

FIORE RACOBS & POWERS

THE LEGAL PERSPECTIVE® COMMUNITY ASSOCIATION NEWSLETTER

Starlight Ridge South Homeowners Association v. Hunter-Bloor



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Who is Responsible for V-Ditch Maintenance?

This case involves a dispute between an owner and an association over the maintenance of a drainage ditch (V-Ditch).

Homeowner Hunter-Bloor (Homeowner) alleged that Starlight Ridge South Homeowners Association (Association) was responsible for maintaining a V-Ditch that ran through her lot, and the Association took the opposite position.

The Association sued the Homeowner for declaratory relief seeking a court determination regarding who was responsible to maintain the V-Ditch and for an injunction ordering the Home-owner to maintain the V-Ditch.

The Association's CC&Rs created certain Association maintenance easement areas over specific lots, including the Homeowner's lot. The maintenance easement gave the Association only a limited easement for specific maintenance actions and access over the owners' lots. The CC&R provisions created maintenance easements for the Association to maintain "all plantings, planted trees, shrubs, irrigation systems, walls, sidewalks and other landscaping improvements." The Homeowner claimed that this language put the maintenance burden for the V-Ditch on the Association because the V-Ditch was located entirely in the Association's maintenance easement area.

The Association argued that a more specific provision in the CC&Rs put the maintenance responsibility for the V-Ditch on the Homeowner because the V-Ditch was on her lot (albeit in the maintenance area). The CC&Rs specifically stated that "[e]ach Owner shall maintain, repair, and replace and keep free from debris or obstructions the drainage system and devices, if any, located on his Lot."

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The trial court ruled in favor of the Homeowner on the basis that the V-Ditch was part of the “irrigation systems,” and was fully contained within the maintenance area, which the Association was responsible to maintain under the CC&Rs.

The Association appealed on the basis that the trial court did not properly apply the principles of construction, or interpretation of documents. The Association argued that, while the general provisions in the CC&Rs gave the Association the obligation to maintain the maintenance easement area, the more specific language in the CC&Rs obligated the Homeowner to maintain the V-Ditch.

On appeal, the court reviewed the history of maintenance, and the Association’s unbroken practice of having homeowners maintain the V-Ditches located on and passing through their lots. Finding no contrary facts in the record regarding maintenance, the court of appeal held that, while the plain language of the CC&Rs could support either party’s position, the more specific language controlled over the general language in the CC&Rs and was in fact what the Association had practiced for over 20 years. The appellate court reversed the trial court’s ruling in favor of the Homeowner and ordered the trial court to rule in the Association’s favor regarding the Homeowner’s obligation to maintain the V-Ditch.

This case highlights the need for comprehensive review of all sections of the CC&Rs to determine maintenance responsibility. Importantly, the case also underscores that where language in CC&Rs could support conflicting positions, the more specific language will control over the general language. Further, all Associations should adopt and consistently follow comprehensive maintenance and repair policies, and budget accordingly.

Note: Peter E. Racobs, Esq. of Fiore Racobs & Powers, Inland Empire Office, represented the Association in this case.

FRP WORKSHOPS “New Legislation & New Cases”

NOV. 20TH & DEC. 4TH

Fiore Racobs & Powers is pleased to present its “New Legislation & New Cases” workshops on Friday, November 20th in Orange County and December 4th in the Coachella Valley and Inland Empire. These informative workshops will cover the important New Legislation and Cases affecting community associations in 2010.

ORANGE COUNTY

Friday morning, November 20, 2009
Hyatt Regency Irvine
8:00 AM - 9:30 AM
Registration: 7:30 AM

COACHELLA VALLEY

Friday morning, December 4, 2009
Desert Willow Golf Resort
8:00 AM - 9:30 AM
Registration: 7:30 AM

INLAND EMPIRE

Friday afternoon, December 4, 2009
The Mission Inn
2:00 PM - 3:30 PM
Registration: 1:30 PM

For further information, contact Diane Weissberg at our toll free number 1-877-31 FIORE, or by e-mail at dweissberg@fiorelaw.com.

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