



CONQUER AND

Today's toxic political and social climate is dividing family and friends—and may be doing the same in your community. Yet associations also are in a unique position to buck that trend and build consensus.

“Black Lives Matter, Women’s Rights are Human Rights, No Human is Illegal, Science is Real, Love is Love, and Kindness is Everything.”

That was the first sign to go up in an owner’s yard in an Overland Park, Kansas, community association, according to local media reports in March.

The second, placed in a neighbor’s yard, read: “This House Supports Our President, Police and Military, Second Amendment, All Lives Matter and Removal of Illegal Aliens.”

When the second sign was stolen, the owner upped the ante, making it much bigger and securing it with concrete, *KSHB Kansas City* reports.

Additional signs also popped up in the community, and one owner declared he wouldn’t remove his sign until all of his neighbors did the same.

The escalating war of words among neighbors captures today’s heated political climate and how community associations can be affected by it.

By Pamela Babcock | Illustration by Dante Terzigni

PARTISAN ANIMOSITY in politics has never been higher in the U.S. Views of the opposing political party are more negative than any point in nearly a quarter of a century, according to a June 2016 Pew Research Center report.

“For the first time in surveys dating to 1992, majorities in both parties express not just unfavorable but very unfavorable views of the other party. And today, sizable shares of both Democrats and Republicans say the other party stirs feelings of not just frustration, but fear and anger,” the report says. More than half of Democrats (55 percent) say the Republican Party makes them “afraid,” while 49 percent of Republicans say the same about the Democratic Party.

The good news? Only a minority in both parties stop short of saying it would be more difficult to get along with a new community member who belonged to the other party—just 31 percent of Democrats and 27 percent of Republicans say it would be harder. The report goes on to say that while the current partisan environment doesn’t “for the most part appear to



their day in a bad mood.

“It just goes downhill from there,” she says. “So many people are grumbling about politics that they don’t see anything good happening.”

Grimm says she wouldn’t be surprised if boards are feeling the same as they deal with association issues. “There are always problems, but I have had some consultations recently where the homeowners also seem more than normally agitated in their disputes with the association,” she says.

Likewise, Jeremy M. Tucker, a community association attorney with Lerch, Early & Brewer in Bethesda, Md., says since the 2016 presidential campaign began, he’s seen more aggressive rhetoric from factions bent on refuting board

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Today’s owners, much like the general population, are increasingly challenging decisions, feel empowered, are less afraid to speak up, and want “greater clarity and transparency in board decision-making on their behalf,” he adds.

FINDING UNITY AND CONSENSUS

In general, U.S. presidential elections do bring out some partisan quarrels in common interest communities. Such disagreements often manifest themselves in disputes about political expression—often over yard signs, notes Andrea J. Boyack, a law professor and co-director of the Business & Transactional Law Center at Washburn University School of Law in Topeka, Kansas.

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be turning neighbor against neighbor, it may be making for some difficult conversations about politics.”

Indeed, the toxic social and political climate may be trickling down to community associations, according to an informal survey of *Common Ground* readers in March. More than 60 percent of respondents say they’ve noticed an increase in animosity among residents in their community. (See p. 7 for more.)

Beth A. Grimm, an attorney in Pleasant Hill, Calif., says if animosity is on the upswing, there may be good reason since so many people seem to wake up, have a cup of coffee, check the news, and start

decisions and, in some communities, “a lack of adherence to the truth,” and efforts to “flat out discredit whoever’s on the board” with rumors and statements designed to invoke fear.

Harsh language also has spiked: “For some reason, people feel empowered to say things to board members in a way that they probably wouldn’t say in any other professional realm,” Tucker says.

Matt D. Ober, a fellow in CAI’s College of Community Association Lawyers (CCAL) and a partner at Richardson Ober in Pasadena, Calif., says he’s sensed a growing resistance of owners to accept business as usual for many years.

