

Fighting for the 'little guys'

HOA warriors make some progress in defending owners from associations

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The Arizona Republic

Jun. 11, 2006 12:00 AM

In Arizona, homeowners associations' most formidable foes are the residents who got mad as hell and decided not to take it anymore.

The battles have gone from individual homeowners vs. their associations to a grass-roots network of activists fighting an entire industry. They spend their free time monitoring the state Legislature, lobbying politicians and helping homeowners with HOA problems from Sun City to South Carolina.

"What happened is we found each other," said Pat Haruff, president of the Coalition for Homeowners' Rights and Education.

Haruff was once just an east Mesa homeowner who thought her association was trying to pull one over on her. Phoenix activist George Staropoli got started the same way, after battling his HOA over gating the entrance to his neighborhood.

Now they fight for the little guy, the one who buys his dream house in a nice neighborhood without perhaps fully understanding the rights he is signing away when purchasing in one of Arizona's estimated 9,000 or more HOAs.

They've got Web sites to get the word out, are on a first-name basis with lawmakers and industry insiders and have been successful in changing Arizona's laws to limit HOAs' powers.

Soon, state legislators may give them a new forum to voice complaints: dispute resolution for HOA issues under the Office of Administrative Hearings. If House Bill 2824 becomes law this summer, it will be one of several legislative victories racked up in recent years by activists such as Haruff and Staropoli.

By banding together and educating homeowners on their rights, they've become a force to be reckoned with, Haruff said. Often, the activists are thorns in the side of HOA attorneys who can profit off neighborhood squabbles and homeowner ignorance. They might be Davids battling a Goliath-sized HOA industry, but they're getting laws changed and courtroom victories along the way.

"These are the little guys who've become a force to change policy," said Rep. Eddie Farnsworth, R-Gilbert, a property rights advocate who has authored legislation in recent years to restrict HOAs' power.

He's also one of the sponsors of House Bill 2824, which he says would be a cheaper, faster and more efficient solution for homeowners than having to take on their association in Superior Court.

Currently, most homeowners have to file legal claims against their homeowners' associations in Superior Court, which often costs upwards of \$10,000.

"It's a huge barrier to most people," he said. "There's no reasonable forum for homeowners to go to with problems."

If HB 2824 passes, homeowners and HOAs could have their cases heard before an administrative law judge for a filing fee of \$500. Cheaper than taking a case to Superior Court but expensive enough to prevent homeowners from filing nuisance suits, he said.

It's something that could help restore the balance of power from HOAs to homeowners, because under Arizona law, HOAs have the power to file liens and foreclose for unpaid dues.

But the bill faces opposition from attorneys who can rack up thousands of dollars in legal fees by taking homeowners to court, Farnsworth said.

In a recent Superior Court case, HOA attorney Augustus H. Shaw IV was chastised by a judge for tacking on almost \$6,500 in legal fees and penalties to one homeowner's past due bill. She owed \$343.02 in past dues, but her association's attorney sent her a bill for \$6,825. The judge called it "an example of the risk to the public of abusive litigation practices run amok."

Staropoli argues that these abuses by HOAs and their attorneys happen often, and there's nowhere for homeowners to go for help.

"We're looking for equality under the law," he said. "You have to sue if wronged, on your own dime."

He's also turned his activism into a side business, preparing legal documents for other frustrated homeowners.

"I try to help them out, show them where they can find the laws they need tell them how to file," he said. "There's no one out there to help them."

Some people roll with the punches. Pat Haruff punches back.

Haruff was elected to her association's board, and then kicked off by its other members, claiming her position as president of the Coalition for Homeowners' Rights and Education was a "conflict of interest."

Her crusade to back private property owners' rights from homeowners associations meant she couldn't be an effective board member, they argued. She sued the board in Superior Court and won.

Had she lost, however, she would have had to shell out more than \$60,000.

"I like my HOA, I just want the board to be accountable and responsible," she said. "They don't scare me."

She admits she's a "maverick" and can dish out a "handful of attitude," she said. She knows she has critics, too.

"I'm sure they love me - can't you see the target on my back?" she said.

Scott Carpenter, an attorney with HOA law firm Carpenter Hazlewood who spars frequently with Haruff and other activists, says he may not agree with them, but he "admires their enthusiasm."

Victories by the HOA warriors show the power of average citizens to effect change, Farnsworth said.

"They're not only siding with the little guys, they are the little guys," he said. "It really is a David and Goliath confrontation."