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REVIEW OF SEVERAL PERTINENT CASES

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Nickerson, et al v. Green Valley Recreation, Inc. (2011 Arizona Court of Appeals). Green Valley Recreation, Inc. ("GVR") was formed in 1978 when two other nonprofit corporations merged. GVR operates and maintains one Member Services Center and 13 recreation centers in Green Valley, and has a private membership base of over 12,500 households. In 2000, GVR's Board of Directors amended its bylaws to impose on all members a "new member capital fee." This fee had to be paid by a person who purchases a property requiring GVR membership when that person has not been a GVR member within the preceding year. This appears to have been the trigger for this lawsuit, which had approximately 80 households as Plaintiffs, and challenged the validity of the covenants that required their membership in GVR. Both the trial court and the appeals court found in favor of GVR and declared valid and enforceable the contracts creating adherence to the master deed restrictions on GVR membership.

Pinnacle Peak Vistas III HOA v. Derailed, LLC (2011 Arizona Court of Appeals). Derailed owns a lot in Pinnacle Peak Vistas III and placed a metal sculpture in its front yard of a saguaro cactus that is approximately 12 feet tall and is wearing sunglasses and holding an electric guitar. The trial court and appeals court agreed that there were no provisions in the governing documents that prohibited outdoor sculptures, which are not landscaping or structures that were restricted in the governing documents and subject to prior HOA approval. The appeals court did find, however, that Derailed's sculpture may be an "unsightly object" and the case was sent back to the trial court for further proceedings.

Roberts v. Bridges (2011 Tennessee Court of Appeals). Claude Russell Bridges is the musician Leon Russell. He lives in Steelebrook Acres and has upset his neighbors by parking a large tour bus and two panel trucks on his property, which he uses when he tours. When he is using the bus and trucks, there are a number of cars parked at his property belonging to his co-workers who tour with him. The neighbors also were upset by the construction of an outbuilding, a parking lot and a wide driveway. The trial court found in favor of the neighbors but the appeals court allowed the outbuilding, parking lot and driveway. The appeals court held that a restriction to use property only for "residential purposes" means that the property cannot be used for commercial or other purposes that are not residential in nature. Since the bus and trucks were only used in the Bridges' business, the "residential purposes" restriction was violated and they can no longer be parked or stored on the property.