



Hindman Sanchez

Dealing With Harassment

Have you ever felt harassed by a homeowner or even a board member? If so, you join the growing number of board members and managers harassed each year. Harassment has become a serious and far reaching problem for many associations, boards and managers. Not only are rude and abusive owners a bigger problem these days, but often conflicting opinions between board members and managers on how to deal with abusive owners causes friction within the association.

What exactly constitutes "harassment?" Harassment is defined as words, gestures and actions which tend to annoy, alarm or abuse another person. There are two major types of harassment: criminal and civil. Each municipality may define "criminal harassment" differently, so depending on where you live, an action may or may not be "criminal harassment." There is also a state statute prohibiting harassment.

Civil harassment involves the filing of a complaint against an abusive individual whereby damages or injunctive relief can be requested from the court. However, there may be other options besides a lawsuit, you should consider the following tips:

Amend your governing documents. Your governing documents should contain provisions against the harassment of all persons within the development, including managers, staff and vendors. A violation could _____ like any other covenant violation entitling the association to _____ and sue for compliance. If your current documents do not have such language, then the board should consider amending them. The board can also adopt a rule prohibiting harassment, however, putting this language in the declaration is preferred. The code should prohibit profanity, taunting, stalking, repeated excessive phone calls, disruptive behavior, abusive letter writing and violence.

Establish codes of conduct. The board should adopt a code of conduct for board and member meetings. The conduct code should _____ as _____ the right to speak, acknowledgement by the chair, the length of time given to each speaker, only allowing one speaker at a time, no abusive language, no personal attacks, no yelling, etc. The code of conduct should be in writing and distributed to everyone in attendance at each meeting. If the proper decorum cannot be followed due to an abusive individual, then the meeting should be adjourned and reconvened at a later date. The disruptive individual must be given a clear message that such behavior will not be tolerated by the board.

Establish procedures for complaints and requests. Written procedures for processing complaints and requests should be established and responses should be timely and consistent. If personality conflicts arise, the Board should consider changing the contact person or establish an intermediary to assist with those conflicting parties. A grievance procedure which includes detailed documentation of the situation should be instituted.

All procedures should be in writing and strictly enforced. On occasion, associations must rely on outside resources such as mediation and litigation. Always remember, that if conduct involves threats of physical harm to an individual or if an individual is afraid for his/her safety, the appropriate law enforcement should be contacted immediately. Never ignore the abusive, unruly person, and remember that abuse of a manager or board is abuse of the association. It can be as damaging, costly and dangerous to the association as a physical assault.

Limit Contact. For abusive owners the board may also, through a rule, covenant or procedure, prohibit personal contact by the owner with the board, manager, committee member, etc. These owners may be required to communicate only in writing. However, you cannot prohibit the owner from attending meetings.