

7 years of conflict over HOA leaves Dreamland Villa bitter

By Jim Walsh

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Residents of the Dreamland Villa retirement community in east Mesa have succeeded in fighting off efforts to impose a homeowners association against their will, but some are saying it is a hollow victory.

A bitter lawsuit that had raged for seven years was decided in favor of the anti-HOA homeowners, but in the two weeks since the slam-dunk Arizona Court of Appeals ruling, some residents continue to go out of their way to avoid one another, and the community remains deeply divided.

"Nightmare Villa is what we call it," said Cathy Ehniger, a longtime opponent of a decision to turn the once voluntary Dreamland Villa Community Club into a mandatory HOA.

She accuses the club of using scare tactics to get the HOA approved and said many elderly residents had no idea what they were signing when petitions were circulated.

On the other side of the dispute, Judy Ford, a member of the Dreamland Villa Community Club board of directors, agrees that hatred on both sides has poisoned the community.

"I hate all the venom being spewed. It's almost like a bunch of kindergarteners saying, you can't

play on my side of the street," said Ford, who was not on the board when the HOA was formed.

Dreamland Villa was among the Valley's earliest retirement communities. Its block homes were built in 17 tracts from 1959 to 1974. It had no frills and no common areas, but the voluntary club offered many typical senior amenities, including three swimming pools, a shuffleboard court and a clubhouse.

Nearly eight years ago, the club's board recorded new deed restrictions requiring all homeowners to pay annual assessments and special assessments for "recreation, health, safety and maintenance."

Several years after that, the club began placing liens on the properties of people who refused to pay and then filed lawsuits to collect.

Earlier this month, a three-judge appellate court panel unanimously ruled that the original property declarations did not allow residents to be forced into club membership. They also did not allow the board to assess fees and place property liens on homeowners who refused to pay "for an association they did not seek."

Steve Cheifetz, attorney for the HOA opponents, said the ruling provides important safeguards for homeowners of existing communities where residents may try to impose an HOA.

Such scenarios are unusual but not unheard of, he said, because most HOAs are created by developers before the first resident moves into a house.

Cheifetz said he is trying to fend off the imposition of an HOA in a northeast Phoenix neighborhood, Sunburst Farms at 64th Street and Cactus Road, where a battle has pitted residents against each other on and off for 30 years.

Some residents there want to charge the whole community to maintain and operate a well for irrigation of horse properties, and Cheifetz said he plans to use the Dreamland Villa ruling to make his case.

"You pit neighbor against neighbor," Sunburst Farms resident Pat Todd said. "We're very hopeful the Dreamland Villa ruling will have an impact on our case."

In the Dreamland Villa case, the Court of Appeals ruling reversed a Maricopa County Superior Court ruling and awarded attorneys fees to the residents who opposed the HOA.

Charles Maxwell, the board's attorney, did not return calls seeking comment, but Ford said the board plans an appeal to the state Supreme Court. Arizona's highest court grants only about 3 percent of all petitions for review filed each year.