

On-Street Parking and the Community

by Aaron C. Yen, Esq. who is an Associate Attorney with Anguis Terry, LLP.

One of the more common issues that associations face is whether on-street parking should be allowed in a community.

While some homeowners see streets filled with cars as a sign of prosperity, some view it as the first step towards neighborhood decay.

Many associations now take the view of the latter. They argue that property crimes and criminal activities around the neighborhood have a common denominator ... cars coming and going all the time. They argue that allowing on-street parking will make it more difficult to spot suspicious activities. They also argue that emergency vehicles may also have difficulty getting through a street clogged with parked cars. In addition, they argue, there is a safety issue where the parked vehicles on the streets often block the views of drivers backing out of driveway, thus putting pedestrians in danger.

As a result, more and more communities regulate on-street parking.

This approach has stirred up controversies between associations and homeowners because many homeowners believe that they have a right to park on public streets, and street parking is none of the association's business.

Does the Association have the Authority to Regulate On-Street Parking within the Community?

According to Fire Department Regulations (Ordinance #1962 — Section 902.2.2.1 and Ordinance #1237 — Section 15.32.100) the width of the street also determines whether on-street parking is permitted. In communities where on-street parking is regulated, some homeowners take this to mean that because the local ordinance is more lax than the associations' rules, associations therefore have no authority to regulate on-street parking.

Not so! CIC's are governed by their Covenants, Conditions, and Regulations ("CC&R"), which means that residents in a CIC must observe state and local rules, as well as their CC&R's. Just because one is more restrictive than the other does not mean that the more restrictive law is unenforceable.

In fact, it is just the opposite!

The Development Code again provides us with guidance. In its 'conflicts provision', the Development Code states that it does not interfere with lawfully adopted private agreements or covenants between parties (the CC&R's), and in the event of a conflict, the most restrictive standard shall govern.

Most associations adopt parking regulations that only allow on-street parking after on-site parking is full.

This is clearly a higher standard than the Code provides. It is also the standard that should govern!

Of course, every CIC is different. Some may adopt parking rules while others may not.

In summary, it is important to remember that it is not only perfectly legal for associations to regulate on-street parking in a CIC, but that the adopted rules should be closely observed by all residents to avoid violations and fines.