

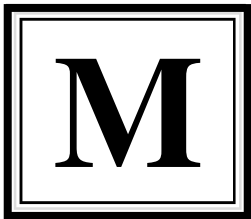
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How Should Associations Handle "Hoarders"?

Very Carefully!

by Beth Mulcahy

A fire in an Arizona community association recently made the national news. It started in a carport crammed with debris and then spread to the owner's equally cluttered residence. The owner survived, but was severely burned because debris blocked her escape. An elderly occupant of a Seattle, Washington community was less fortunate; she died when a cigarette ignited a fire in her heavily cluttered unit.

These two incidents are extreme, but they illustrate a growing problem in community associations – owners who "hoard" books, newspapers, trash, knick-knacks, furniture, scrap metal, animals, rotting food and everything in between. The problem is common and has been identified as a serious mental illness. "Hoarders" are usually isolated and suffer from the psychological issues that produce the clinical definition of hoarding, which is "retaining items of no value in quantities that interfere with the victim's ability to function".

"Hoarders" are people whose messes impair their own lives and, potentially, the lives of those around them. Set forth below are a few general guidelines for boards and associations dealing with "hoarders":

Talk to the Owner: Before taking action, talk to the unit/lot owner. If the "hoarder" is a renter, the owner may want to consider eviction proceedings. If the owner is the "hoarder", talk with them and possibly their relatives (if the association has their contact information). The relatives might not be aware of the situation. The board may consider offering volunteer clean-up help, but, please note that an offer of help is typically not accepted by a clinical "hoarder".

Contact the Maricopa County Environmental Services Department: If the clutter constitutes a potential health code violation, the Department may send an inspector, issue a citation to the owner ordering a clean-up and take further action if the owner does not comply. From the association's perspective, it is easier and less expensive to have a third party handle the enforcement. The Maricopa County Environmental Services Department's website is located at www.maricopa.gov/envsvc/envhlth.asp or contact them by phone at 602.506.6616.

Enforce Association Documents: The provisions that will most likely come into play are those prohibiting "nuisances" and requiring owners to maintain clean and sanitary conditions in their residences. But, the board must have a tangible basis for acting. Clutter on/in the owner's property must be visible from the exterior or it must pose a potential danger to the health or safety of other residents. A starting point would be for the board or management company to send a violation letter and, if the problem persists, then refer the matter to the association's attorney.

File A Lawsuit: This can be the most expensive option; evidence must show that the hoarding situation poses an imminent threat and courts are reluctant to intervene.

Whatever actions the board takes, it is important to remember that "hoarding" is an illness first and a violation of the community's rules second. Focusing on the owner's need for help as well as on the need to enforce the community's rules may produce a faster and more long-lasting solution to the problem.

Answers

Please visit our website located at www.mulcahylawfirm.net

Dealing with Harassment and Bullies in a Community Association

by Beth Mulcahy

The association's board of directors has just approved a large special assessment to repaint the association's common area buildings, and owners are not pleased, to say the least. But the decision infuriates one owner in particular. He shouts obscenities at the board during the meeting and continues to hurl insults at the board president after the meeting ends. He loudly repeats those insults adding new ones every time he sees the president, parks outside the board secretary's home on his motorcycle revving the engine and sends countless unflattering and untrue e-mails about the board to a select few in the community. Should the board ignore this behavior or is this a form of harassment, which the board can and should take steps to address?

Unfortunately, harassment is a significant and growing problem in community associations. The number of complaints about owners harassing board members, managers, maintenance staff, vendors and sometimes other owners rises every year.

"Harassment" Defined

Black's Law Dictionary defines harassment as "words, gestures or actions which tend to annoy, alarm or abuse another person." To annoy, *Black's* suggests, is "to disturb, irritate" or "cause discomfort", while abuse consists of "insulting, hurtful or offensive wrongs or acts."