For example, in the run-up to the 2008 presidential election, Olde Belhaven, a townhome community in Fairfax County, Va., got in a dispute with a husband and wife over the size of an Obama-for-President sign since it was four inches taller than covenants allowed. The owners ended up cutting the sign in half so one piece read “OBA” and the other “MA.” But the association persisted—and ended up going bankrupt from legal fees.

Although the 2016 election has created more division among the general population, Boyack says she hasn’t heard about an uptick in community tensions and, if anything, associations have

“attempted to mitigate differences and unify communities.”

Last year, Seattle’s New Rainier Vista Homeowners Association delivered a letter, signed by more than 200 people, offering support to the community’s Muslim population.

“As members of the New Rainier Vista community, we are saddened and outraged by the blatant anti-immigrant, and specifically anti-Muslim, actions coming from the Trump administration,” the letter began. Later, it went on to say: “We know you as mothers and fathers and caregivers, as our friends and neighbors ... We stand ready to support you in the ways you ask us to.”

Likewise, Boyack says she hasn’t seen a jump in litigation or news stories about community animosity.

In fact, she believes common-interest communities may help bridge political divides among residents. If government “exacerbates contention, division, and distrust” at the true grassroots level, associations might be able to push back

against that trend and build community and consensus on issues people can agree, Boyack notes.

That’s because associations don’t wrestle with hot-button topics like abortion and immigration. “They grapple with issues like swimming pool maintenance, snow removal, and paint colors—things that Republicans, Democrats, and none-of-the-above can all agree,” she says.

“Everyone in a community has similar interests in neighborhood safety, harmony, and property values—and because everyone has similar goals, a well-governed community can bring people together no matter what their politics are.”

CHANGING THE STATUS QUO

In “Bucking the Trends: The Impact of Legislative Trends on Community Association Governance,” a presentation at CAI’s Community Association Law Seminar in January, Ober and other authors noted how much the status quo has changed for association governance in the current social and political climate.

Community association leaders need to thoroughly review their rules, policies, and governance structures.

“That means questioning a rule that has no reason, a procedure that lacks efficiency, or perhaps a leadership model from days gone by that isn’t responsive to the needs of a new generation,” the presentation says. Leaders can no longer do things just as they have in the past, whether it involves approving an application for a rooftop solar energy system, a request to display a political sign, or the use of a service animal in the common area. “Failure to recognize and address individual rights over community property rights may result in associations running afoul of the law and losing favor with the communities.”

The presentation notes that resisting change in today’s turbulent times can easily give rise “to an undercurrent of dissatisfaction.” In worst cases, “that tension can erupt into divisiveness, recall of directors, and an earful to a legislator or local political organization that eventually becomes the seeds of legislation on all

BUILDING BRIDGES

COMMUNITY ASSOCIATIONS can take several steps to bring residents together and create harmony.

BE THE GROWNUP. Communities are influenced a lot by how they handle problems, disputes, and complaints, says Janice Fiaschetti, CMCA, president of South Gate Condominium Association in Brookfield, Conn., whose firm also manages the property. Managers and boards should set strong, positive examples by stressing “the importance and pride we take in accepting others for their differences, working together as a diverse community,” and taking the high road in confrontational situations, Fiaschetti says. Treat people with respect and give them a voice, “without resentment as long as they are respectful and not abusive,” she adds.

PUT IT OUT THERE. Steps to be more transparent—meetings, open votes, committees, newsletters, and social media—are all important in encouraging homeowner engagement and volunteerism. Transparency and inclusiveness keep disruption to a minimum, notes Judith Silva, a member of CAI’s Board of Trustees, chair-elect of CAI’s Homeowner Leaders Council, and former president of the Heritage Park Homeowners Association in Sacramento, Calif.

SEEK INPUT. Responsible boards ensure everyone’s voice is considered. If people complain they’re too busy to come to meetings, try to connect with them through websites, social media, and emails. Meet-the-board nights where residents can ask questions are good for warding off “fake news” and other potentially-polarizing issues.

