

Statement
Prepared for presentation to the
Homeowners Association Study Committee
Of the
Arizona State Legislature
September 7, 2000

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HOMEOWNER'S
DECLARATION OF independence

From homeowner association governments

Good morning Mr. Chairman. Good morning ladies and gentlemen of the Committee. Once more I reluctantly find myself before the committee to speak against my neighbors and other citizens of Arizona. I don't relish being here; however, circumstances and events have brought me here.

As in the times of 1776, a small, principled and dedicated group of citizens are seeking a redress of their grievances. They first looked to the existing government, the HOA Board, and having failed to obtain satisfaction therein, must seek other means of redress – a radical change in the concept and legal structure of the homeowner association and its controlling document, the CC&Rs. What is needed is an inclusion of a homeowners Bill of Rights and the removal of such onerous provisions that make the homeowner nothing more than an indentured servant, living at the suffrage of the board – pleased if the board is benevolent; living in fear if the board is oppressive. To quote from the Declaration of Independence,

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.”

“That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government . . .”

Mr. Chairman, ladies and gentlemen of the Committee, at this time I had hoped that the citizens of Arizona would be able to present and enumerate their long list of abuses, and solutions to these abuses, similar to those found enumerated in the Declaration of Independence, without the interference and obstruction by elements of these “oppressive governments”. I see that this will not be the case. Continuing my quote,

“In every stage of these oppressions we have petitioned for redress in the most humble of terms; our repeated petitions have been answered only by repeated injury”.

The people of Arizona only wish to be able to present their case before this Committee in a fair and just manner. However, sadly I feel that, because of the composition of the committee they are being asked to justify their grievances before their oppressors; they are being put directly into a trial situation with their “oppressors” sitting in judgment. The homeowners, Arizona citizens in good standing, who find these truths to be self-evident, are being called to justify their complaints without the committee calling for the perpetrators to answer for these repeated acts against them.

Further injury has occurred by the acts and actions of certain members of this committee. These insidious acts do not help to arrive at a solution to our grievances or to propose revisions to the CC&Rs, but only serve to further alienate the homeowners. Here are a few statements from the “nation’s voice for” the industry:

- “the majority of boards quietly go about their business, and that the major problems are rare”
- “I am here to try and make the industry better ... I heard mostly complaints without any real suggestions on what can be done”
- “Perception vs Reality – Promoting a Positive Image at the state legislature”, from a CAI luncheon announcement on 8/17 sponsored by Mr. Ekmark’s committee”

I haven’t read any call for CAI members to “bring your solutions to the hearing”. This silence is perplexing when you consider the following quote from a paper by Prof. Evan McKenzie in CAI’s 1999 publication, *Community First!*:

“A homeowner bill of rights including basic constitutional liberties and due process of law, all consistent with functioning local democracy

“plain-language CC&Rs that make the basics easy to understand so that it is fair to expect compliance

“Too often neither the association members nor the candidates for the board understand ... what the director may and may not do . . . “It may be that government can help here -- through licensing, certification, public complaint, and continuing professional educational requirements.”

In over 5 months since this committee was announced, I have not heard said:

“We agree that homeowners have been denied their civil rights and we will work with you for their restoration”, or

“We will join with you in helping to stamp out those boards that violate state law and the governing documents, including those management firms and attorneys that conveniently look the other way”

Today we seek the replacement of the homeowners association form of totalitarian government as set forth in the CC&Rs. We seek, among other changes to the CC&Rs, the inclusion of a homeowners' bill of rights, restoring those rights that every American is entitled to and should enjoy in today's society.

This committee has an historical opportunity to eliminate this dictatorship form of government that denies civil liberties for the betterment of and in the interest of the state, the homeowners association, with its façade of democratic principles and allure of a better world, and restore those principles of American democratic government to the citizens of Arizona. You, ladies and gentlemen, can put a stop to dictatorship in the midst of America by proposing a homeowners' bill of rights along with additional restrictions and legal sanctions against the abuse of these rights by boards of directors, management firms and attorneys who supposedly represent the association. We need to re-write the CC&Rs.

Thank you for this opportunity to speak before you.

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