings.

Even free-standing patio homes are considered to have common ground and therefore fall into the condominium category, Goldstein said.

"Condos have their own association and different deed restrictions and rules," Goldstein explained.

Like Sun City, Sun City West's deed restrictions dealing with trees, shrubs and intersections pretty much follows the county code.

"But so far people have been very cooperative," Nepereny said.

Nepereny was hired last spring as a deed restriction inspector.

"I didn't know what a deed restriction looked like until I started working like this in Litchfield Park," Nepereny said.

Since he's now a Sun City West resident, he's working at home.

When Nepereny was introduced last spring at a PORA membership meeting, he stood up and told the audience, "Take a good look at my face. You may be smiling now, but I wonder how many of you will smile this time next year?"

Apparently he's safe so far. In fact, Goldstein said, "We get some calls from people who want more restrictions than we have now."

"There's no way that we want to get into drawing up another set of restrictions," said Goldstein. "These seem adequate, although now and then we get a question about, 'How come there's a chain link fence over there?'"

Items that were installed at the time the deed restrictions went into effect have been grandfathered in, Goldstein said.

PORA files answer to declaratory judgment

Court to investigate deed restriction issue

By JOHN MACHAY
Staff Writer

SUN CITY WEST — The Property Owners and Residents Association (PORA) has filed an answer to a declaratory judgment issued against it, President Allen Powell said today.

The judgment, which was won by the Independent Citizens Council (ICC) in an effort to have revised deed restrictions revoked, was accepted by Powell July 21. PORA had 20 days to answer the judgment, issued by the Maricopa County Superior Court.

PORA attorney Bill French said both sides of the issue will be investigated by the court and each side will continue to respond. If the issue can't be resolved, both parties will appear in court.

ICC first announced its intention to take legal action against PORA June 5 when ICC spokesman Emery Leist complained that the restrictions gave PORA access to residents' "open checkbooks."

The section of the revised restrictions Leist was referring to

was Article IV, Section 5, titled "Special Assessments for Capital Improvements."

The passage states, "In addition to the annual homeowner fees authorized above, Rec Centers may levy, in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any repair, replacement, or addition of improvements to or upon the Recreational Facilities, provided that any such assessment shall have the assent of the members who are voting in person or by proxy in accordance with the Rec Center's Bylaws, at a meeting duly called for this purpose, or at an annual meeting."

Leist said, "Who knows, perhaps you would wake up one morning and discover that you had just purchased the Hillcrest Golf Course for \$12,000,000? (The Special Assessments clause) would then apply and you would be then required to write your \$1,200 check to pay for it."

Sandy Goldstein, assistant chairman of the deed restriction committee, said he interprets



ALLEN POWELL

the section differently.

"Section 5 says something to the effect that residents may have to pay for rec center repairs provided that a majority of rec center members vote," Goldstein said. "Everybody in Sun City West is a member of the rec centers. The way I look at it, PORA doesn't have very much control over the matter."

Ken Plonski, manager of public affairs at Del Webb Communities Inc., said chances are slim that the clause will ever come into play.

Because of a fund set up for the purpose of repairing the rec-

reation centers — \$7 of each resident's yearly recreation center fee and \$2 per resident contributed by Del Webb annually — the recreation centers will have at least \$1.25 million available to them should they ever need repairs.

"There's a very remote chance that they'll need to get money from the residents," Plonski said. "We have a very detailed maintenance program set up for the rec centers. Nothing drastically should go wrong because of the upkeep. Because of that, and the fund, it's hoped the need (to activate section 5) will never arise."

Plonski said Webb will continue to contribute to the fund until there's \$1.25 million in the account. The annual \$7 per resident will continue indefinitely.

Another of ICC's major complaints voiced through Leist was the method of balloting by PORA to initiate the new restrictions.

ICC charged that PORA veered from its own bylaws by conducting the balloting through the mail.

Article 9, Section 2 of PORA's bylaws states: "Any proposition to the articles of incorporation, including amendments to these bylaws or actions proposed by members, may be adopted by a referendum of the members in a

special meeting called for that purpose."

The section goes on to say, "Voting should be by secret ballot."

The ballots mailed out by PORA required voters to include their names and addresses.