COME TOGETHER. Joint projects build consensus. Trying to decide on a landscaping plan? Form a committee to help people connect around a common goal. “Associations can create opportunities for neighbors to get to know each other outside of the political context,” says Andrea J. Boyack, a law professor and co-director of the Business & Transactional Law Center at Washburn University School of Law in Topeka, Kansas. “These sorts of small, intimate interactions are critical to healing the wounds that our country has felt over divisive politics and issues.” —P.B.



topics of community association governance,” the presentation says.

Janet L. Newcomb, a member of CAI’s Board of Trustees and chair of CAI’s Homeowner Leaders Council who lives in Huntington Beach, Calif., says if there is any heightened animosity—which she doubts—it’s not a spillover from national politics but more likely due to poor communication or unresolved issues in the community.

And it’s not all doom and gloom. Others say relations are improving.

David J. Byrne, a partner in Ansell Grimm & Aaron’s community association practice group in New York, says he’s not seeing any more tension. To the contrary, the group’s clients in New York, New Jersey, and Pennsylvania are seeing higher property values, fewer foreclosed or abandoned homes, and a drop in delinquent owners. These are all factors that lessen drama since homes that are worth more and assessments that don’t skyrocket tend “to make people happier,” Byrne says.

Likewise, portfolio manager Karl Kramer, CMCA, AMS, of REID Property Management in Silverdale, Wash., says animosity has lessened in the Puget Sound associations he manages. If politics have had any impact, he says it has caused a greater feeling of the need for true understanding of association issues and boards realizing they need to communicate better. Meeting attendance is up, and boards really like the input—even if it’s negative—since they get firsthand feedback and alternative solutions.

“Overall morale for each of the seven associations I work with has actually improved,” Kramer says. “Perhaps everyone is tired of the constant media hammer of bad news and is just looking to brighten the corner where they live.” **CG**

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BALANCING ACT

TOBEY OXHOLM, assistant secretary of the Lakeview Estates Homeowners Association in Gouldsboro, Pa., says national rhetoric hasn’t divided his community but admits it was “pretty badly splintered” in 2014 when it took control from the developer. Some owners loved the developer; others didn’t.

“It had nothing to do with politics, but we had to figure out how to work together,” says Oxholm, who runs an alternative dispute resolution practice.

Since then, Lakeview Estates has worked to build community by adding Mahjong classes, Paint ‘n’ Sip events, and community workdays. The community also plans to launch a welcoming committee since younger families are moving in as original owners move out.

“A lot more of us are getting together around things that matter to us as neighbors and as families, such as how to improve our beach or the playground for the kids,” Oxholm says. “We don’t have to worry about your position on China or whether you think there ought to be a special prosecutor (investigating) Trump. That has nothing to do with us. So when issues that have become politicized come up, like opioids or immigration, we’re not thinking about whether it’s a red issue or a blue issue. We’re understanding of the people to whom these issues are important, and seeing it through the eyes of neighbors and friends.”

Since rules can trigger division, Lakeview Estates is taking a hard look at which should stay and which should go. It ditched one saying no fences because more residents have dogs and adopted one to ensure fences won’t diminish the enjoyment of others living in the natural woodland community. “We weren’t just trying to cram down uniformity—it was let’s be empathetic to the person who bought thinking this was going to be their special place,” says Oxholm.

When an owner wanted to put a small decorative flag with flowers in their front yard, the board initially thought “what the heck—why not?” but decided to keep the no-yard-signs rule after considering what might happen if someone wanted to hoist a Confederate flag or post an anti-immigrant placard. “We anticipated that there could be some things where we really didn’t want to make decisions saying we’re in favor of one person’s speech but not others’. We didn’t want anyone wondering why we turned them down but said yes to others—and thinking it was because of their age, race, sex, or whatever,” Oxholm explains.

In the end, Oxholm says fewer rules with less discretion may be a key to maintaining harmony in today’s turbulent times.

“We’re trying to be very clear on the need to obey the important rules, and to be open to changing or eliminating other rules that may have arisen from someone’s or some board’s personal preferences. People are different, and our members should be able to enjoy what they like doing, as long as they don’t interfere with anyone else’s ability to enjoy their own space.” —**P.B.**