

Submitted on March 19, 2007
by Stanley Fiala
2511 Sunflower Ave. D8
Santa Ana, CA 92704
714.979.6966 fax 818.232.0011
standa@merlin4x.com

FOR IMMEDIATE RELEASE

BRIEF

HOW EXTORTION AND PREDATORY HOMEOWNER ASSOCIATIONS ARE ATTACKING OUR CITY AND CHILDREN'S EDUCATION

This title shall be known and may be cited as
The Santa Ana Homeowners' Association Normalization Doctrine.

BACKGROUND

Recently, some City Council members may have attend the National League of Cities -- Congressional City Conference held in Washington, D.C. where, among other issues the attention was made to the following:

Emptying pockets - how debt and predatory lenders are attacking your city.

By way of this brief, I would like to rephrase this issue by stating:

Emptying pockets - how extortion and predatory HOAs are attacking our city.

EXAMPLE: I am a condo-owner in the Woodside Village HOA ["WVHOA"] at 2511 W. Sunflower Ave. D8, Santa Ana, CA 92704 which consist of 403 units, each occupied by 2.8 legal residents which equals to about 1128 Santa Ana votes. Since the recent BOS election will be decided by only about 7 votes margin, the WVHOA is undoubtedly strong voters base for any elected official including Judges and Distric Attorney.

Based on the WVHOA governing documents the WVHOA has no power to levy DISCIPLINARY FINES ["FINES"] without first obtaining 51% approval from the membership and amend the original CC&Rs and Bylaws accordingly. This is consistent with the California Law Revision Commission, Common Interest Development Law, § 5000. Authority to impose disciplinary fine.¹

Even if the FINES would be legal the WVHOA's only lawful recourse to collect FINES would be via the Small Claim Court as provided by Civil Code 1367(c).²

Since the complex is mostly occupied by Hispanics, about 60%, who have no ability to comprehend their rights, as stated in the governing documents written in cumbersome English language, they are easily intimidated to pay FINES, in violation of governing documents, which would be [consistent] with CPC section 518-527.

Since I am somewhat a public figure, as 2002 council and 2004/2006 mayoral candidate in Santa Ana election, the WVHOA Hispanic homeowners are asking me to intervene on their behalf. Thanks to my Mexico City born wife, I have excellent interpreter and can hear their complaints.

THE TIP OF THE ICEBERG

A typical extortion demand, disguised as the legitimate HOA FINE is shown in EXHIBIT "C". To protect homeowner's identity, the name and unit No. are redacted.

1 § 5000. Authority to impose disciplinary fine. Page 54: An association shall not fine a member for a violation of the governing documents unless, at the time of the violation, the governing documents expressly authorize the use of a fine and include a schedule of the amounts that can be assessed for each type of violation.
(See www.clrc.ca.gov/pub/2007/MM07-04.pdf)

2 Civil Code 1367(c) Except as indicated in subdivision (b), a monetary penalty imposed by the association as a disciplinary measure for failure of a member to comply with the governing instruments, except for the late payments, may not be characterized nor treated in the governing instruments as an assessment which may become a lien against the member's subdivision interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c.

Both elements of the extortion are present: (a) Obtaining \$100 property as shown in CPC 518,³ and (b) use of fear by imputing crime of “physical assault on HOA employee” as shown in CPC 519(3),⁴ which is always fraudulent allegation to intimidate a homeowner or tenant. In the case of children – the crimes like graffiti, damage to property, use of drugs are fraudulently alleged to intimidate parents to extort \$50, \$100 and \$500 on semi monthly bases.

However, I am not an attorney so I cannot give them any legal advise. I can only help them to file a complaint with the WVHOA board as provide by DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT. (See EXHIBIT “A”)

The above complaint usually take care of the EXTORTION attempt, for while, against a homeowner to whom I have assisted. There are many who do not seek my help and pay the EXTORTION [protection] fee because they are affright.

My punishment for helping neighbors consists of slashed tires on my vehicles. About 50+ tires have been slashed on my cars since 1995, a small price to pay to protect “mi gente”.

Based on reported allegations to me the law violations are so grave, that I consider them, in many cases, as terrorist threats. Based on the complaints, I am estimating that over \$50,000 annually is EXTORTED from Hispanics in the WVHOA which can be used to improve their children's life.

IMPACT ON EDUCATION

Since, the WVHOA EXTORTION demands are made fraudulently against Hispanic children by accusation of a crime which they did not commit and must see their parents to pay without cause, create stress and the quality of children lives in the WVHOA is gravely undermined which directly impacts their school grades. [EMPHASES ADDED]

WHEREFORE: I am asking the City to intervene on behalf of “mi gente” Hispanics and elderly neighbors in the WVHOA.

