

## David v. Goliath: Cheifetz assists HOA disputes

# Works with E. Mesa communities

By **Todd Hoover**  
Independent Newspapers

As the Valley continues to grow, more and more homebuyers are choosing to live in gated communities and neighborhoods protected by a homeowners association.

Communities protected by rules and regulations are often thought to provide more security, solitude and protection of one's home value.

But this growing trend also brings with it more disputes between neighbors and their HOAs.

Many of these disputes end up in legal litigation, but taking on a homeowners association can be akin to David battling Goliath.

Fortunately for all the Davids out there, attorney Steve Cheifetz is in their corner to help them resolve feuds with their neighbors.

Mr. Cheifetz — a partner in the Phoenix-based firm Cheifetz Iannitelli Marcolini P.C. — helps homeowners in disputes with their HOAs, including disputes involving two senior communities in East Mesa.

### Apache Wells

Mr. Cheifetz was hired by Save Apache Wells on March 5. Organized in the summer of 2006, SAW represents a group of homeowners in Apache Wells, 2223 N. 56th St., who opposed an \$8.5 million community center building project that required a \$6,020 special assessment to all 1,412 residential unit owners.

The lawsuit was filed March

### What do you think?

How do you feel about Steve Cheifetz and his involvement in Apache Wells and Dreamland Villa?

- Public forums  
[www.newszap.com](http://www.newszap.com)
- 24-hour Speak Out line  
623-445-2850
- E-mail  
[thoover@newszap.com](mailto:thoover@newszap.com)

22. The community center vote didn't pass, and the case is currently being settled in the favor of SAW.

"It's not settled as of yet, but it is in the process," said Bing Miller, president of the Apache Wells Homeowners Association.

"(The HOA is) going to pay us \$50,000 for attorney's fees damages," Mr. Cheifetz explained. "In that case, hopefully those issues are resolved."

"Currently, we're waiting for the settlement agreement to be finalized, and then the plaintiffs and the defendants will sign the agreement, and that'll basically put the lawsuit to bed," said Bob Teague, Web site editor for SAW and husband of SAW Co-Chairman Judith Teague.

Mr. Teague thinks Mr. Cheifetz did a good job with the case.

"He's been with us from the beginning," Mr. Teague said. "He's kept us informed of what's going on. We've met with him on numerous occasions to discuss just how we wanted to go about handling the lawsuit. He's just been probably as good as you can get when it comes to a situation like we were involved in."

Mr. Cheifetz thought the situation worked out well for the

homeowners.

"Any time the intent of the community document is carried out, I think that's in everybody's interest," he said. "And that's what we sought to do — we challenged whether they were acting in conformity with the community documents that applied, and the court agreed that they were not, and now we are requiring that they honor the documents, and they've agreed to do so."

Mr. Miller thinks Apache Wells will ultimately recover from this incident, but it will take some time.

"I think that as time progresses, attitudes will change and so forth," he said. "And the homeowners association currently is in the process of making some changes to avail the citizens more access to the board."

### Dreamland Villa

According to Vicki Wirtz, a resident of Dreamland Villa, on the corner of 56th St. and University Drive, Dreamland Villa Community Center filed 17 pages of property restrictions on its residents' property without adequate notice or allowing complete neighborhood

See Cheifetz — Page 5



# Cheifetz

Continued From Page 1

involvement.

"Many people don't even know to this day that there are 17 pages of new restrictions on their property, because the Maricopa County Recorder's Office has no obligation to notify you if there is a change in your property," she said.

Charles E. Maxwell, an attorney with Maxwell and Morgan, P.C., 2500 S. Power Road, Suite 103, said the community center changed from voluntary to mandatory membership through amending its covenants, conditions and restrictions by a majority of its members.

"A few people opposed it, and some lawsuits were filed," Mr. Maxwell explained.

Ms. Wirtz and her husband purchased their Dreamland Villa property in 2001, specifically looking for a community with no HOA.

"It's a recreational club, and we were members of the club until the club revoked my membership," she explained. "And they revoked my membership because I was asking for the copies of documents. Now, in a nonprofit corporation, Arizona statutes state that all members have a right to view and copy documents, but I was denied that for two years."

