



Anatomy of A Neighbor-To-Neighbor Dispute

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EVALUATE THE FACTS PRESENTED

In most common interest development communities, noises, vibrations, and other similar sounds of “life” are normal and should be expected. It is only when the activity of a resident rises to the level of being unreasonable, or begins to disrupt the entire community, that it becomes a matter that may require the association to act; to step in and protect that community. But where conduct gives rise to annoyance, disturbance, or interference with a single neighbor, without more, the dispute is generally considered one between neighbors and not one for the association to resolve.

The first question to consider is whether the facts presented identify a dispute between owners over their separate interests or about conduct committed on their lot, in their unit, within exclusive use common area or on common area. Examples of such conduct include:

- Smoking
- Noise
- Pets (dog barking)
- Activity at the pool
- Hard surface flooring
- Drugs (or other illegal activity)
- Criminal activity; security

DETERMINE WHETHER THE ASSOCIATION HAS AN OBLIGATION TO GET INVOLVED

When an issue is first presented, the community manager must assist the board in determining whether the situation is an appropriate matter for association enforcement or, is it a neighbor to neighbor dispute that must be left for “adults” in a community to resolve. The question is not always easy to answer and may not be as simple as determining how many owners need to complain before a matter goes beyond simply a neighbor to neighbor dispute and becomes an association wide issue.

The association covenants are enforceable both by the association and the owners. Civil Code Section 5975 1354(a) provides that unless the Declaration states otherwise, the Declaration may be enforced by any owner, by the association, or both. Typically, the Declaration also includes language authorizing owners to enforce its provisions. Thus, while an aggrieved owner may look to the association to handle a neighbor dispute, it may not always be appropriate for the association to do so. In general, when the conduct complained about is disturbing or disruptive to just one owner, that alone may not give rise to an obligation on the part of the association to act or justify the expenditure of association funds to run to the aid of an owner.

On the other hand, most Declarations empower associations through their boards to enforce the covenants and ensure owner compliance. In addition, a Declaration typically contains a general nuisance clause which prohibits conduct that annoys, or that interferes with an owner's quiet enjoyment, or any act or failure to act which constitutes a nuisance under law, or any illegal activity. Based upon this provision, owners will look to a board to take action to protect them or stop the neighbor's conduct.

WHY THE ASSOCIATION SHOULD NOT GET INVOLVED IN A NEIGHBOR DISPUTE

The board of directors is not a condominium police force. The Declaration does not impose upon a board the obligation of mediating personality disputes between homeowners; nor can a board be obligated to regulate the conduct of individuals in the privacy of their own homes. Indeed, it may be inappropriate for a board to devote association funds to address disputes between neighbors. It is only when a resident's conduct escalates to the point of impacting the association in general or the rights of other homeowners, that the association must act.

A DECISION NOT TO ACT TAKES ACTION AND COMMUNICATION

Even a decision not to become involved in a matter between neighbors requires action. A board should not simply determine that a matter is a neighbor dispute and ignore it. That is likely to engender anger and frustration. It could cause the matter to escalate or worse yet, result in the association becoming a target of the dispute or defendant in a lawsuit.

Rather, a decision by a board not to act must be made following thorough review and consideration of the facts, due diligence investigation and the exercise of business judgment, consultation with legal counsel, if necessary, and communication with the parties involved. The association should notify the complaining parties that the matter presented is one for adults in a community to resolve between themselves and not a matter for the association. Depending upon the nature of the dispute, it may be helpful to advise the complaining party that if they are unable to resolve the matter with their neighbor, then they have an option of pursuing any appropriate legal means available, from lodging a complaint with local law enforcement to filing a lawsuit seeking injunctive relief against the neighbor. Make it clear to that party that how they decide to proceed to resolve the matter is their decision. This way, the association can distance itself from the neighbor to neighbor dispute and advise the owner that the association has no intention of stepping into the middle of a personal dispute between neighbors.

Again, knowing precisely when a neighbor to neighbor dispute rises to the level of a community wide matter depends on the facts and circumstances presented. Each situation is different and requires the same analysis. But by considering each matter presented in light of the above guidelines, association managers can guide their boards against the inclination to run to the aid of every owner who looks to the association to do battle for them.