



Why Consider Recalling the AWHOA Board?

On Tuesday evening August 21, 2007 during the open forum portion of the Save Apache Wells monthly meeting, a homeowner stood and said, "Why don't we just recall the Board of Directors?" That suggestion, which had come up on several previous occasions, was met with an enthusiastic round of applause. When Chairman Walt Stromme asked the homeowners how many of them would be willing to support such a move, almost every hand in the meeting room went up. It was decided at that point to explore the recall process (ARS 33-1813) with our attorneys and begin collecting homeowner signatures on petitions.

ARS 33-1813: A recall of the Board of Directors is provided for by Arizona State Law. The statute for removal of a Board member or members stipulates that a recall effort must have petitions with the signatures of a minimum of 10% of the Association members. The petitions are then presented to the Board of Directors who then are required to call a special meeting within 30 days. At that special meeting a minimum of 25% of the Association members must be present. Voting would be by secret ballot and a majority of those Association members, present and voting, is required to recall the Board. If the Board is recalled, an interim Board is appointed and serves until the next election for Board of Directors.

Why are homeowners willing to take such a radical approach to unseat a Board of Directors that were duly elected by the Association members of the Apache Wells community?

Here are just a few of the reasons:

1. In the summer of 2006 Apache Wells homeowners acquired a former bank building, which was purchased by a former Board President on his signature with \$123,000 of our money as a down payment and a \$600,000 mortgage. Homeowners were not given the opportunity to vote on this expenditure. A complaint to the Office of Administrative Hearings was filed and an administrative hearing was held in January. Loopholes in our bylaws prevented the Administrative Judge from ruling in the homeowners favor. An appeal on this issue was deemed too costly.
2. An Administrative Court Judge ordered the \$950 transfer fee rolled back to \$300 following a January hearing. The Board has ignored this court order since it was issued. After they appealed the judge's decision they were denied a stay twice and continue to collect the additional \$650. A hearing on their appeal is set for September 5, 2007.
3. Over the past several years the Board has funded, planned, and promoted an \$8,500,000 Community Center Building project, that would primarily benefit a minority special interest group and would be funded by a \$6020 special assessment on all homeowners. The project was opposed by many within the community, yet the Board refused to consider alternatives, release detailed cost estimates or to meet with homeowners who opposed their plan. Planning costs alone for the project were well over \$100,000.

4. During the February election for approval of the \$6020 special assessment to fund the project the Board sanctioned the use of the opposition's name on posters stating, "Save Apache Wells Vote YES", to confuse voters who were opposed to the project. The election was recently ruled invalid by a Superior Court judge based on their misinterpretation of the special assessment bylaw. They have announced plans to appeal this decision.
5. The Board's response to any legal actions taken against them by homeowners has been to appeal the decisions awarded to opposition groups of homeowners by the courts. This forces the homeowners to spend their own money for legal counsel while the Board spends the money of the Association's insurance carrier and the Association's general assessment money.
6. The failure of the Board to allow members full and complete inspection of AWHOA books, records and papers at any time during reasonable business hours as provided for in our AWHOA Bylaws and Arizona State Statute ARS 33-1805.
7. The failure of the Board to adhere to all AWHOA Bylaws, CC&R's and especially the Architectural Control Rules and Policies.
8. Members of the community who have opposed the actions of the Board and their supporters have been met with arrogance, rudeness, name-calling and obscene gestures. The Board has made no attempt to quell this unacceptable behavior.

Other reasons could be listed from the numerous legal motions that have been filed over the past 6 months by our attorneys. Save Apache Wells does not enjoy the financial resources of the AWHOA Board of Directors. Our efforts are totally funded by supporters who generously contribute to our legal fund. It is heart-wrenching when we receive a \$10 donation because that is all the homeowner can manage. It is supporters like that, that make our efforts worthwhile.

The primary reason we are considering a recall is that we as a group of concerned homeowners feel that the majority of the members of the Board of Directors are guilty of neglecting their fiduciary duty of loyalty and care to ALL the members of the Association. Much like the leopard that is unable to change its spots, the consensus of our supporters is that the Board of Directors will be unable to change their ways. We can't afford to sit back and rest on our recent laurels. And remember philosopher Edmund Burke's famous quote, "Those who ignore history are destined to repeat it". We will leave the decision to recall the Board up to the members of the Apache Wells Homeowners Association.

We welcome responses to this commentary. Please include name and lot number in your response and send it via e-mail to the address at the bottom of this page. We will post them unedited on our Opinions & Feedback page of this website.

Thank you,

Save Apache Wells Committee