



Valley Citizens League, Surprise, AZ

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advocate HOA issues study committees

Valley Citizens League Homeowners Associations Research

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A. What is VCL-HOA Research all about?

Many homeowners have become alienated from the political process both within the HOA — board of directors, president, community managers (CAM), and the HOA attorney; and within state government — the legislature, judiciary, and elected officials. The news media has failed *to tell the truth and to ask the hard questions*, as they commonly proclaim to their audiences, with respect to the HOA legal scheme, questions of constitutionality, and misrepresentation in the selling process; thereby giving a false message and spreading misinformation in support of the special interests.

They feel that their voice doesn't matter and that the special interests control the policy decisions affecting their lives. VCL-HOA assures that homeowner influence is brought to bear on the decisions made by politicians and state legislatures and agencies, including on the HOA political community as well.

The Valley Citizens League – Homeowners Association Research is a national, member-based community organization performing research on HOA problems and issues through a study process, rather than by opinion polls, surveys or focus groups. VCL – HOA is driven by citizen/homeowners nationally while recognizing that HOA statutes are state defined. Only issues of statewide or nationwide importance for HOAs and their member-citizens will be considered for a VCL-HOA Issues Study Committee.

VCL's Issues Committees conduct research, study issues pro and con, debate the positions, and report their findings to the Executive Issues Board for approval and publication of VCL's official position. The committees hear from invited homeowners and experts as resources. Resources may also seek participation by contacting the appropriate committee chair.

VCL is composed of a cross-section of citizen-homeowners representing individual views and attitudes and not reflecting any single interest group. While membership is open to everyone including corporations, VCL will maintain a nonbiased objectivity of

the highest integrity. When a Member joins VCL he is asked to select a committee in which he wishes to be a member by applying to the Board of directors.

Every committee member will receive a copy of the 8-page detailed VCL – HOA Issues Handbook outlining:

- Issues selection process
- Guidelines for issue selection
- Committee selection process and members' role
- Chairperson selection process and chairperson's role
- Guidelines for issue committees
- VCL policies and open meeting
- the board of directors and directors' role
- contents of the study report

B. Constitutionality research

In order to better understand the legal scheme and HOA structure, the research must start at the beginning. Are Declarations *ab initio* unconstitutional? Is *willful blindness* at work? I ask interested parties to examine the following 2 questions because your investigation will reveal layers of questionable constitutionality.

1. Can private parties enter into contractual arrangements using adhesion contracts and a constructive notice consent that serve to regulate and control the people within a territory (an HOA), to circumvent the application of the Constitution?
- Can a legislature delegate its functions, not government services but functions, to private entities without oversight or compliance with the Constitution, as required of all government entities?

Study these questions very carefully, drilling down, for they encompass several areas of interrelated unjust laws.

C. Legislative proposals and legal memoranda

a. Private group legislative proposals

There are several FB private groups that have proposed a number of HOA reform bills along with a lengthy description and arguments in support of the proposed bills. With all due respect to the hard work of these groups, these proposals should be made part of an instructional and educational podcast program with each session covering one proposed bill. Each proposal must be taken down a level to focus on what reality demands. It must be instructive in an educational setting. The homeowners, and

especially the advocates, must also be made aware of the legalities and judicial process to achieve success.

The Issues Study Committee methodology set forth by VCL-HOA is a means to improve the credibility of advocates going forth before the legislatures and in the courts. The groups can use the materials they already presented and structure the podcast in accordance with the VCL-HOA approach. That's a pro-con analysis. Con? Yes! It will be needed to address the CAI/HOA attorney responses that, in the past, have left many advocates unprepared to rebut the opposition.

In my active days before the AZ legislature, I've witnessed CAI getting 5 -10 minute times while advocates got just 3 minutes, and they had the sequence of speakers arranged so advocates could not rebut their arguments. What is necessary is to a planned group of advocates, one group to carry their arguments and the other to come after to rebut CAI.

b. Legal memorandum format for committee report

The legal memorandum is the recommended report format for the committee analysis of proposed legislation. Law clerks and judges use this format – pretty much standard but not always followed – to report the results of their findings on a specific issue or in answer to a specific question to be addressed by the court.

The format is simple:

1. Statement of the issue or question being addressed, usually in terms of specific laws or contract covenant.
2. A statement of the relevant facts, both pro and con -- plaintiff and defendant. This could be short or complex. The more questions asked, or facts included, will overcome most homeowners seeking justice. [Keep it short and to the point. Don't make it a free for all on every little complaint].
3. The judges' discussion and analysis of the above items. Could be short or involved depending on the above. Here the decisions on the arguments raised by both parties are answered, in several such conclusions or one decision. Generally, a short paragraph or sentence which could be: "Is distinguished from . . .", "without merit . . .", "on point . . .", etc.
4. The holding or opinion of the court as applied to the issue or question raised above. Usually the last paragraph: "Therefore, we find . . ."

Your narrative on each issue should be reformatted accordingly in order to make your findings (4) acceptable after a thorough analysis and discussion (3). That requires statements according to (1) and (2) above. The result will be a more focused argument.

In regard to court case analysis, your approach is to focus on (1) with some understanding of the details from (2), and to find opinions (3) and how the court decided the case after all (4). By following this approach, you can discover the important

and relevant opinions based on the law and case histories. With many court opinions the reader can learn and understand just what all the laws in question are about. You may find many surprises.

It is my recommendation that proposed legislative findings adopt the legal memo format; it can be used before the legislature and court cases.

D. Valley Citizens League History

The original Valley Citizens League, Phoenix, AZ was formed in 1987 by civic-minded individuals seeking a vehicle to enable the voice of the people to be heard regarding public policy. *“The mission of VCL is to provide valley citizens the resources and forum for collaborative citizen-based problem solving to effect positive changes on regional, issues.”* Its Founders understood the need to go beyond people’s opinion and views, and for well thought out position papers supported by its study committee findings.

It was Arizona related only. VCL was modeled after the Minneapolis-St Paul Citizens League founded in 1952. In 1991 I served on the board of directors that included a past NYC mayoral candidate, an Arizona Attorney General and Solicitor General (a 6-year position), and at present a long serving Glendale, AZ council member. At that time VCL instituted the issue study program developed by the *Morrison Institute for Public Policy* at the Arizona State University. Unfortunately, some years after I left VCL it folded in 1997 after achieving notable accomplishments.

The VCL – HOA Issues Handbook was adapted from the original VCL Handbook.