



Legal Update Newsletter

June 2010

Welcome to the latest edition of **Silldorf & Levine, LLP's Quarterly Legal Update Newsletter!**

Our firm is in the process of preparing a very exciting new **Legal Reference Guide** for community managers. We are interested to know your thoughts on the format for this desk reference. The options include a 5x7 size book, magazine size book, or CD Rom. Please share your suggestions on what format would be most useful. Send an e-mail to cciceron@silldorf-levine.com with your comments.

If you have questions about the articles or information in our newsletter or you need information regarding legal representation, please contact:

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Villa Vicenza Homeowners Association v. Nobel Court Development LLC: A Change in the Battleground of Construction Defect Litigation

Should homeowners be bound by a set of conditions and restrictions they never actually accepted? Should builders be able to create and enforce restrictions on homeowners' legal rights without a real opportunity for the homeowners to negotiate the agreement? Oddly, up until recently the answer was yes. Less than a month ago, however, the California Court of Appeals decided otherwise by concluding that CC&Rs are not an enforceable agreement between the developer and the homeowners. Under this new rule, any provision in your association's CC&Rs that benefits a developer who no longer possesses a property interest in the community is invalid and unenforceable. Consequently, this includes the provisions that prohibit your association from amending the CC&Rs without the developer's consent. Therefore, your association may be able to amend its CC&Rs to remove unfavorable provisions that grant unnecessary powers to the developer and restrict important rights of its homeowners. If you would like an evaluation of your association's CC&R's to determine whether unenforceable developer-oriented provisions can be removed, please contact us at 858.625.3900.

NOTE: Our next newsletter will provide a more detailed article on this issue.

Utilizing Internal Dispute Resolution Procedures

Assembly Bill 1836

California's Assembly Bill 1836, which became effective in January 2005, reorganized the Alternative Dispute Resolution (ADR) process set forth in the Davis-Stirling Common Interest Development Act. The bill places an additional requirement on Homeowner Associations to conduct an Internal Dispute Resolution (IDR) process, before the more formal ADR process can commence. This means, associations must now impose informal "meet and confer" methods in which

The Right Approach

This bill changes the way disputes are handled in common interest subdivisions. With other obligations shouldered upon associations, such as notice of the newly adopted procedures and information homeowners must receive concerning the IDR process, associations must be cautious. Understanding the complex pre-litigation procedures required under California law is vital in avoiding association liability. If you are presented with a dispute involving pre-litigation concerns, please contact us for a discussion that may protect your association from the consequences of failing to comply with these procedures.

Virtual Board Meetings?

Homeowner Associations and their Board of Directors conduct regular

this system. Nonetheless, the initial effort may be worth your time, as the association and its members will surely save time and money from the new possibility to attend important meetings without leaving the comfort of home.

Mr. Silldorf and Mr. Wayne plan to offer their unique presentation to management companies and homeowners associations in the Southern California area during the remainder of this year.

Scott Levine to be Honored as Top Attorney Award recipient

We are pleased to announce that Mr. Levine was recently selected as a **San Diego County Top Attorney Award Recipient** for 2010. Mr. Levine was selected for this award in the category of Construction Litigation. This is an award that is based on peer nominations. Mr. Levine will be honored at a reception at the San Diego Daily Transcript office in July.

Retainer Contracts & Hourly Fee Agreements for Community Association Legal Services

Silldorf & Levine offers a variety of legal service options for your association clients including both hourly agreements and retainer contracts. We can draft a unique fee agreement to provide specialized legal needs for your association.

About Our Law Firm

Silldorf & Levine, LLP is a full service community association law firm with offices in San Diego and Orange County. Our law practice serves all of Southern California. The attorneys at Silldorf & Levine, LLP have combined legal experience of more than 50 years. During that time, we have successfully represented hundreds of homeowners and community associations in a variety of legal matters.

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Free Consultation

If you believe you or one of your homeowner association clients has a construction defect, our firm is available to help. Please contact our office at 1-800-811-5874 and ask to speak with Christina Ciceron, Esq.. We are available for a no cost/no obligation site inspection of the property. We also provide a no cost/no obligation follow-up inspection with an expert if warranted in the law firm's opinion. Please be advised that any expert needs to be retained by or under the direction of an attorney and not independently otherwise the information of the expert is not privileged or confidential. If you are a potential client with a potential construction defect that is approaching a statutory deadline, we can prepare a FREE Calderon or SB 800 Notice to stop the running of your statute of limitations. Please call us at 1-800-811-5874. We look forward to assisting you!