
Court of Appeal *Withdraws Ruling* That Arbitration Provisions in CC&Rs Are Not Enforceable Against a Homeowners Association

In an e-Update of June 2, 2010 (see next page), we reported a decision of the Court of Appeal, Fourth Appellate District, that an arbitration provision contained in CC&Rs did not bind a homeowners association in a construction defect case against the developer. The case is *Villa Vicenza Homeowners Association v. Nobel Court Development, LLC* (“*Villa Vicenza*”).

On June 25, 2010, the same panel of the Court of Appeal granted our petition for rehearing in *Villa Vicenza*. The effect of the order is to withdraw the opinion of May 27, 2010. That opinion is no longer binding between the parties or as precedent. The appellate panel directed the parties to submit supplemental briefs by July 26, 2010. After that, the panel will take the case under submission again. The court is free to decide the case in any way it chooses, on any ground it chooses, and in either a published or non-published opinion. A somewhat different panel of the same court has under submission another case that concerns whether an arbitration provision contained in CC&Rs binds a homeowners association: *Pinnacle Museum Tower Assn. v. Pinnacle Market Development (US) LLC*, No. D055422. That case may be decided by August 2, 2010. The outcome of future appellate decisions evaluating the enforceability of arbitration provisions in CC&Rs is not predictable.

For now, the only authoritative precedent concerning arbitration provisions in CC&Rs is *Villa Milano Homeowners Assn. v. Il Davorge*, which holds a provision enforceable, at least when the association is acting as a representative for owners.

Resource.**Court of Appeal Rules That Arbitration Provisions in CC&Rs Are Not Enforceable Against a Homeowners Association**

June 2, 2010 > The complete article follows this e-Update.

Contact Us.

Please contact a member of Luce Forward’s Common Interest Development group if you would like to discuss the impact of this decision on arbitration provisions in CC&Rs.