

Legal Review

WHAT YOUR ASSOCIATION NEEDS TO KNOW

NUISANCES: WHAT'S AN ASSOCIATION TO DO?

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The dog barks and the parrot squawks. The neighbors are all complaining. What is an association to do? In dealing with any possible nuisance, the board should first decide whether or not the activity in question constitutes a "nuisance". Bear in mind that an individual's personal sensitivity to another's activity is probably not a nuisance.

In the event the board determines that a nuisance is occurring, then the association should first send a letter to the offending owner alerting them to the nuisance behavior, explaining why the behavior creates a nuisance, and most importantly, the specific relief sought. The letter should be firm, but not over-the-top. Ask yourself, if you were the owner causing the nuisance behavior and received the letter from your association, would you respond in a positive manner? Remember the golden rule, to treat others as you wish to be treated.

After sending the initial letter, the dog still barks and the parrot still squawks. Now what? It is time to consider other measures such as fining and use right suspensions. Pursuant to legislation effective July 1, 2015, the board must act first. However, before a fine or suspension can be levied against the offending owner, a 14 day notice and opportunity to appear in front of the Grievance Committee must take place. If the Grievance Committee does not exactly agree with the board's decision, then the fine or suspension may not be levied.

If the nuisance continues, another tool that is available to community associations is the filing of a lawsuit against the owner causing a nuisance. In some instances, it may be necessary for condominium associations to file an arbitration action with the Florida Division of Condominiums. For a homeowners association, before filing a lawsuit, the association must comply with mandatory mediation requirements set out in Chapter 720, Florida Statutes.

If the arbitration or mediation is not successful in curbing the nuisance behavior then it is time to seek relief by filing a lawsuit in the local Circuit Court.

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