Dealing with Difficult People & Harassment

MULCAHY
Community Association Cheat Sheet©

BRINGING ANSWERS TO COMMUNITY ASSOCIATIONS

This publication discusses significant points of law as they apply to community associations and is not intended to offer specific legal advice or responses to individual circumstances or problems.

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INTRODUCTION

National and local news have, in the past, covered the stories of disgruntled homeowners who act out violence in associations. Difficult people and the disgruntled homeowner or board member should be dealt with very carefully to protect all involved. Communication is the key to averting problems.

DEALING WITH CONFLICTS DURING A MEETING

Name calling, interrupting and personal attacks should be prohibited at all board and committee meetings.

Board Member to Board Member Conflict will bring the association board meeting productivity to a halt, so all board members should work to prevent and properly address conflicts.

Steps to Limit Potential Board Member Conflict[1]:

1. Give all board members an opportunity to contribute with equal time;
2. Consider enacting regulations, such as discussion time limits;
3. Allow follow up discussion on a topic after all board members have been given the opportunity to speak;
4. Educate new board members on board processes and outstanding issues;
5. Encourage mentoring of new board members.

The Difficult Owner—Owners can be very outspoken regarding their view of the management of the association. The "Gadfly" is an expert at criticizing, cajoling and pinpointing the errors of others. S/he demands change, constantly interrupts, attacks personal integrity and alleges conflicts of interest.

How to deal with the “Gadfly”:

1. Establish and announce meeting procedures at the beginning of a board meeting, in a newsletter or in the meeting notice;
2. Enforce established meeting procedures uniformly;
3. Host a homeowner forum at the beginning of the board meeting with a strict time limit;
4. Establish control. No one should be allowed to interrupt board meetings by speaking out of turn and raising irrelevant issues;
5. Respond in a modulated, non-argumentative voice. Do not respond with anger, argue or trade insults. The board does not have to rebut the comments of any member;
6. Utilize parliamentary control — by knowing when and how to a) table a motion; b) postpone a motion; c) refer a matter to a committee; d) adopt special rules of order; and e) limit debate.

RESPONDING IN A DIFFICULT SITUATION

WHEN YOU MUST RESPOND

How to Stay Calm and Rational When Dealing with the Difficult Person[2]

1. Ask the difficult individual to explain the exact issue (deal with one issue at a time) he/she is upset about, in order to show that you are interested in communicating rather than in arguing. Listen carefully.
2. After the difficult person explains what s/he is upset about, agree with any truth in the complaint (if it is accurate). For example, if the board made a minor mistake, acknowledge that mistake but refute the assertion the “board does not know what it is doing.”
3. If you need a minute to compose yourself and/or to review information before responding, you should take the time. You can more easily and tactfully defend yourself/respond to the problem once the emotions and anger have subsided and the other party may calm down and receive information once s/he has stated their point.
4. Offer to the difficult person your best guess as to what he or she is feeling, and ask for feedback, *ask them what they want*. "It sounds like you're angry right now, and I'm sorry about that." This demonstrates a willingness to understand the difficult person's frustration without blame or defensiveness, further isolates the problem and may show an answer.
5. Once the problem has been stated and understood, suggest an alternative if

Responding in a Difficult Situation—continued

you have one. People often become frustrated because they feel powerless. Listening and showing how the problem might be solved may ease the tension. If you say you will obtain information, write a letter or make a decision to help solve the problem, do so promptly.

6. Resist the urge to fight to win the argument. Listening and asking questions leads others to their own best solutions.

Knowing and Understanding the Type of Person You are Dealing With[3]

Clinging types want to be taken care of. Clinging types cannot be handled with avoidance. Clinging types can be handled by showing them how to deal with situations on their own. Give them responsibility. These people may be good committee members; it will give them an opportunity to channel frustration by making a contribution.

Controlling types have to be right. There is always an excuse for their behavior and always a reason to blame others. Controlling people are perfectionists and micro-managers. Their capacity to criticize others is endless. Controlling types won't back down if you show them concrete evidence that you are right and they are wrong. Above all, do not turn an encounter into a contest of who's right and who's wrong—you will never outplay a controlling type at his or her game. Let this person vent and then move on.

Competitive types have to win. They see all encounters, no matter how trivial, as a contest. Until they win, they will not let go. If you have a strong disagreement, make a reasonable argument. If the discussion is based on facts, competitive types have a way to back down without losing. Do not try to get the last word with the competitive type.

If the Difficulty Turns Personal—to Harassment

"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." 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. In Arizona, A.R.S. Section 12- 1809 - "harassment" means a series of acts over any period of time that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose.

The First Step - 1) Tell the individual verbally to stop; 2) keep a journal entry of the date, time and verbiage of calls or encounters; 3) note your verbal or written response; 4) keep all harassing emails.

The Second Step - If the harassment does not stop. Have the board or management company write the offending individual a non-threatening 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.

The Third Step - When a letter is not enough, the next step is to seek an injunction against the 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.

Effective Communication Skills

Obviously, it is better to defuse tensions *before* they evolve into full-blown harassment problems. Effective communication skills and open meetings and business create an atmosphere for less perceived secrecy and potentially fewer problems. However, when confronted with an upset homeowner, board members should listen to the complaint, remain professional, control responses and respond to the problem. Additionally, board members must stay calm and focused on the facts and establish a standard reaction plan to use to help diffuse volatile situations.

It is important to remember that you cannot control another individual's abusive behavior, but, you can control your response to it so that you do not make a tense situation worse. Additionally, state clearly and repeatedly in all venues, verbally and/or in writing, that harassment is unlawful and will not be tolerated. If the situation warrants, a police officer can/should be hired to attend the board meeting.

[1]Information taken from Mulcahy Law Firm, P.C. Cheat Sheet, Board Meetings©

[2]When you Must Respond was taken from the following article: Kruz, Kevin, "8 Tips for Dealing with Difficult People," *Forbes* available at http://www.forbes.com/sites/kevinkruse/2013/06/25/dealing-with-difficult-people/.

[3]Types of Person was taken from the following article: Chopra, Deepak, "How to Deal With Difficult (Even Impossible) People," *Oprah* available at http://wwwcom/spirit/How-to-Deal-with-Difficult-People-Deepak-Chopra/3.