



**DC Ranch Association
Board Report 2-4-19 #2**

Subject Matter: Allocation of Neighborhood Legal Fees and Legal Costs

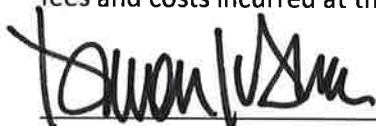
Background: Through the years, the general practice has been that the Ranch Master absorbs most legal related expenses incurred by the 15 neighborhoods, instead of allocating those legal expenses to the neighborhoods that incur them. We could identify only a couple isolated exceptions to this practice through the years. In support of the current practice, is the fact that not one neighborhood budget maintains a legal expense line. In 2019, \$36,000 is set aside in the Ranch Master budget for legal expenses. As we look at the year ahead, it is likely that a couple neighborhoods will incur legal expenses that relate only to their neighborhood; they could be significant.

On December 10, 2018, the Board met in executive session to discuss the matter with legal counsel. The question on the table was, *how should legal expenses be allocated?* One school of thought is that the neighborhoods pay all legal fees they incur. With this approach, if a neighborhood is small and the legal expense is significant, it could be a burden for the neighborhood budget to absorb. Whereas, if the legal expenses are incurred on a ranch-wide basis, the spread has less impact per capita. The drawback to this approach is that the 10 sub-associations would contribute to another neighborhood's expenses, when no other DC Ranch neighborhood or entity would contribute to theirs.

This item of business was discussed at the January 7, 2019 board meeting; the discussion was tabled after much debate. With legal counsel present at a scheduled executive session on February 4, 2019, the Board further considered the matter. It is now being brought back in open session for consideration.

The Association is governed by the *Amended and Restated Declaration of Covenants, Conditions, and Restrictions for the Ranch* recorded in the Official Records of Maricopa County at Instrument No. 1999-0673267 ("CC&Rs"). Pursuant to the CC&Rs at Article II, Section 2.18, "Neighborhood Expenses" are defined as *the actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners of Units within a particular Neighborhood or Neighborhoods*. To that end, when legal expenses, including attorneys' fees and costs, are incurred for the benefit of owners of units within a particular neighborhood or neighborhoods, they should be assessed to the relevant neighborhood or neighborhoods as a neighborhood expense.

Recommendation: Execute a formal resolution (provided herewith) establishing the policy that all legal fees and costs incurred at the neighborhood level remain with the neighborhood.


Darren Shaw, Executive Director



**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE
DC RANCH ASSOCIATION, INC.**

By an affirmative vote, the Directors of the DC Ranch Association, Inc. (the "Association") hereby adopt the following resolution as an official action of the Board of Directors (the "Board") of the Association and direct that this action be reflected in the meeting minutes.

WHEREAS, the Association is governed by the *Amended and Restated Declaration of Covenants, Conditions, and Restrictions for the Ranch* recorded in the Official Records of Maricopa County at Instrument No. 1999-0673267 ("CC&Rs");

WHEREAS, pursuant to the CC&Rs at Article II, Section 2.18, "Neighborhood Expenses" are defined as the actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners of Units within a particular Neighborhood or Neighborhoods;

BE IT THEREFORE RESOLVED, when legal expenses, including attorneys' fees and costs, are incurred for the benefit of Owners of Units within a particular Neighborhood or Neighborhoods, they shall be assessed to the relevant Neighborhood or Neighborhoods as a Neighborhood Expense.

IN WITNESS WHEREOF, the undersigned have executed this resolution as of this 4th day of February 2019.

Susan Grace, President

Attest:

Elizabeth Kepuraitis, Vice President