In most cases, harassment involves a series of repetitive actions that occur over some period of time. Whether the incidents are isolated or repetitive, the bottom line will always be whether the targeted individual *felt* intimidated or threatened, *not* whether the angry individual *intended* his/her actions as abusive or intimidating.

The First Step

The first step when dealing with harassment is to have the board or management company write the offending

individual a letter – or have the association's attorney write a letter – describing the behavior, and stating that the individual will be subject to legal action if the behavior does not stop.

Harassing situations sometimes develop because owners have become frustrated about how a problem was handled. It could be an unsolved, slowly solved or an unsatisfactorily solved problem. Other causes might include a failure of the board or the manager to respond to the owner's concern or the owner's perception that his/her concern has not been acknowledged or taken seriously.

If you are dealing with someone who just got carried away by the emotion of the moment or the frustration of an issue and over-reacted, a letter threatening sanctions and suggesting other ways by which the owner can deal with the problem is usually all that is required.

Dealing with Bullies

When a letter is not enough, the next step is to seek an injunction against harassment (pursuant to A.R.S. Section 12-1809). A board member who is on the receiving end of endless, abusive telephone calls or who is regularly assaulted verbally in public by an angry owner may seek an order prohibiting the "bully" from sending him e-mails and/or ordering him to remain a specified distance away.

Courts do not issue injunctions lightly. In most cases, the harassing actions must be part of a pattern rather than isolated incidents and the targeted individual(s) must feel threatened by the actions. If you are dealing with actual physical threats – if, an owner raises a fist, pulls a gun or threatens bodily harm, call the police immediately. Even if you do not think the threats are real, having the police respond is a reasonable precaution and having a police report on file will also strengthen your case if you eventually seek an injunction against this individual. continued on next page

Techniques for Dealing with Angry or Frustrated Individuals

Listen: Sometimes people simply need an opportunity to explain a problem or vent their frustration.

Remain professional: If the individual shouts at you, do not shout back, control your response. If you mirror the abusive behavior, it will escalate.

Suggest an alternative: People often become frustrated because they feel powerless. Showing how they can solve a problem may ease the tension.

Respond to the problem: If you say you will obtain information, write a letter or make a decision, promptly do so.

Enlist the help of others: Gather like minded owners who will speak up; bullies will not stand up to a crowd.

Filing criminal charges remains another option. Many people are understandably reluctant to file a criminal charge against a neighbor, even one who is behaving badly, fearing retaliation or harsh punishment. But, if found guilty of harassing or threatening others, these individuals will not end up serving prison terms; a court may order them to seek the anger management training or other psychological help they clearly need. Turning the other cheek is not a good alternative; it is like dealing with the classic schoolyard bully – if you do not do anything to stop the behavior, it will continue.

Communication Skills

Obviously, it is better to defuse tensions *before* they evolve into full-blown harassment problems. Effective communication skills can help deal with bullies.

Some people are naturally effective communicators; they understand how to listen to angry people and respond without infuriating them further. Courses can also teach those skills and other communication techniques involving listening, professionalism, alternative suggestions and proper problem responses. It is important to remember that you can not control another individual's abusive behavior, but, you can control your response to it so that you do not make a tense situation worse.

Angry owners will typically respond to one or more of the "Techniques for Dealing with Angry or Frustrated Individuals", (listed in the center of the preceding page), but, as noted earlier, if you're dealing with chronic bullies, most methods will be ineffective. At some point, it may be necessary to "get legal" with the bully.

Answers

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BULLETIN BOARD

New!

Mulcahy Cheat Sheet©

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is available in PDF format at:
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And then click on: Cheat Sheets

Reminder!

The new 2006 legislation regarding community associations went into effect on September 21, 2006.

To obtain information about the new 2006 laws, please go to our 2006 Legislative Update at:
www.mulcahylawfirm.net

Click on:

Answers & Cheat Sheets

And then click on:

Cheat Sheets

If you do not have computer access or cannot download our educational information, please call our office at 602.241.1093. We will mail you the requested materials.

