

Reduces Lawsuits over Unpublicized Rule Changes AB512

Rule Change Notice Rights

BY PATEE L. BARTA, EDITOR



Assemblywoman Pat Bates, R-Laguna Niguel, authored a bill, AB512, signed by Governor Gray Davis on September 29

which requires homeowner association boards to notify all residents 30 days in advance of a meeting to propose a rule change. Section 1357.120(a) prevents architectural committees from changing rules without proper notice and will help homeowners in disputes between them and their homeowner associations.

Denial of Architectural Review Application

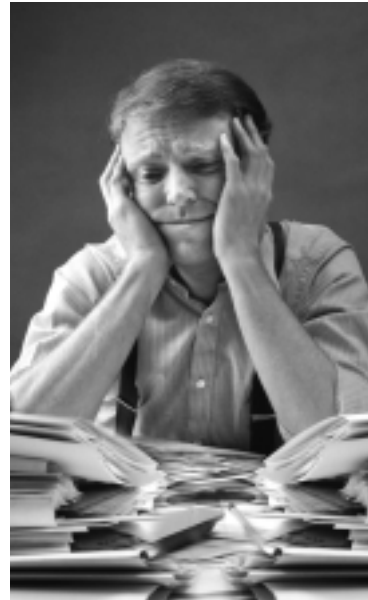
Anderson & Kriger's clients located in a community association in Orange County were wrongfully denied their architectural review application to construct a second story on their house, based on *implied* view restrictions. Attorneys Clayton Anderson and Lauri Croce represented the husband-and-wife residents. "View restrictions in California are strictly construed and may be enforced only if expressed and not implied," said Croce. After a three-day binding arbitration and several hearings and written motions, the arbitrator ruled in favor of Anderson & Kriger's clients, issuing a permanent injunction against enforcing implied view restrictions and requiring the association to approve the clients' building plans. The arbitrator also awarded \$113,500 in damages and some \$70,000+ in attorneys' fees and costs of arbitration.

This case is one of a growing number of homeowner associations in California facing such legal feuds each year. In

Irvine, California, a family was planning the expansion of their Turtle Rock home when they were halted by their homeowners association after blueprints had already been drawn.

City Approved Plans – Architectural Committee Rejection

The Roy's owned a 1,650-square-foot, one-story home which they had outgrown when they drew plans to expand to five bedrooms making it a two-story home. With the city-approved plans in hand, the residents only needed an approval from their homeowners association, The Highlands Community Association. The homeowners allege that in July of 2003 their association stated that "residents needed approval from their next-door neighbor," according to the article *Taking Back the Neighborhood* in *The Orange County Register*. This neighbor-approval provision changed the bylaws to add this as a new requirement allegedly after the couple



contractor, and Wendy Roy, a teacher, purchased their home in 1992, converted a den into a bedroom for one of their two children but still needed space since they had no formal living or dining rooms.

The Roy's felt that the association had "overstepped their boundaries when they had made a decision, then

changed the rules to back it up." The lawsuit was prompted by failed attempts to mediate and arbitrate with the association. The Roy's are concerned that, in the future, they will not be accepted if they are allowed to build.

Right of Appeal

The bill will reduce lawsuits over unpublicized rule changes. These include such issues as bans on flag flying, play equipment, paint colors or parking regulations.

According to Assemblywoman Pat Bates, R-Laguna Niguel, the 30-day notification of proposed rule changes bill also gives residents the right of appeal which they did not have before.

Who is Affected by the New Law?

With 35,000 homeowner or community associations in the state, the law affects some eight million people. About half of Orange County's three million residents live under homeowner association governance. According to the California Law Revision Commission, "as many as 175,000 disputes between residents and associations each year end up as lawsuits or formal complaints." Hopefully this law will provide an equitable situation for both homeowners and their boards. ■

Learn About the Rule Change Notice Rights

AUTHORED BY ASSEMBLYWOMAN PAT BATES, R-LAGUNA NIGUEL
SIGNED INTO LAW BY GOV. GRAY DAVIS ON SEPTEMBER 29, 2003

MAIN POINTS INCLUDE:

HOA boards who propose a rule change must:

- Notify all residents 30 days in advance of meeting
- Notification can be through mail, e-mail, fax or other electronic means (if residents agree) or by television, newspapers, billing statements and newsletters.

A vote to overturn a rule can take place if five percent of the residents call for a special meeting.

had submitted their request. The couple, in August, decided to sue the association. In a quote from *The Orange County Register*, the homeowners said, "they never imagined they would have to sue to expand their home." Thomas Roy, a