PORA office manager Emery Powell said because the voting was only open to property owners, the names and addresses were necessary to assure the ballots were only filled out by residents.

ICC also criticized Del E. Webb Communities Inc.'s right to vote for each vacant lot and unsold home.

Plonski maintains that since Webb owns property, and since the vote was taken of all property owners in Sun City West, there was no reason why it shouldn't have been allowed to vote.

"We cast a total of 129 'yes' votes for sections 1F and 10," Plonski said. "In our opinion, the new restrictions were drafted to improve the community, so we support them. Property owners were allowed to vote, and we certainly own that property."

Another discrepancy, Leist said, is the fact that condominium owners aren't required to comply to the new restrictions.



EMERY LEIST

"A flaw developed in their scheme when they discovered that condo residents wouldn't go for the changes, so PORA wrote them off," Leist said.

Powell said the omission of condominium owners' votes wasn't PORA's idea.

"PORA would've accepted the votes of condo owners, but by way of agreement with the Condominium Chairman's Association, it was determined they'd handle themselves," Powell said. "Condo owners will take care of their own deed restrictions however they like."

Suit filed

PORA deed ruling drawing legal fire

By LAURIE HURD

A lawsuit has been filed against the Sun City West Property Owners and Residents Association in an effort to rescind deed restriction revisions adopted earlier this year.

The lawsuit has been filed by members of the Independent Citizens Council (ICC) who have been threatening such legal action since May of this year.

The plaintiffs named on the petition to the Superior Court of the State of Arizona "in and for" Maricopa County, are Gene Amanati, Emery L. Leist, Edwin Barringer, Sue S. Williams -- all homeowners in Sun City West.

The group is asking the court to strike down the newly-adopted deed restrictions and put back into force the former restrictions.

The six-page complaint, signed by ICC attorney David C. Kennedy, was submitted July 9, 1986 to the Superior Court.

Allen Powell, acting president for PORA, while Aubrey Johnson, is on vacation, says he received notice of the impending suit at his residence, 7:30 a.m., July 21.

Powell read from a written statement during a telephone interview, "We will provide written comment by four individuals to enjoin the enforcement of the amended deed restrictions after the legal document and comments are reviewed by our attorney."

But speaking as an individual resident of Sun City West, Powell says, "I am disturbed by the willingness of the media to become a propaganda tool by some individuals giving faithful reports of biased remarks and unflattering remarks."

See PORA, page 2.

• PORA

From page one

Powell says he is even more concerned that the media has no concern about an organization making statements that rely on the word of individual spokespersons.

He went on to state that the association is incorporated, with a board elected by its membership. They hold public meetings, to which the press is invited.

PORA also maintains meeting minutes and has audited financial reports. They have a membership of more than 7,000 residents.

Powell stated that both officers and committee chairmen are available to the press. And they maintain publicized office hours.

He went on to state that no attempt was made to serve the papers at PORA during office hours.

"Officers and board members of PORA do not plan our local activities, business commitments and vacations so as to be available whenever someone wants to sue us," Powell says.

He concluded by stating, "Finally, Mr. Leist's complaints to the news media are erroneous."

The ICC publicly contested the new deed restrictions in May, claiming the election, which was held in March, 1986, was operated unfairly and illegally. The group claims PORA's statistics on the election results are inaccurate.

The group is also questioning PORA's authority to conduct such an election.

Chairman of the group, Amanati, said during a May 14 meeting in Sun City West, that the group has existed since the first of year, but has hid from publicity because they feared disruption of their meetings.

Pooling their funds, ICC members joined together and hired Kennedy to assist them in fighting the restrictions.

On April 26, 1986, Aubrey Johnson, president of PORA, received a letter signed by ICC's attorney, requesting PORA to supply certain information regarding the deed restriction election.

Kennedy stated in the letter that his clients were concerned that the amendments would impair their use and enjoyment of their property and constituted or infringed on the rights and liberties they now enjoyed (under the former deed restrictions) on their properties.

According to the letter, Kennedy claims "serious questions" have been raised in regards to the procedures used in bringing the matter before the PORA membership.

PORA first became aware of the ICC and their plans to seek legal action in April, 1986, because of a call made to the *The Arizona Republic* newspaper in Phoenix, says Gerald McVay, chairman of PORA's Deed Restriction Committee.

