

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 others are imposed on the whole membership. 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 filed with the HOA Information and Resource Center are issues that could be resolved if board members and homeowners removed the emotion from their dealings and were more transparent. A large number of complaints submitted suggest that board members and managers fail to communicate properly with homeowners. It is important when engaging with the board or management company, that the homeowner should be respectful, professional, and sympathetic.



How to Handle HOA Disputes



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The HOA Information and Resource Center frequently hears about disputes between homeowners in HOAs and HOA boards or management companies. Most often, a lack of communication is the primary cause for the disputes. In addition, a lack of understanding about HOA issues and homeowners concerns may lead to disputes. It is important for homeowners to understand that HOAs have faced difficult times as a distressed real estate market has affected the solvency and well-being of some HOAs through foreclosures, delinquencies, and lack of upkeep. In tough times, HOA boards must make tough decisions. Often, cash strapped HOAs must defer needed maintenance and take measures such as closing the pool, putting off major improvements, etc. Homeowners may view these actions as a product of poor management, not totally understanding the circumstances. Often the homeowner's distrust is due to the lack of communication and transparency of the board and/or management company. There are genuine disputes between homeowners, the board, and management company, however, it is imperative that homeowners take the appropriate steps to address their issues.

What Do I Do When I Have a Dispute?

Most homeowners want to know where their money is going; air a grievance about the management company; or are concerned about an increase in assessments. Repeatedly, the situation unnecessarily escalates because the homeowner, board or manager fails to communicate in an appropriate and timely manner. Here are some tips to address HOA issues:

1. Take a deep breath & think before you act.

Think clearly about the issue before approaching the board or manager. The issue may be major to you but may be minor in the grand scheme of what the HOA or management company has to deal with. Keep in mind that the board is composed of volunteers and the management company has the entire association to manage with limited resources. Ask if this is something that is within their ability to help you with. Ask yourself: Can I answer or fix the problem myself?

2. Knowledge is power.

Read all of your governing documents. Often, when we talk to homeowners, they have not taken the time to read their governing documents that frequently provide the answers to their questions. The governing documents (including the declaration of covenants (or CCRs), 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 you consider and understand your rights and responsibilities in the HOA.

3. Talk to the Board.

If there is a dispute—communicate your problem. Give the board or management company 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 issues 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, provide your demands in writing. 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, the manager, 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 a 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 it also creates an unfriendly 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 yourself or elect directors who you feel will act in the community's best interest and that 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 bylaws, 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.

