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RECORDED NOTICE OF ASSOCIATION INFORMATION

A.R.S. § 33-1256(J) [Arizona Condominium Act] and A.R.S. § 33-1807(J) [planned community statutes] requires all condominiums and planned communities to record a notice with the County Recorder indicating contact information for the community association. Arizona's title companies worked hard to gain this statutory requirement. The document is relatively simple and straightforward. The above statutes require the following:

1. All condominiums and planned communities must record the notice in the office of the County Recorder in the county in which the condominium or planned community is located;
2. The notice must include the following:
 - a. The name of the condominium or planned community association;
 - b. The name of the designated agent or management company for the community association, if any;
 - c. The address for the community association;
 - d. The telephone number for the community association;
 - e. The date of recording of the CC&Rs; and
 - f. The "recording number" of the CC&Rs.
3. If the information changes, an amended notice or a new notice must be recorded with the County Recorder within 90 days of the change.

In situations where a community association has professional management, it is likely that professional management companies will initially record these required notices for all communities managed by that management company. After that, amending the notice or recording a new notice will become part of the checklist of work required when a

community changes management companies. Again, it is likely that recording a new or amended notice will be done by the management company when taking over a new community. Additionally, the notice will be required of all new communities and it would be wise for those management companies that manage communities from the beginning of the community to be sure the notice is recorded – developers may not do it at the beginning.

There is a concern. The legislature was aware that there are some community associations where the CC&Rs have been amended multiple times. In that case, the safe approach will be for the recorded notice to list the “main document that constitutes the Declaration” as well as the amendments. There are many communities in Arizona, however, that have many sets of “CC&Rs” in one community association. For example, there are a number of communities where each “tract” or “parcel” has its own “declaration” that requires mandatory membership in a larger community association. In those communities there is no “main document” that constitutes the declaration – each tract’s declaration is the “main document that constitutes the declaration” for that tract. In those cases, the best practice will be to list every declaration that separately requires mandatory membership in a planned community or condominium association.

Finally, there is no penalty in the statute for failure to record the notice. However, the first version of this bill that was introduced in 2002 included a loss of lien rights for those community associations that do not record the notice. Given that fact, there is a belief that widespread failure to comply with the required notice could result in a future legislature attempting to amend the statute requiring the notice to include a penalty provision including a loss of an association’s lien rights if there is a failure to comply with the required notice.

Note: Arizona law, A.R.S. § 33-416, says that recording an instrument “duly acknowledged” constitutes notice of its existence. Therefore, although the association statutes do not mention signing and acknowledging, this should be done to be effective.