The call was the first indication, McVay says, that an attorney had been retained.

In an ICC news release dated July 17, 1986, and signed by Amanati and Leist, the group's lawsuit is summarized. Some of the "specific actions necessitating" the suit, says the release, are:

"PORA membership is on a voluntary basis. Residents purchased their homes relying on the provisions of the Declaration of Restrictions for their respective units.

"Residents relied upon the provisions, part of which says '... these restrictions and covenants may be amended in whole or in part at any time by a majority vote of the then owners of lots covered hereby.'

"PORA, on their own, prepared new deed restrictions that are greatly more restrictive, requiring mandatory assessments and payments to the Recreation Centers. The Recreation Centers would also have sweeping powers to assess homeowners."

The release goes on to state residents were not informed on the preparation of the new restrictions, and that PORA did not have the authority to undertake such an election.

Amanati and Leist conclude their release by claiming the "general population" is "disturbed" about the "unwarranted" actions taken by PORA. They charge the association has also been "unresponsive" to the residents.

"Adequate opportunity has been provided PORA to reconsider their highly improper actions. This suit, therefore, was the only avenue available," the statement concludes.

VF - COVENANTS, RESTRICTIONS Sun Cities Independent July 23-29, 1986

PORA's legal woes continue

By JOHN MACHAY
Staff Writer

SUN CITY WEST—Controversy over a section in the new deed restrictions continues between the Independent Citizens Council (ICC) and the Property Owners and Residents Association (PORA).

ICC spokesman Emery Leist said this morning that article IV, Section 5, of the revised restrictions states that recreation centers have the ability to levy a "special assessment" from citizens "provided that any such assessment shall have the assent of the members or directors" by way of voting.

According to Leist, "or directors" gives PORA the flexibility to charge what they want, when they want.

Sandy Goldstein, assistant chairman of the deed restriction committee, said the issue is simply a case of "mistaken identity."

"The document that he (Leist) quoted from was obviously not an updated version," Goldstein said. "(The document) might have been one that was put out into the community for discussion purposes before the final changes were made."

The actual paragraph of the restrictions filed May 20 reads:

"In addition to the annual homeowner-fee authorized above, Rec Centers may levy, in any assessment year, a special as-

essment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any repair, replacement, or addition of improvements to or upon the Recreational Facilities, provided that any such assessment shall have the assent of the members who are voting in person or by proxy in accordance with Rec Center's bylaws, at a meeting duly called for this purpose, or at an annual meeting."

Goldstein reasons that the term "members" includes all Sun City West residents, being members of the recreation centers.

"In fact, I objected to that (the "or directors" statement) in the first place," Goldstein said. "As the document was modified, that part was deleted. I'm not sure why it was even in there, because our intent the whole time was to give the residents the ultimate decision."

Leist, who said the ICC is filing a "ceast and desist and show cause order" against PORA in an effort to have the restrictions revoked, claims the May 20 filing of the amendment was a last-minute decision.

"David Kennedy (ICC's attorney) wrote PORA a letter questioning the new restrictions," Leist said. "They wrote him one back dated May 15. It didn't give many answers and didn't give us time to ask questions, because they filed May 20."

Home vote looms for SCW deed restrictions

By P. ATWOOD WILLIAMS
Staff Writer

SUN CITY WEST—Residents probably will vote on new deed restrictions on ballots distributed through the Property Owners and Residents Association (PORA) newsletter in January.

This method of balloting was recommended Thursday by the PORA Deed Restriction Committee, chaired by Gerald McVay.

PORA has indicated that it will check with county officials

before making a decision.

McVay announced that the articles pertaining to the Recreation Center would not be included in the ballot distributed by PORA.

Although the Deed Restriction Committee will not meet again until October, member Sandy Goldstein will draft proposed revisions for single-family dwellings, while the Condominium Association works on areas relating to its members.

Orville Stamm will prepare up-to-date lists of all homes. Voting will be on a one vote per residence basis.

Deed restrictions must be accepted or rejected by 51 percent of the residences in each geographical unit, and will be counted within the unit.

Ballots would be distributed by the Roadrunner carriers and could be marked in the privacy of the home and returned by mail or to a ballot box at PORA,

where they would be handled only by members of Hogan Dunlevy's election committee.

