



NEIGHBOR DISPUTES

There was a time when boards were advised to stay out of neighbor to neighbor disputes. Unfortunately, the legislature and the courts have increasingly pushed associations into the role of resolving disputes internally. This seems to extend even to claims of harassment, threats, and physical altercations. There are four lines of reasoning for the board's duty to intervene.

Nuisance. Owners have a general right to peacefully enjoy their property.

Because associations have the power to impose fines and suspend privileges, boards have a duty to intervene under the nuisance provisions of their CC&Rs to stop owners from disturbing the peace.

Health and Safety. In addition to nuisance restrictions, most documents contain general statements that the association's purpose is to provide for the health, safety and welfare of the membership. If an owner poses a threat to other members, the board may have a duty under these provisions to protect the membership from such threats.

Landlord Tenant Relationship. Under landlord-tenant law, landlords must protect members against foreseeable harm and provide for quiet enjoyment by curbing a tenant's disruptive conduct. California's Supreme Court has already compared associations to landlords and owners to tenants. That analogy will likely carry over to a board's duty to protect members from an abusive, harassing or threatening owner.

Fair Housing Act. Duties may also be imposed by federal law. In a Washington D.C. case, a female owner was harassed by her neighbor who allegedly shouted racial epithets and made sexual comments to her. The woman asked her condominium association to take action to stop the harassment. The association wrote letters to the neighbor but took no further action. The woman sued the association alleging violation of the Fair Housing Act because it failed to take action against her neighbor. When the federal district judge ruled that the association could be held liable for its inaction, the association settled the case by paying the owner \$550,000 and buying her condo. *Reeves & The Fair Housing Council of Greater Washington, Inc. v. Carrollsburg Condominium Owners Assoc.* (D.D.C. 96-02495)



RECOMMENDATION. Boards should hold hearings with feuding neighbors and make it clear that any disruptive behavior such as loud stereos, banging on the walls, shouting matches in the common areas, etc. will result in fines and suspension of privileges (as provided for in the governing documents). If the board determines that an owner is a threat to other residents, the board may have a duty to take further action, such as seeking a restraining order. When faced with these kinds of situations, boards should seek legal counsel.