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SAINANI V. BELMONT GLEN HOMEOWNERS ASSOCIATION, INC. CASE SUMMARY

In *Sainani v. Belmont Glen Homeowners Association, Inc.*, the Virginia Supreme Court held that a rule restricting seasonal decorations promulgated by a Virginia property owners association was unenforceable because the rules exceeded the scope of, and were not reasonably related to, the restrictive covenants.

The rule at issue established specific time periods during which seasonal and holiday decorations could be displayed and required homeowners to apply to the Association architectural review board (“ARB”) for approval to display decorations for any other celebrations. The rule also required homeowners to turn lights off by midnight. Following a strict construction approach, the Court analyzed four covenants relied upon by the Association in evaluating whether the Association had authority to adopt the seasonal decorations rule.

Exterior Lighting – The first covenant relied upon by the Association for rule-making authority prohibited exterior lighting directed outside lot boundaries and exterior lighting causing “adverse visual impact to adjacent lots, whether by location, wattage or other features.” Noting that the seasonal decorations rule did *not* mention “adverse visual impact” or regulate “location, wattage or other features,” the Court determined the rule exceeded authority established in the declaration by the exterior lighting covenant.¹

ARB Approval – The second covenant the Association relied upon prohibited homeowners from modifying or altering property without application to and approval of the ARB. The Court determined that the ARB approval requirement also did not establish Association authority to adopt the seasonal decorations rule on two bases. First, the Court suggested that restrictions on exterior lighting installations may only be regulated on the bases provided in the exterior lighting covenant (i.e., adverse visual impact, location, wattage or other features). Second, the Court determined that ARB approval is only required for *permanent* changes and that seasonal decorations are merely temporary in nature.

General Appearance Regulation – The Association also relied on a covenant providing the ARB with general authority to “regulate the external design and appearance of the Property ... so as to preserve and enhance property values and to maintain harmonious relationships among structures and the natural vegetation and topography.” Following a rule of construction requiring interpretation of the covenant “from a reading of the whole instrument,” the Court concluded that the apparently broad authority established by this covenant is limited by other provisions of the declaration – the ARB only has authority to regulate permanent modifications or alterations of any lot.

¹ The Court also rejected an Association argument that more general language prefacing the exterior lighting covenant prohibiting “noxious or offensive activity” expanded Board authority, following general rules of construction that the more specific exterior lighting restriction limited the application of the more general prohibition on nuisance activity.

Significantly, the Court went further to address whether design-control powers include an *implied* power to impose design controls for aesthetic purposes. While *express* design-control powers established by statute or in recorded covenants are enforceable, the Court limited the scope of *implied* powers to “governing or protecting common property and preventing ‘nuisance-like activities’ on individually owned property.” In restricting implied authority, the Court commented that implied design-control powers create risks for property owners, including creating uncertainty in how design-control standards will be applied.

General Rule-Making Authority – Finally, the Court rejected an Association argument that authority to adopt the seasonal decorations rule was found in a covenant granting the Association broad rule-making authority. The Court determined that the rule-making authority covenant requires that the rule be in furtherance of other restrictive covenants. Because no other covenant authorized the regulation of seasonal decorations, the Association was without authority to do so.

CONCLUSIONS AND RECOMMENDATIONS

While the *Belmont Glen* decision is based on particular facts and circumstances, the trend in Virginia continues to be one of strict construction – common interest communities may promulgate rules *only* to the extent *expressly authorized* in recorded covenants. In other words, community associations may only adopt rules that are authorized by clear, express language in recorded documents. Care should be taken to review association rules and regulations, particularly any architectural guidelines, to ensure the rules withstand scrutiny in light of the *Belmont Glen* decision.