

Case Analysis Regarding Anti-SLAPP Motion in HOA Context

*Turner v. Vista Pointe Ridge Homeowners Association*

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The Bottom Line Lesson: If a homeowner sues an association and alleges it mis-applied the architectural guidelines regarding improvements to his home, the association cannot get the lawsuit dismissed by filing an anti-SLAPP motion and arguing the dispute concerns constitutionally-protected “public issues.”

The Facts: The Turners are homeowners in the Vista Pointe Ridge community. They obtained the association’s approval for an addition to their home and for outdoor improvements, including a casita. The approval specified that the casita could not exceed 10 feet 6 inches in height. The Turners ended up increasing the height of the casita by a foot, or a foot and a half, without first obtaining a variance from the association. A neighbor complained about the height. There were also issues about whether other improvements complied with the architectural guidelines. The Turners complained about the association’s failure to grant a variance and its \$23,732.48 reimbursement assessment levied against them in connection with the architectural guidelines disputes.

The Turners sued the association and asserted seven causes of action related to the association’s alleged mis-application and enforcement of the architectural guidelines. The association filed an anti-SLAPP motion under Cal. Civ. Code § 425.16 to strike the Turner’s complaint, arguing that all of the alleged activities constituted “protected conduct in further of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.” The association asserted that the Turners’ complaint was an effort to chill the exercise of free speech. The trial court granted the association’s motion, reasoning that a dispute about architectural guidelines was a public issue. The Turners appealed.

The Appeal and Resulting Rule of Law: The Court of Appeal disagreed with the trial court and the association. It reversed the trial court’s order and held the alleged acts by the association in applying its architectural guidelines were “not undertaken in furtherance of the right of petition or free speech.” The court determined that the association’s alleged unwillingness to grant a variance, its demand that various disputed improvements be removed, its levy of a reimbursement assessment, its alleged failure to comply with the CC&Rs, and its demand that the Turners pay to remove a tree located in the common area, do not raise free speech concerns.

The court further determined that the action by the Turners did not involve board elections, recall campaigns, or who should manage the association. None of the written communications between the Turners and the association were published in a newsletter or made during a televised meeting. The dispute pertained to the interactions between a homeowner (Turners) and the association with respect to the homeowner’s desired improvements. It was not of any interest to

other homeowners, with the exception of one neighbor whose view may be affected by the height of the casita. As the Turners' lawsuit did not concern a "public issue" and did not allege actions in furtherance of the association's right of free speech, the Court of Appeal allowed Turner to maintain his lawsuit against the association.

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