CITY HAS THE AUTHORITY

WVHOA Declaration Article XV, Breach, Section 4. Enforcement. Provides as follows:

In the event of a breach of any of the provisions, covenants, conditions, restrictions, easements or reservations hereby established which is continued for thirty (30) days, the Board of the City of Santa Ana may enforce any and all of the terms and conditions of this Declaration. It is hereby declared that damages at law for such breach are inadequate. The restrictions provided for herein shall be enforceable equitable servitudes and shall inure to and bind all owners of the residential units.

3 CPC 518. Extortion is the obtaining of property from another, with his consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.

4 CPC 519. Fear, such as will constitute extortion, may be induced by a threat, either: (1) To do an unlawful injury to the person or property of the individual threatened or of a third person; or, (2) To accuse the individual threatened, or any relative of his, or member of his family, of any crime; or, (3) To expose, or to impute to him or them any deformity, disgrace or crime; or, (4) To expose any secret affecting him or them.

THE WVHOA HISPANICS NEED YOUR HELP!
[I cannot do this alone!]

Currently the Hispanic have no place to go for help! They cannot call the police because the police cannot interpret CC&Rs, they cannot go to court because to retain an attorney is about \$5,000 plus about \$25,000 attorney fees if they lose, and they do not understand language to effectively represent themselves with in the WVHOA.

WVHOA DECLARATION ARTICLE XV § 4 IS CLEAR
[The City Council can intervene]

Even small support from you, the City Council, like being an observer in upcoming April 17, 2007 board election would help. Same as president Jimmy Carter does in banana republics.

To shine a light on the wrong doers is always very effective. In contrast, an inaction by the City would signal to the WVHOA that it is a OK to EXTORT from Hispanics and abuse their children.

Although, I am generally against any commission as executive or think-tank body, the commissions do function fairly well as a probe or investigative entity. So a commission or board to asses the scope of the HOA problem in our about 80% Hispanic City, consisting of volunteers, would be appropriate.

I have also learned from Scott Kutner, the District Manager for the Community Development Agency, that he is putting together some program relating to an education of the SAPD, SAFD and other key City Departments about the problems with the HOAs in the City. Perhaps that can be utilized or expanded on.

The money should not be problem because we tax / fine delinquent HOAs.

Being about 80% Hispanic, the City of Santa Ana cannot prosper where Hispanic are a target of the City and State sponsored EXTORTION via the HOA environment so remedy.

I have invited WVHOA to respond to my presentation See EXHIBIT "B"

Respectfully submitted,


-Stanley Fiala

EXHIBIT "A"

Witness: Stanley Fiala, tel 714.979.6966, fax 818.232.0011

UNIT Number: 2511-D8

Petitioner Name: _____

UNIT Number: _____

Respondent: Woodside Village HOA ("WVHOA")
P.O Box 26648
Santa Ana, CA 92799

CASE Number: _____

DATE: _____

**THE REQUEST FOR FAIR, REASONABLE, AND
EXPEDITIOUS INTERNAL DISPUTE RESOLUTION ("IDR")
(Civil Code section 1363.810-1363.850) ⁵**

Please be advised that I am disputing all fines as shown in any WVHOA records.

The IDR is not ADR and supersedes any disciplinary hearing and will be video and sound recorded.⁶

In this IDR the WVHOA must show the following:

1. The authority to levy any disciplinary fines against the WVHOA membership i.e. CC&Rs, Bylaws, Civil Code, Case Law, etc. etc. etc.
2. The authority pursuant to the Civ. Code, §1357.110 Requirements for valid rule⁷
3. The authority pursuant to the discrimination under the provisions of the California Fair Employment and Housing Act.⁸
4. The authority pursuant to the discrimination under the provisions of the California Vehicle Code⁹

Serviced on March 14, 2007 pursuant to Civil Code section 1369.530(b) by first-class mail and facsimile transmission at 714.540.9645.

Respectfully submitted,

⁵ Civil Code §1363.840 (b) (2) The association may **not** refuse a request to **meet and confer**. Failure to respond within 25 days will automatically **void and null** any fines or penalties against my unit. Any retaliatory parking permit rights suspension will cause \$35 charge per day against the WVHOA which is standard overnight public parking charge in the City of Santa Ana.

