

Nevada LAC Secures Critical Victory

Thanks to the hard work of Nevada CAI members and the volunteers of CAI's Nevada Legislative Action Committee (NV-LAC), the Nevada Legislature has sustained the Governor's veto of Assembly Bill 396 (AB 396). The vote was one of the first actions of the new legislature as it opened its 2009 session. This victory means that - for now - associations in Nevada can continue to enforce traffic laws within their community, make independent editorial decisions in newsletters, better maintain common elements and adequately assess members for reserve funding.

Background

AB 396 was a bill hastily compiled at the eleventh hour in the 2007 legislative session. It was rushed through committee hearings and votes by the Senate and Assembly. In 2007, there were multiple bills pending in the Senate. One bill contained provisions that were considered to be so egregious that it was completely killed. The remaining bill was approved by a vote in the Senate and sent to the Assembly for review. At the same time, the Assembly approved a bill relating to community associations and sent it to the Senate. These two bills contained differing provisions. The Senate would not approve the Assembly bill without amendments and, conversely, the Assembly would not approve the Senate bill without changes. With time running out, the passage of both bills looked unlikely.

In an effort to find common ground, four days before the end of the session, the Senate and the Assembly each decided to appoint three (3) committee members to review the common-interest community bills and to attempt to come up with one common bill for both chambers to approve.

The legislators worked diligently to reach consensus. Unfortunately, many of the egregious provisions in the long dead Senate bill were resurrected and put into the compromise bill which became AB 396. These new provisions included provisions that CAI and its members found to be unacceptable and even dangerous to communities and their residents, such as:

- Section 5 of the legislation would prevent associations from enforcing traffic restrictions (like speeding) on association roads. This will create dangerous conditions for families and would burden already stretched police resources.
- Section 8.5, would allow individual homeowners to alter common association property. This provision would have the state taking property that belongs to all association residents and giving it to an individual. Although an individual would be given the right to alter property they did not own, all association residents would be liable for any resulting expense or damage from such alteration.
- Section 23 of the bill would weaken reserve funding requirements by allowing associations to only fund reserves for any anticipated expense in the coming five years. This would weaken associations' ability to plan for future common element replacement costs and lead to choice of either large special assessments or deterioration of common elements in the future.

- Section 28 would extend state government editorial control over association newsletters by requiring an association to publish any and all opposing views on any “issue of interest.” The association would be required to run all submissions, without exception or edits, at the expense of all homeowners.

All of these provisions would have had negative impacts on Nevada homeowners who are struggling with the historic housing and economic crisis. Communities and homeowners had not been given the benefit of having their voices heard on these issues, prior to their rushed passage in the closing days of the legislature. This was the primary reason that Governor Gibbons vetoed the legislation.

Passage of AB 396 would have resulted in communities that were less safe, less governable and less able to take action to preserve the home values of their residents.

CAI members and LACs worked diligently to oppose the legislative override of the Governor’s veto. This vote is well earned victory for CAI members and their allies, especially if you consider that the original legislation passed both chambers with only 2 “No” votes back in 2007. CAI members showed that by making their voices heard they can make a difference. Congratulations!