

# CAMS “ASK THE EXPERTS” Behavior Management: How to Deal With Everyday Headaches in Your Community Association

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# ROADMAP TO OUR DISCUSSION



- WHAT HEADACHES COULD YOU POSSIBLY HAVE AS A VOLUNTEER, UNPAID, HOA BOARD MEMBER?
  - VIOLATIONS HEADACHE
  - THE NON-VIOLATION HEADACHE
  - DOCS ARE NOT CLEAR HEADACHE
  - IS IT AN HOA ISSUE HEADACHE
- REALLY COMES DOWN TO WHAT IS THE ROLE OF THE BOARD IN A CERTAIN SITUATION
  - Police
  - Politician
  - Lawyer
  - Mediator (maybe)

# BOARD OF DIRECTORS- WHAT ARE THE MAIN ROLES

- **ROLES-DUTIES** (governing document and dependent)
  - Generally to govern the community
    - Set and collect assessments
    - **Enforce restrictions (to the extent allowed in the governing documents) and adopt rules**
    - Form committees and oversee them (e.g. AC)
    - “Act for the common welfare of the community”

# VIOLATIONS- THE POLICEMAN



- Can be of restrictions, rules, guidelines, depending upon what you have.
  - What about violations on Lots?
    - If there is a restriction, then violation is enforceable with penalties
    - If the Association has the power to adopt rules and regulations over what occurs on a Lot or Unit, then CAN BE enforced (there is no case on this)
- Follow procedure (NC-statute SC-documents)
- Remember, the goal is compliance
- Act quickly

# POLL QUESTION 1

- Have you received complaints from owners on issues that are not addressed in the restrictions or association rules?
- Yes
- No

# NON-VIOLATION HEADACHE



## EXAMPLES:

- **NOISE---** EVERYTHING FROM MUSIC TO CARS TO DOGS BARKING
- **PARKING ON THE STREET OR IN THE "WRONG" LOCATION**
- **EXTERIOR LIGHTS SHINING IN THE WINDOW**
- **DOGS USING THE BATHROOM ON A LOT AND NOT CLEANING IT UP (WHEN THERE IS NO RULE OR RESTRICTION)**
- **ITEMS OR ADDITIONS ON THE PROPERTY THAT A PRIOR BOARD DID NOT ADDRESS**
- **THE LIST GOES ON----- "Bad behavior"**

# CASE STUDY



- **THE DIRT/GRAVEL DRIVEWAY—IT'S A VIOLATION BUT ITS TOO LATE!**
  - RESTRICTIONS ONLY ALLOWED BRICK OR ASPHALT OR CONCRETE
  - STARTED WITH RUTS DURING CONSTRUCTION
  - OWNER BEGAN TO USE
  - ASSOCIATION HAD STRICT PROCEDURE FOR VIOLATIONS
  - TOOK NO ACTION FOR A LONG TIME
  - JURY DECISION
    - OWNER IN VIOLATION
    - BOARD WAITED TOO LONG SO CANT ENFORCE
- THE HEADACHE? NEIGHBORS COMPLAIN ABOUT IT, THE PREVIOUS BOARD IS BLAMED, AND THERE IS NO RESOLUTION TO THE PROBLEM THAT SATISFIES THE COMMUNITY.

# NON- VIOLATION HEADACHE- THE POLITICIAN

- **COMMUNICATE WITH THE  
COMPLAINING OWNER**

- EXPLAIN WHY THE BOARD CANNOT ENFORCE
- GIVE THE OWNER THE INFORMATION ON ALTERNATIVES
- DESCRIBE THE PRACTICAL ISSUES INVOLVING ENFORCEMENT (e.g. constant monitoring not possible, might not be an owner)
- BE PREPARED FOR OWNER DISCONTENT FOR AWHILE --- IT COMES WITH THE JOB



## POLL QUESTION 2

- Have you pursued the fine/suspension process on issues that are not completely clear in the Restrictions?
- Yes
- No

# THE DOCS ARE NOT CLEAR HEADACHE- THE LAWYER



- **BE BOLD** – continue with the process all the way through
- **BLUFF** – continue to a point
- **LET IT BE** – it's not worth the trouble or completely unenforceable
- **HOW IMPORTANT IS THE ISSUE:**
  - WHAT DO WE KNOW ABOUT THE OWNER
  - WILL THEY COMPLY
  - DO WE NEED TO MAKE A STATEMENT—DIE ON THAT HILL?
- **AGAIN, REMEMBER THE GOAL IS TO GAIN COMPLIANCE, NOT REVENGE OR PENALTY**
- **WHAT IS OUR ATTORNEY'S OPINION ON THE LIKELIHOOD OF SUCCESS**

# IS IT AN HOA ISSUE HEADACHE- THE MEDIATOR



- **NEIGHBOR TO NEIGHBOR DISPUTES ARE NOT HOA BUSINESS, AND ARE SIMILAR TO NON-VIOLATIONS**
- FIDUCIARY DUTY FOR USE OF RESOURCES, ASSESSMENTS, AND TIME
- EXCEPTION--- **FHA** DISCRIMINATION MATTERS—ASSOCIATION MUST TAKE CERTAIN ACTION IF IT IS MADE AWARE OF POSSIBLE DISCRIMINATION

# IS IT AN HOA ISSUE- MEDIATOR

- **WHAT SHOULD THE BOARD DO?**

- IF IT'S AN FHA ISSUE, THE BOARD WILL HAVE TO GET INVOLVED, PERHAPS ONLY WITH A LETTER, BUT COULD HAVE MORE INVOLVEMENT DEPENDING UPON THE ALLEGATIONS, INCLUDING A MEDIATOR ROLE
- IF ITS AN OWNER-TO-OWNER ISSUE, THE BOARD SHOULD CHOOSE NOT TO GET INVOLVED

## POLL QUESTION 3

- Have you tried to get an amendment passed to give some teeth to restrictions, based upon complaints from owners, only to see the amendment fail?
- Yes
- No

# SOLUTIONS/ SUGGESTIONS

- AMEND THE DECLARATION
- AMEND THE RULES (AS YOU CAN)(SC-must record)
- CREATE COMMITTEES (IF YOU CAN GET THE VOLUNTEERS) TO HELP IN DEALING WITH OWNERS AND BAD BEHAVIOR
- BE CONSISTENT IN ENFORCEMENT
- COMMUNICATE CLEARLY WITH COMPLAINING OWNERS **AND** OFFENDING OWNERS.

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