In the event that a 51 percent mandate is not indicated in a unit, additional ballots could be personally distributed to homeowners who had not voted. Renters will also be encouraged to send ballots to the owners.

Members of McVay's committee will prepare visual materials illustrating the provisions of the new deed restrictions.

* PORA

—From A1

for the changes, so PORA wrote them off," Leist said. "Would you believe this simple maneuver eliminated about 1,700 'no' votes from the balloting?"

"PORA would have accepted the votes of condo owners, but by way of agreement with the Condominium Chairman's Association, it was determined they'd handle themselves," Powell defended. "Condo owners will take care of their own deed restrictions however they like."

Powell himself said Tuesday that residents' votes are still coming in, thus supporting an ICC speculation that everyone hasn't voted.

"Some people thought the whole thing was so ridiculous, they didn't even cast their vote," said an ICC member who wished to remain unidentified. "Who would think PORA would turn around and do something like this?"

Another discrepancy, Leist believes, is that Del E. Webb Communities Inc. was granted the right to vote for each vacant lot, unsold home and vacation apartment.

While Ken Plonski, manager of public affairs at Webb, denies the charge of voting for apartments, he confirmed Webb voted 'yes' for vacant lots and unsold homes.

"We cast a total of 129 'yes' votes for sections 1F and 10," Plonski said. "In our opinion, the new restrictions were drafted to improve the community, so we support them. Property owners were allowed to vote, and we certainly own that property."

"If you take away all the Del Webb 'yes' votes, and add on the condo 'no' votes, the consensus would barely reach 40 percent," Leist estimated. "Their 'majority' is questionable."

In a letter addressed to the News-Sun, the ICC charged that members of PORA must be present to cast their votes, according to their own bylaws.

However, article 9, section 2 of the bylaws states: "Any proposition to the articles of incorporation, including amendments to

troubles

By JOHN MACHAY
Staff Writer

SUN CITY WEST—Legal action is being taken against the Property Owners and Residents Association (PORA) because of amended deed restrictions, said Emery Leist, a spokesman for Independent Citizens Council (ICC).

The ICC, a newly formed group made up of residents who are opposed to new restrictions, is headed by Gene Amanati.

According to Leist, attorney David C. Kennedy is filing a "cease and desist and show cause" order against PORA in an effort to have the restrictions revoked.

The ICC maintains the new restrictions, which specify support of recreation centers, give PORA access to residents' "open checkbooks."

Sandy Goldstein, assistant chairman of the deed restriction committee, said he interprets the section differently.

"Section 5 says something to the effect that residents may have to pay for rec center repairs provided that a majority of rec center members vote," Goldstein explained. "Everybody in Sun City West is a member of the rec centers. The way I look at it, PORA doesn't have very much control over the matter."

Another provision in the new restrictions provides that a lien can be placed on a resident's home should he fall behind on recreation center dues.

Acting PORA chairman Allen Powell said although he's spoken to Leist, he wasn't aware of the pending legal action.

"We certainly wouldn't have proceeded with filing the new restrictions (which were officially recorded May 20) if we thought there was something legally incorrect," Powell said. "Everything was done correctly as far as I can see."

An ICC newsletter stated that PORA's filing of a majority of residents' votes is questionable, citing the great quantity of no-votes and the omission of condominium owner votes.

"A flaw developed in their scheme when they discovered that condo residents wouldn't go

SCW

By Gerald McVay
Chairman, PORA Deed Restrictions Committee

MAR 5 1986

PORA urges deed revision support

By the time this is published, all residents of Sun City West should have received their mailing from PORA which contains a complete copy of proposed new deed restrictions along with a ballot and addressed stamped envelope to be used to mail in their vote.

It is crucial that you vote your personal convictions and return your mailed ballot. Your ballot provides for a "Yes" vote to accept the new restrictions or a "No" vote to reject the new restrictions.

A "No" vote means you prefer to remain with the original restrictions currently applicable to your unit.

It is especially crucial that you vote your convictions if you prefer the new restrictions because 51 percent of the owners in a unit must vote "Yes" before the new restrictions can become effective. This is a legal requirement of the current restrictions. It's 51 percent of the total owners of each unit, not 51 percent of those voting.