Beth Mulcahy is the founding attorney and partner of the Mulcahy Law Firm, P.C. Beth's legal practice focuses exclusively on the representation of over eight hundred (800) community associations throughout the State of Arizona.

After receiving a Bachelor of Arts degree in Political Science from Marquette University in Milwaukee, Wisconsin, Beth earned her *Juris Doctor* degree from Marquette University Law School where she was on the Dean's List and a member of the Marquette University Law Review. A native of Wisconsin, Beth is licensed to practice law in the State of Wisconsin and the State of Arizona.

As the former editor/author of a weekly question and answer column in The Arizona Republic, Beth addressed hundreds of questions on association governance. In her three years with the paper, she became known for providing information and answers that communicate a clear understanding of the subject matter. Beth's Answers publication and periodic legal seminars on community associations continue to provide education and information for the industry. She has also published articles in Managers Report magazine, Community Association Institute's (CAI) Journal of Community Association Law, Common Ground magazine and Arizona Community Association Journal. Beth is a member of the National and the Central Arizona Chapter of CAI, a nonprofit organization supporting the interests of community associations and the Arizona Association of Community Managers.

Beth regularly speaks on the topic of community associations for seminars, conferences and workshops at state and national levels.

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Kristen L. Rosenbeck graduated from Valparaiso University with a Bachelor of Arts degree in Biology where she actively supported her school as the Student Body President. Kristen graduated in the top third of her law class receiving her *Juris Doctor* degree from Marquette University in Milwaukee, Wisconsin in 2001. She maintains licenses to practice law in both the State of Wisconsin and the State of Arizona.

Kristen's legal practice focuses on the interpretation and enforcement of association documents and guidance on state and federal laws. She represents associations in general counsel matters, bankruptcy, collection of delinquent assessments and enforcement actions. Kristen also provides representation to office condominiums. Kristen is experienced in litigation and transactional law.

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Christi Klein graduated from Purdue University with a Bachelor of Arts degree in English in May, 2003. Christi received her *Juris Doctor* degree from Valparaiso University School of Law in May, 2006. During her undergraduate and graduate studies, Christi studied abroad in Cambridge, England and Galway, Ireland and was active in the Valparaiso Sports Law Clinic (which is the first clinic in the country to provide pro bono legal service to amateur athletes), the Sports and Entertainment Law Society and the Valparaiso Law School newspaper.

Christi's practice focuses on the representation of community associations with an emphasis on litigation, enforcement of restrictive covenants and collection of delinquent assessments. Christi is currently awaiting her bar admission with the State Bar of Arizona.

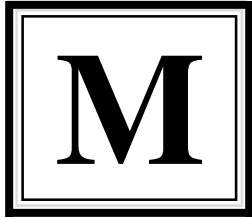
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Answers is not intended to offer specific legal advice or responses to individual circumstances or problems. If legal advice is required, please consult individually with the Mulcahy Law Firm, P.C.

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Did You Know?

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Planned Community Associations Cannot Prohibit Political Signs

Pursuant to Arizona law, regardless of restrictions in an association's documents regarding political signs, a planned community association cannot prohibit the indoor or outdoor display of a political sign by an association member on that member's property.

However, a planned community may prohibit the display of political signs *earlier than forty-five days before the day of an election and later than seven days after an election day*. An association may also regulate the size and number of political signs that may be placed on a member's property if the association's regulation is no more restrictive than any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. If the city, town or county in which the property is located does not regulate the size and number of political signs on residential property, the association shall permit at least one political sign with the maximum dimensions of twenty-four inches by twenty-four inches on a member's property. Political sign means a sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer.

To obtain a brief summary of your city, town or county ordinance that regulates the size and number of political signs on residential property, please go to our website located at www.mulcahylawfirm.net, click on "Answers & Cheat Sheets", click on "Cheat Sheets", the "Political Sign Table" is the last item listed.

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