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BILL COULD CLARIFY FEES

Request for law tied to lawsuit

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Recreation Centers of Sun City's transfer and preservation and improvement fees will get some protection if a bill working through the Arizona Legislature is passed into law.

District 21 Sen. Debbie Lesko (R-Peoria) sponsored Senate Bill 1175 designed to clarify associations' rights to levy such fees on their members. The bill was sent to the caucusses of the Democratic and Republican parties Feb. 7 after a second Senate reading and passing out of the Commerce and Rules committees.



Jan Ek Debbie Lesko

“It is a technical bill that makes it even more clear that fees, like the PIF that

the RCSC is and always has been able to collect, are legal,” Ms. Lesko stated in an email. “Apparently someone questioned it.”

SB 1175 amends ARS 33-442, governing the prohibition and restrictions of transfer fees, by adding a definition of an association. The proposed language is “Nonprofit organization that qualified under Section 501(c)(3) or Section 501(c)(4) of the United States Internal Revenue code.” The existing law this bill

would amend states nonprofit mandatory membership associations are composed of the owners of homes, condominiums, cooperatives, manufactured homes or any other interest in real property.



South Golf Course, 11000 N. 103rd Ave., was to have gotten a new pro shop this year, but the \$1.6 million project was postponed, along with renovation work at the Willow courses, 10600 N. Boswell Blvd., while RCSC officials wait for the results of legislation and litigation. [Independent Newsmedia/Rusty Bradshaw]

Recreation centers organizations in both Sun City and Sun City West charge new home buyers both a transfer fee and a property preservation fee — the preservation and improvement fee in Sun City and the APF in Sun City West. These charges are also assessed on any other property transfer.

“The legislation was requested by the Recreation Centers of Sun City (officials),” Ms. Lesko stated. “It does not change anything about fees or transfer fees.”

RCSC was sued by a group of 39 residents claiming, among other things, RCSC's fees are unequal and inconsistent, according to court documents. The plaintiffs claim the PIF is charged arbitrarily and randomly. There

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is also a clause that allows for PIF fees to be waived under certain circumstances. RCSC officials 13 years ago changed the assessments from a per person to a per property basis, according to Jan Ek, RCSC general manager. She stated in an email the lawsuit plaintiffs want to undo that decision.

“Switching back would cause a significant revenue shortfall that could only be made up through an annual assessment increase for everyone,” Ms. Ek stated.

She also contends lawsuit plaintiffs want Sun City classified as a planned community. However, Ms. Ek said ARS 33-1802(4) defines a planned community as one that does not include condominiums. The Sun City Condominium Association provides assistance to 386 condo associations in the community.

RCSC’s PIF is \$3,500, as is the APF for RCSCW. The RCSC transfer fee is \$300 while it is \$250 for RCSCW. The Sun City West corporation also charges a disclosure fee of \$125.

“The APF has been challenged once in the 13 years Mike Whiting (RCSCW general manager) has been here,” Katy O’Grady, RCSCW operations services officer, stated in an email. “To our knowledge, there haven’t been challenges to the transfer or disclosure fees.”

The preservation fees in both communities funds major structural renovations and improvements.

“Without it, this expense would have to be wrapped into a substantially increased annual assessment,” Ms. Ek explained. “Terminating the PIF would not terminate the expense, just this mechanism for funding it.”

Transfer fees are to cover the organization’s time and expense associated with processing a change in ownership, Ms. Ek explained.

Citing pending litigation as the reason, the RCSC board last month postponed two major PIF-funding projects for 2017, and all other planned PIF projects in the future. This year’s projects included a \$6.7 million renovation of the Willowbrook/ Willowcreek golf courses and a \$1.6 million replacement of the South Golf Course pro shop. A \$1.6 million project to construct a Willowcreek/ Willowbrook and Skilled Trades Department maintenance building was funded and started in late 2016 and was not included in the postponement.

RCSC officials use the PIF to fund major projects to avoid creating debt to fund them. However, the lawsuit plaintiffs claim RCSC officials violate their own governing documents by approving projects with a cost higher than \$750,000 without a required vote of the members. RCSC officials contend the documents claim a vote is only necessary if the project creates indebtedness more than \$750,000, while plaintiffs claim the wording also includes not creating indebtedness or liabilities higher than \$750,000.

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