

FRONT PAGE

See you in court Sun City resident files lawsuit against rec centers

Page 2

Lawsuit seeks RCSC state communities act compliance

By Rusty Bradshaw

Independent Newspapers

After more than three years of posturing, [Anne Report: “posturing” sounds like we were pretending to sue. We were actually “preparing” and fully intended to take RCSC to court.] a class-action lawsuit was filed last month in Maricopa County Superior Court seeking action to declare Sun City a planned community.

Filed Oct. 29 by representatives of the Dessauls Law Group of Phoenix, the suit is on behalf of 38 plaintiffs, all Sun City property owners. It alleges Sun City was created pursuant to documents establishing a planned community and that Recreation Centers of Sun City officials are violating the terms of Arizona’s Planned Communities Act. The lawsuit contains nine counts covering application of the Planned Communities Act, unlawful corporate acts, bylaws in conflict with articles of incorporation, unequal membership, breach of contract on annual assessments and the preservation and improvement fee, and breach of covenant regarding the PIF. Sun City resident Anne Randall Stewart spearheaded the lawsuit under the auspices of the Sun City Formula



Anne Randall
Stewart

Registry, an advocacy group she helped found.

“It is a complex lawsuit, but we have a very good attorney,” she said. “He worked a lawsuit that determined Anthem is a planned community, and that is why we chose him.” RCSC officials had no comment on the lawsuit, according to Joelyn Higgins, RCSC communications and marketing director. However, RCSC officials categorically deny the allegations, according to the complaint filed with the court.

Mrs. Stewart said she spent two years raising funds to pay for legal costs of filing the class action suit, and another year waiting for RCSC responses before the lawsuit could be filed.

“Right now we are not collecting any more money and the account was emptied

See **Lawsuit** — Page 7

Lawsuit

Continued From Page 2

and given to the law firm, then closed,” she said.

Mrs. Stewart added because it is a class-action lawsuit, Sun City property owners who want to participate must file paperwork to do so. Those forms are available on the Sun City Formula Registry website, www.annereport.com, she explained. [Anne Report: INCORRECT REPORTING BY INDEPENDENT. Plaintiffs are set. Found on the website is a link to the Superior Court Case History, the Complaint Cover Sheet and the Complaint itself. If we prevail, the judgment will affect all property owners whether or not they signed up as plaintiffs. See <http://annereport.com/developments.html>]

Even if plaintiffs are successful with the lawsuit, Mrs. Stewart said the case will not be over.

“We see this as something more than a civil matter,” she said. “They *[sic]* way they (RCSC board and management) have illegally taken money, illegally spent

it and have treated property owners is a criminal issue, in my mind.”

She plans to talk with legislators, once the lawsuit is resolved, to pursue matters on criminal grounds. [\[Anne Report: POINT OF CLARIFICATION. The unlawful actions of the RCSC require members to fund civil litigation to compel compliance, which is too expensive. The Arizona Legislature must write applicable statutes in the criminal code that empower the State to enforce them. We consider RCSC's unlawfully assessing and spending millions of dollars to be criminal and deserving of jail time. Any changes in the law would affect future RCSC boards and employees.\]](#)

Lawsuit counts

Page 2

Count 1 Allegation — RCSC is not conforming to Arizona’s Planned Communities Act.

Judgement sought — Determination RCSC is subject to the act, including open meeting requirements, allowing for inspection of RCSC records, allowing residents to be heard prior to board votes, allowing recording of meetings, prohibitions on proxy use and limitations on RCSC’s ability to foreclose on property.

Count 2 Allegation — RCSC has taken actions in violation or inconsistent with state law, its articles of incorporation of bylaws.

Judgement sought — Determination RCSC unlawfully increased quorum requirement, incurred indebtedness or liability beyond \$750,000 without member consent, conveyed amenities and property for tax purposes in violation of articles.

Count 3 Allegation — RCSC adopted bylaws that conflict with the articles of incorporation and failed to accord equal rights or priveleges *[sic]* to members.

Judgement sought — Determine that such bylaws are invalid.

Count 4 Allegation — Members are not treated equally.

Judgement sought — Determination that all property owners are members.

Count 5
See **Counts** — Page 7

Counts

Continued From Page 2

Allegation — RCSC breached contract to treat owners and members equally.

Judgement sought —
Reimbursement to property owners and members charged differently.

Count 6 Allegation — RCSC breached the covenant of good faith and fair dealing.

Judgement sought —
Reimbursement to property owners and members charged differently.

Count 7 Allegation — Breach of contract regarding the PIF by charging different rates to different members.

Judgement sought —
Reimbursement to property owners and members charged differently.

County *[sic]* 8 Allegation — Breach of covenant of good faith and fair dealing in the way PIF fees are charged.

Judgement sought —
Reimbursement to property owners and members charged differently.

County *[sic]* 9 Allegation — PIF is unlawful and invalid transfer fee.

Judgement sought — Recovery of civil penalties, civil penalties and reimbursement to property owners and members charged differently.

Source: Plaintiffs’ complaint

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