



How to Handle HOA Disputes

We frequently listen to disputes between homeowners in HOAs and HOA boards or management companies. Most often a lack of communication is the primary cause for the disputes. Also a lack of understanding about HOA issues and homeowners concerns lead to these disputes. It is important for homeowners to understand that HOAs are facing difficult times as a distressed real estate market has affected the solvency and well-being of HOAs through increased foreclosures and delinquencies. In these tough times HOA boards are tasked with making tough decisions. Often cash strapped HOAs are forced to defer needed maintenance and take measures such as closing the pool. Homeowners may view these actions as a product of poor management not totally understanding the circumstances. Often the

reason for homeowner distrust is lack of communication and transparency by the board and management companies. We do recognize that sometimes there are genuine disputes between homeowners, the board, and management companies. It is important when these disputes arise that homeowners take the appropriate steps to address issues. Here are a few suggestions if you do have a genuine dispute with your HOA.



WHAT DO I DO WHEN I HAVE A DISPUTE?

Most HOA residents have had some sort of issue with their association. They want to know where their money is going; air a grievance about the management company; or are concerned about the increase in assessments. Repeatedly the situation unnecessarily escalates because both homeowner and board or managers fail to communicate in a professional appropriate manner. Here are some tips to help you address your HOA issues:

1. **Take a deep breath & think before you act.** Think clearly about the issue before you go to your board or manager. Your issue may be big to you but may be small in the grand scheme of what the HOA or management company has to deal with. Keep in mind that the board is full of volunteers and the management

company has an entire association to run and limited resources. Ask if this is something that is within their ability to help you with. Can you answer or fix the problem yourself?

2. **Knowledge is power.** Before analyzing an HOA issue - read your governing documents. Often, when we talk to homeowners, they have not taken the time to read their governing documents which often provide the answers to their questions. The governing documents (including the declaration of covenants (or CCR's), the bylaws, and the rules and regulations of the association) are the contracts that govern the relationship between you and the HOA. Taking time to know your contractual rights and know generally the laws governing homeowners associations will help to understand your rights and responsibilities in the HOA.
3. **Talk to the Board.** If there is a dispute – communicate your problem. Give the management company or board a call to address your issue. Be professional and courteous. Being rude and demanding only sets the stage for a litigious atmosphere potentially causing a minor issue to become a large personal dispute. You may also address your issue at a meeting – most HOAs reserve a time for homeowner issues but be sympathetic that the board controls what is on the agenda at the HOA meetings and they may not have time to listen to a myriad of homeowner grievances.

4. **Document your issues.** If you cannot get results through a conversation, write your demands down. Writing a letter helps to document your position and may help take the emotion out of having a conversation. Make sure to keep a copy of any correspondence between you and the association.

5. **Strength in numbers.** Talk to other members of your association. Chances are that if you have an issue with a decision of the HOA, others do as well. By approaching the board with others, you increase your likelihood that you can make change.



6. **Use the democratic means of the HOA to make change first.** Litigation should be a last resort for a homeowner. Litigation is costly to the association, not only financially, but also creates a disharmonious atmosphere. Be active and knowledgeable in your association. If there are directors who you feel are not acting the HOA's best interest attempt to run for the board or elect directors who you feel will act in your best interest and you trust. There are also means to remove officers and directors under the law and most likely in your bylaws. Also, there are procedures under the law and your

governing documents to change the covenants and other governing documents of the association, although this often requires significant homeowner involvement and time.

7. **Explore alternative dispute resolution prior to litigation.** It is amazing what can happen if you sit parties down and talk about the issues. Mediation and arbitration are effective means to resolve disputes short of litigation. Most HOA governing documents provide for mediation or arbitration (and the law strongly encourages this), but even if it does not you can request that mediation be attempted prior to going to court.

8. **Litigation sometimes is the only way to resolve genuine disputes.** Unfortunately, people sometimes cannot agree and issues need to go through the Courts for resolution. You should know the risks and rewards before making this decision and it is wise to contact an attorney. Under the law, the prevailing party is entitled to attorneys fees. Furthermore, lengthy and costly litigation can have a devastating effect on the budget and morale in an HOA.

9. **Understand that you cannot always get what you want.** Living in a homeowners association means that sometimes the wills of the many are imposed on the wills of the few. If a decision is made by a board and goes through the proper channels of the HOA, you may have to live with that decision. Just like in any democracy, you are subject to decisions that you

may not politically or personally agree with.



10. **Play Nice & Communicate.** Boards in particular should make it a point to "play nice" and be helpful in HOA matters. Many of the complaints we see on a daily basis could be resolved if board members and homeowners removed the emotion from their dealings and were open. The number one complaint we hear is that board members aren't communicating with homeowners on major issues of concern and are turning away questions regarding where their money is being spent. In your dealings, be respectful, professional and understanding.

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