

[Blogs](#)

April 05, 2017

Dispute over applicability of HOA tree-trimming requirements was an “issue of public interest” sufficient to trigger protections of anti-SLAPP statute

A homeowner who invoked his HOA's dispute resolution process regarding tree-trimming requirements and was sued by another homeowner based on that application could successfully bring an anti-SLAPP motion on the ground that the suit interfered with exercise of First Amendment rights. [*Colyear v Rolling Hills Community Association of Rancho Palos Verdes*](#), No. B270396 (2nd Dist., Feb. 28, 2017). Defendant and homeowner Liu submitted an application to his homeowner's association (HOA) to invoke the HOA's dispute resolution process against a neighbor who refused to trim trees blocking Liu's view. In response, a different neighbor, Colyear, sued Liu and the HOA, alleging that two of the offending trees were actually on his property, that the relevant tree-trimming covenant encumbered his property, and that Liu and the HOA were wrongfully clouding title to his property. Liu withdrew his application and filed a special motion to strike Colyer's claims under the anti-SLAPP statute, which the trial court granted. Hanging arborist cutting branch with small saw. The Second District Court of Appeal found that Liu's application was made in furtherance of the exercise of the constitutional right of petition in connection with an issue of public interest under California's anti-SLAPP statute. The court rejected Colyear's claim that Liu's application simply involved a private tree-trimming dispute between two neighbors. It found that an "issue of public interest" was present because there was an ongoing controversy, dispute or discussion regarding the applicability of tree-trimming covenants to lots not expressly burdened by such covenants and the HOA's authority to enforce such covenants. Noting that a number of hearings, letters, and challenges to the HOA's policy had been made over several years, the court found that Liu's application constituted a statement made in connection with a matter of public interest within the meaning of the anti-SLAPP statute. The court determined that the second requirement of an anti-SLAPP motion – that the plaintiff is unable to demonstrate a probability of prevailing against the defendant -- was also met because Liu had withdrawn his application before any action on it was taken. Thus, the trial court properly granted the motion and dismissed the suit.

Explore more in

[California Land Use & Development Law Report](#)