Ms. Wirtz filed a civil suit asking for the documents, for which she asked Mr. Cheifetz to write her a pleading. The case was ultimately dismissed.

"It was dismissed because it was moot, and it was moot because the club revoked my membership," she said.

Ms. Wirtz sees Mr. Cheifetz as a good philanthropist.

"I think he is a caring indi-

## Related links

[www.apachewells.com](http://www.apachewells.com)

[www.cimlaw.com](http://www.cimlaw.com)

[members.cox.net/dvcc/index.htm](http://members.cox.net/dvcc/index.htm)

vidual who cares about what has happened – that many of our homeowners have been taken advantage of," she said.

A group of Dreamland Villa residents who had been sued approached his firm after being served with lawsuits.

"After they were served, and before their answers were due, we were approached about representing a group of homeowners," he said.

The suit ultimately didn't go in favor of the homeowners.

"It went to Superior Court, and Judge (Christopher) Whitten made a decision that homeowners can be forced to join an HOA," said Ms. Wirtz.

Mr. Cheifetz believes in protecting the rights of homeowners, but associations also have attorneys who believe the HOAs have rights that need to be protected.

Mr. Maxwell said every lawsuit filed – including those involving Mr. Cheifetz – has been resolved in favor of Dreamland Villa, including 24 Mr. Cheifetz fought against.

"The court ruled that the amendments were all valid, that their arguments were without merit and that the people were responsible for the assessments," Mr. Maxwell said. "So now the people that have been fighting this have had to pay (Mr. Cheifetz's) attorney fees, and now they're paying assessments and they have to pay court costs."

Mr. Maxwell said this was the third group of attempted lawsuits against Dreamland Villa.

"Every time people file them,

the people that try to contest the amendments lose," he said. "And they still keep doing it."

## HOA disputes

Through his firm's history of representing homeowners in HOA disputes, Mr. Cheifetz has learned about the significant need for reforms to protect homeowner interests.

"We believe strongly that homeowners are subject to abuse from their association in those rare instances when the association ignores the documents and ignores the law and pretty much does what they choose," he said.

Mr. Cheifetz compared HOA disputes to David and Goliath.

"They have insurance coverage, they have lawyers that already work with them, they have a management company that works with them, and they use your money – your dues – to fight you," he said of HOAs. "And so you're totally outgunned when the homeowner decides to take on his association, and it's not a level playing field."

In these cases, Mr. Cheifetz immediately informs his clients of the uphill battle in front of them.

"The nature of these types of claims is that they've got more money – there's not enough law to protect you," he said. "And you need to oftentimes be willing to fight on principle, because economically, it's very unlikely a homeowner's going to have the resources that an association will have."

Mr. Cheifetz hopes homeowners will remember they are still neighbors with their HOAs after the dispute.

"People should strive to address these serious issues in a way that, if possible, preserves the integrity of the neighbors and the neighborhood," he said. "Fight-

ing with your neighbors is an unenviable position. It's always disappointing when people that live together or should be neighborly become embroiled in bitter feuds. It's just something that we always try to keep in balance and try to avoid, if at all possible – just the personal nature of addressing these issues."

Apache Wells resident Charon Johnson said the community's newly elected board members are ready to put the past behind them.

"It's really the desire of the board to try and start fresh, to sit down and listen to everybody, including the SAW members," he said.

"I think it's a time for healing, not continuing to beat this horse. It certainly would be to the benefit of the whole community if we could communicate openly. And we're always going to have differences, and it's unfortunate that it ever gets into the courts. It would be ideal if people would sit down and work things out."

In Dreamland Villa's case, Mr. Maxwell doesn't think there is any lingering rift in the community.

"The fact that you have 30 or 40 people out of 3,500 homes – that's thousands of people," he said. "To have 1 percent – that's not a rift. If we had only 1 percent of disagreement throughout the country, you'd have the most cohesive community in the United States. So less than 1 percent out of that many homes – that's not a rift. That's just a few people that just took a different approach. I would imagine that if in any election, in any position, if you could get 99 percent of the people to go along with the concept, you've got utopia."

*Post your opinions in the Public Forums at [newszap.com](http://newszap.com). News Editor Todd Hoover can be reached at 480-982-7799 or [thoover@newszap.com](mailto:thoover@newszap.com).*