

VERBAL ABUSE OF A BOARD MEMBER SHOULD NOT BE TOLERATED

We all know the one unit owner or resident who thrives on conflict and controversy, the one that disrupts the annual meeting and tries to set his/her own agenda, the same owner who abuses the employees and looks for trouble with the property and with other residents. We also know that the board of directors must work with ALL unit owners and residents to effectively carry out their duties and responsibilities. Still, dealing with an abusive owner is not part of the job.

There are ways a board can solve the problem of an abusive owner. It is important to first understand however, what the abusive owner is generally looking for. It is the REACTION he gets. The satisfaction he derives is from the response he gets to the trouble he starts. Individuals who make trouble thrive on anger and strong reactions. They thrive on getting people upset. Eliminating an emotional reaction by the board is the first step to stopping abusive owners in their tracks.

To eliminate the strong reaction to abusive owners, the board must plan ahead. It must be prepared with its response. The board must determine in advance how it will react when an owner starts to become abusive. With a planned reaction, there is no reward or payoff for the abusive owner. Hostile situations will diffuse.

Take a board meeting as an example, as they are one of the favorite playgrounds for abusive owners. There are several plans of "reaction" a board can take to stop the payoff for the abusive owner. First, boards must not lose emotional control of a meeting no matter how upset and disruptive the abusive owner becomes. Once board members get mad, argue or lose emotional control, the abusive owner achieves satisfaction. The abuse will continue.

Instead, the board should respond in a controlled manner that simply deals with fact and eliminates emotion. The board must run its meeting in a way that is completely fair and does not stray from the agenda, the house rules or from its procedures.

The board president must insist that the agenda and procedures be followed by everyone. When an abusive owner begins to disrupt, the president must assure him he will be heard, when recognized, at the appropriate time of the meeting. The president should reassure the abusive owner that the board, at the proper time, will consider what he has to say before it makes any decision. Generally when an abusive owner realizes he will be heard, and knows he will be given an appropriately timed opportunity to make his points just like everyone else, he will calm down. This will also reassure the other residents that the meetings will not get sidetracked.

The board may also wish to limit the time that any person is permitted to speak on any one issue. This way everyone is given an equal opportunity to be heard and no listener is subjected to a long-winded tirade. At the beginning of the meeting, the board may even choose to appoint an official, impartial, timekeeper.

In addition, when the board knows in advance what the abusive owner's issues are, it can determine where to best put the issues on the agenda. Does the board want to put the issues first, to get the abusive owner out of the way for the rest of the meeting? Or is it better to put the issues last so that all of the other business is finished before hostility has the possibility of tainting the meeting? Remember, the board controls the agenda.

If the abusive owner continues to disrupt and attempts to destroy the meeting despite the best efforts of the board, the president should not hesitate to call a recess to restore order. During the recess the abusive owner should be asked to leave the meeting. The board should reassure the abusive owner that his points have been heard and will be considered by the board before any action is taken.

Should the abusive owner refuse to leave the meeting, the board members must remain calm. The police should be called to restore order and to eject the abusive owner. When the board knows in advance that the abusive owner will be at a meeting, it may want to consider hiring an off-duty police officer to attend the meeting.

Outside of meetings, an abusive owner may attempt to harass and intimidate board members over the telephone. Ohio has a law designed to prevent telephone harassment. Under Ohio Revised Code Section 2917.21(A) (5):

No person shall knowingly make...a telecommunication if the person receiving the telecommunication has told the caller not to call.

As soon as an abusive owner calls, tell him either verbally or in writing that you do not want him to call you again. Write down the date and time you told the abusive owner not to call again, or keep a copy of the dated letter you send. If the calls continue, write down the dates and times of these telephone calls. Call the local police or prosecutor and press charges. Your written record of telephone calls will be used to charge and prosecute the abusive owner. Penalties for harassing telephone calls are a fine up to \$1,000.00 and a jail term for up to six months.

Abusive owners can also attempt to intimidate and harass board members by writing letters. To stop the abusive letter writing, board members should respond by writing a letter back. Board members must be careful, however, not to threaten harm to the abusive owner. Instead the letter should:

1. Establish the facts. State that you have received harassing telephone calls or letters.
2. Establish your discomfort. Tell the abusive owner you do not like being harassed and offer an alternative means for him to express himself.
3. Notify the board of directors that you are being harassed and provide them with your records.
4. Tell the abusive owner to cease and desist.
5. Do not make threats.

Here is a sample letter incorporating these five elements.

Dear Abusive Owner:

I am aware of your concerns and have received your telephone calls and/or letters. Individual board members, like me, do not make board decisions. Board decisions are made by a majority. My opinion is simply used, as are each of our opinions, in consideration of the decision.

It is clear that you disagree with my opinion on various association issues. You and I have a right to disagree. However, you do not have the right to violate my personal rights in your expression of your differing opinions.

I do not want you to call or write to me and I will no longer accept harassing telephone calls or letters.

You may attend regular monthly board meetings to express your opinions and concerns to the board. You may also exercise your right to run for office and be elected to the board of directors at the annual meeting.

Cease and desist from calling and writing to me.

Sincerely,

(name)

Board Member of (name of association)

Cc: Secretary, Board of Directors
Kaman & Cusimano, Attorneys at Law
Property Manager

This letter is factual, does not make threats and is a simple, concise declaration of the fact that you will no longer tolerate harassment. Keep a copy of the letter for your records and for the association's records. If the harassment continues, legal action against the abusive owner may be necessary. The letter you sent will be part of the record of your reasonable attempt to stop the abuse.

Sometimes owners verbally abuse employees, property managers, or contractors of the association. When this happens, the board may need to intervene. Typically, there will be a provision in the governing documents that will provide a basis for the board to send a violation letter. For example, the Declaration may state:

No noxious or offensive activity shall be carried on in any part of the property, nor shall anything be done thereon which may be or become an annoyance or nuisance.

As the last part of this provision indicates, residents are prohibited from activity that is offensive to others.

When an owner is abusing an employee or contractor of the association the same provision applies. Under these circumstances, the board would have to believe that the owner's abuse was creating an annoyance or nuisance to other residents. In either case, the board must keep a written record of when the abuse took place and when the complaints were made.

Whenever there is a threat of harm to any person in the association, the police must be called.

No matter what the circumstances, and no matter what method of harassment an abusive owner chooses, board members must stay calm and focused on the facts. Have a plan of "reaction" that will diffuse the situation. Board members should state firmly either verbally or in writing that you will not tolerate harassment. Eliminating a board's emotional response is the key to stopping abusive owners in their tracks.