⁶ Civil Code §1363.05, Common Interest Development Open Meeting Act and Damon v. Ocean Hills Journalism Club (2000), Cal.App.4th

⁷ An operating rule is valid and enforceable only if all of the following requirements are satisfied: (a) The rule is in writing. (b) The rule is within the authority of the board of directors of the association conferred by law or by the declaration, articles of incorporation or association, or bylaws of the association. (c) The rule is not inconsistent with governing law and the declaration, articles of incorporation or association, and bylaws of the association. (d) The rule is adopted, amended, or repealed in good faith and in substantial compliance with the requirements of this article. (e) The rule is reasonable.

⁸ Cal. Gov. Code §12955 and 12955.7; Code Civ. Proc., §526

⁹ Assembly Bill 2210 ("AB 2210") was recently enacted to amend §§21100, 22651.7, 22658, 22953, and 40000.15 and repeal §22658.2 of the Vehicle Code. These changes are effective January 1, 2007, and were implemented in an attempt by the legislature to promote the safety and welfare of the public by allowing local authorities to license and regulate tow truck companies and operators.

EXHIBIT "B"

Stanley Fiala

2511 W. Sunflower Ave. D-8
Santa Ana, CA 92704
714.979.6966 fax 818.232.0011
woodsidevillage.ocsatire.com

March 16, 2007

By first-class mail and facsimile transmission at 714.540.9645

Board of Directors
WOODSIDE VILLAGE HOA
P. O. Box 26648
Santa Ana, CA 92799

By first-class mail and facsimile transmission at 714.520.9248

John Devine
HOA PRESIDENT AND
ATTORNEY AT LAW BY PROFESSION
558 S. Harbor Blvd., Suite 200
Anaheim, CA 92805

RE: NOTICE OF MARCH 19, 2007 CITY COUNCIL MEETING

Dear Mr. Saeid Hariri,

Pleas be advise that during the March 19, 2007 City council meeting, PUBLIC COMMENTS Item 90A, I will try to present to the council the WOODSIDE VILLAGE HOA ["WVHOA"] scheme to induce a [fear] in Hispanic homeowners / tenants and elderly residents which is consistent with PENAL CODE SECTION 519 for purpose to EXTORT.

In your capacity as an Agent for the WVHOA you are invited to respond on Monday March 19, 2007 at:

CITY COUNCIL CHAMBERS
22Civic Center Plaza
Santa Ana, California 92702

You may also monitor my presentation live starting 6:00 pm. at:
<http://www.ci.santa-ana.ca.us/councilstream.asp>

Respectfully submitted



Stanley Fiala

Woodside Village HOA

Date Violation Issued: 3/14/2007

Unit: #####

Maximum Amount Due: 100.00

One Hundred and 00/100

A fine will be issued if not corrected by

To:

2511 W. Sunflower Ave. #####
Santa Ana, CA 92704-7533
#####

Reporting Party: _____
Patrol Guard HOA Employee Resident

physical assault on HOA employee

REMINDER / WARNING / FINE / COST

VIOLATION NOTICE 3/14/2007 100.00
BEHAVIOR: Assault (R&R 4.07.2)

(All fines and cost will be applied to assessment account)

The above referenced party has reported that your unit is in violation of the Association Rules and Regulations and/or the CC&R's. Please respond **in writing** as soon as possible, even if you are not in violation. **If you have been fined, you must respond within 20 days** or your fine will not be removed. You must **mail your response** to the office or deliver it personally. **Please do not telephone.** In addition, it is important that you **correct the violation immediately.** Fines show the maximum penalty for each violation. At the discretion of the Board of Directors, this amount may be decreased following hearing.

Copies of the Rules and Regulations are available in the Woodside Village HOA office for \$10.00 by money order only. Please contact your homeowner if you have any questions.

If any information on this form is incorrect, please notify us **in writing as soon as possible.** Thank you for helping us make Woodside Village a safe, comfortable and pleasant place to live by complying with the following violation. If you are a tenant, this paper is a courtesy copy for your file.

Violations physical assault on HOA employee 100.00

Please mark one of the following:

3/14/2007 100.00
BEHAVIOR: Assault (R&R 4.07.2)

The violation has been corrected as of ____/____/____.

There was **no violation.** Please see the **note of explanation** on the back of this form.

Enclosed is my **payment. (Fines Only)** Payable by cashier's check or money order only

I wish to schedule a hearing to **dispute this fine.** Please notify me of the next available date. For your information I have enclosed a letter explaining the circumstances surrounding the violation. **(Fines Only)**

Woodside Village HOA
P.O. Box 26648
Santa Ana, CA 92799

Fax (714) 540-9645

Violations physical assault on HOA employee 100.00