This means that your failure to vote effectively becomes a "No" vote that will combine with actual "No" votes and jeopardize the chances of acceptance.

The single most important addition to the new restrictions is the inclusion of Rec Center provisions outlined in Articles II, III and IV. These provisions for the first time outline and record resident rights to the use and enjoyment of our recreational facilities.

Rights that no one can ever reduce or withhold from us. These provisions further provide for such important areas as: (1) our obligation to pay fees; (2) collection rights of Rec Centers for non-payment; (3) membership and voting rights; (4) renter cards; (5) how homeowner fees and special assessments are computed and necessary owner approval; (6) uniform rates of all fees; (7) precludes waiver of use or payment of fees, assessments, or liens by abandonment of a lot.

To the letter writers who claim these Rec Center provisions usurp our property rights, I would ask them whether they believe membership and fee payments should be voluntary. The facilities must be maintained and that cost must be borne by everyone on an even basis.

Others who argue against including Rec Center provisions in deed restrictions claim that the facilities' agreement signed by each owner adequately provides and guarantees owner rights to the use

and enjoyment of Rec Center facilities.

This is a misconception and simply not a fact. The facilities' agreement obligates owners to pay fees and assessments and gives the Rec Centers the legal right to secure a lien on the property for cost of collection.

Not one word in these facilities' agreements speaks to owner rights. We believe our rights need to be outlined and protected. This is what we propose to add to deed restrictions. Articles II, III and IV do this and only reaffirms our obligation to pay fees and assessment and the granting of liens for non-payment.

Article VII is a new section reaffirming existing easements for electric lines, water lines and other utilities or services.

What this section does do is to limit such lines and services to those initially programmed by the developer. The last sentence in Article VII reads as follows: "This easement shall be limited to improvements as originally constructed."

The other changes and additions have been outlined many times in meetings and public announcements. The additions such as landscaping, gazebos, satellite dishes and ham radio towers are areas not covered in existing restrictions. Other existing provisions have been modified for clarity and to assist in uniform compliance and enforcement.

The Deed Restriction Committee has spent many hours reviewing past experience of violations, omissions, compliance and enforcement difficulties. The document you received in the mail is the result of our efforts to improve and refine deed restrictions.

If you need any information on deed restrictions, you may call PORA at 584-4288 during office hours (9 a.m.-1 p.m.) on March 10th, 11th or 12th.

You may also attend in person, open meetings designed to explain and clarify the new restrictions to assist your decision in voting. These open meetings will be held at the PORA office 9 a.m.-1 p.m. March 10th, 11th and 12th.

We believe these new restrictions are a distinct improvement over existing provisions and we strongly urge you to vote in favor and return your ballot. This position is supported by your Rec Center Advisory Board and Rec Center Governing Board.

SCW

1984
APR 14 1984

15 Sun City West residents vote to alter deed restrictions

Units

t
E
C
E
E
E
H
a

By KATHY GILLESPIE
Staff Writer

SUN CITY WEST—To date, a majority of residents in 15 of 20 single family dwellings have voted to change their deed restrictions to make them uniform with restrictions in new sections of the community.

Gerald McVay, a Property Owner's and Residents Association (PORA) director and chairman of the deed restrictions committee, said Thursday only 14 more votes are needed before all 20 units approve the measure.

PORA began the drive to change the deeds March 1.

A major change would give the Recrea-

tion Centers authority to impose fines and/or suspend member privileges for deed restriction violations.

McVay said 66 percent of the ballots have been returned thus far and among those, there is a high percentage of approval.

"Eighty-two percent said yes, that number has remained constant from day one," he said.

Critics of the election and balloting procedure question the legality of PORA initiating the program but McVay said there is no question of legality.

"PORA has the authority to initiate the program, almost anyone can do that. Only the owners can change the deed restric-

tions," he explained.

At least 60 percent of the homeowners in each unit must approve the change.

McVay added that complaints about the extension of "deadlines" for the election are not relevant because no deadline was set although published accounts of the election set the date at March 17.

"There never was a cut-off date. The coverage in the paper led people to infer that," he said.

Once all the ballots are in, McVay will take them to the Maricopa County Planning and Zoning Commission where they will be reviewed and then recorded by the county recorder.

ASU SC