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Mr. and Mrs. Curmudgeon

How to Handle Difficult Homeowners

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This document is intended to provide general information. It does not and cannot provide specific legal advice. For additional information or answers to questions, you may contact Augustus H. Shaw IV, Esq. of Shaw & Lines, LLC at 480-456-1500 or send questions to ashaw@shawlines.com.

This course is approved by Community Association Managers International Certification Board (CAMICB) to fulfill continuing education requirements for the CMCA® certification. www.Camicb.org.

Efficiency
is doing *better* what is
already *being done.*

Shaw & Lines, LLC, focuses its practice to General Real Estate Law and Community Association Law. The Firm represents Community Associations, Developers of Community Associations, Developers of Professional Office Condominiums, Professional Office Condominium Associations and Timeshare Associations.

The Firm was founded and continues to operate on the goal of promising and providing efficient, competent and quality legal services to its clients. Shaw & Lines, LLC, distinguishes itself by efficiently and effectively “doing better what is already being done.” Shaw & Lines, Arizona’s Counselors to Community Associations.

LEGAL SERVICES

GENERAL CORPORATE COUNSEL

Advising developers and community associations on forming corporations, funding reserves, compliance issues, and other general counsel matters.

COLLECTING ASSESSMENTS

Applying efficient, fair and effective collection strategies proven to recoup unpaid assessments, including collection demand letters, litigation, overseeing payment agreements, recording liens, wage and bank garnishments and foreclosures.

ENFORCING RESTRICTIONS

Employing tactical approaches to remedy violations and enforce restrictions, including mediation efforts and enforcement litigation.

DRAFTING, INTERPRETING AND AMENDING DOCUMENTS

Our attorneys are experienced in drafting and amending association documents that are easy to read, understand and apply. We also assist you in analyzing and interpreting provisions of association documents to help you better understand their meaning and application.

LITIGATION AND BANKRUPTCY

Providing competent and assertive representation for community associations in court on matters typically involving assessment collection, enforcing restrictions, foreclosure, defending community associations in lawsuits and protecting rights in bankruptcy.

CONTRACT NEGOTIATION AND REVIEW

We help review, interpret and negotiate contracts between vendors.

PROPERTY TAXATION

Assisting planned community associations in reducing tax liability for common area property tax liens.

CONSTRUCTION AND LAND DEVELOPMENT

Advising developers of community associations concerning applicable city ordinances, planning restrictions and similar land use issues.

GENERAL REAL ESTATE LAW

A multifaceted real estate practice offering clients a wide range of services for issues pertaining to zoning regulations, ordinance violations, land use and other general real estate and legal matters.

INSURANCE DEFENSE

Representing Insurance Companies in defending claims against their insured.

EDUCATING COMMUNITIES

Offering the Lunch & Learn Lecture Series and the Community Association Desk Reference Set for community association professionals to “be in the know” concerning changes in the law and effectively managing community associations.

Syllabus

Learning Objectives:

Every Community Association has a curmudgeon, which is defined as “a bad-tempered, difficult, cantankerous person.” This Seminar will provide practical tips on how to work with a curmudgeon and how to ensure that a curmudgeon does not ruin your quality of life, relationship with the Board or Association and cause potential legal liability.

- I. Introduction.**
- II. What is a Curmudgeon.**
- III. Character Traits of a Curmudgeon.**
- IV. How to Handle the Curmudgeon.**
- V. When a Curmudgeon Goes Too Far.**
- VI. Conclusion.**

What is a Curmudgeon?

Unfortunately, some Community Associations have a curmudgeon. A curmudgeon is a bad-tempered, difficult, cantankerous person. A Curmudgeon is someone who treats the Community Association's Board of Directors, Management and Members with disrespect and sometimes contempt. A Curmudgeon believes that he/she is always right and that he/she can always do a better job.

Curmudgeons, unfortunately, do exist in Community Associations. The key is to identify, pacify or remove the curmudgeon before they cause havoc in the Association. This guide will provide guidance on how to work with curmudgeons so that they do not interfere with the smooth operation of your Community Association.

Character Traits of a Curmudgeon

The main character trait of a curmudgeon is the belief that she knows how to best operate the Association. This trait is most often based on a false sense of incompetence on the part of the Board of Directors or Association Manager. This character trait manifests itself in several different forms.

For example, the curmudgeon often attends Association Board Meetings simply to complain and criticize the Board. Rarely does a curmudgeon have truly constructive criticism or praise. A curmudgeon's comments always center around what is going wrong with the Association.

When attending Board Meetings, the curmudgeon is often rude and disrespectful. Again, this is an offshoot of the curmudgeon's most often unjustified belief that the Association is not being properly operated.

The curmudgeon will also often engage Association staff or vendors regarding their assigned tasks and either tell them how poorly they are performing their tasks or even attempt to assign new tasks to the staff member or vendor.

Finally, the curmudgeon likes to be an "arm chair everything," quick to question past decisions of the Association. No decision is ever a good one when the curmudgeon is around. All aspects of Community Association operation could always be done better.

Also, the curmudgeon tends to enforce the association's restrictions in a belief that he is the only person in the Association who cares about the Association and can do anything right. The curmudgeon is quick to approach anyone in the Association and tell them how they are "breaking the rules."

How to Handle the Curmudgeon

When dealing with a curmudgeon, it is important to remember the old saying “keep your friends close and your enemies closer.” Identification of a potential curmudgeon is key in developing a strategy on how to properly handle a curmudgeon.

Once a curmudgeon has been identified, it is important to reach out to the curmudgeon. Remember, the curmudgeon’s belief is that the Association’s Board and Management are incompetent. Establishing lines of communication with the curmudgeon may aid in showing the curmudgeon that the Association is truly being operated properly.

Another way to defuse a curmudgeon is to invite the curmudgeon into Association leadership. Ask the curmudgeon to serve on an Association committee. Better yet, ask the curmudgeon to run for the Board of Directors. This serves two purposes. First, it will hopefully give the curmudgeon a firsthand look at the challenges of operating a Community Association. Second, it will bring the curmudgeon into the spotlight where his actions are now on display for other potential curmudgeons to criticize. Sometimes a taste of a curmudgeon’s own medicine goes a long way toward curing the curmudgeon’s condition.

If trying to bring the curmudgeon into the fold is not effective, then the Association should take a more firm posture with the curmudgeon. The Association should stand its ground and not allow the curmudgeon to intimidate the Board, Association Management or other Members.

Intimidation could take the form of the curmudgeon co-opting the Association’s meetings through her behavior. Setting clear meeting rules and firmly enforcing them will give the Association the upper hand in the intimidation game.

Finally, it is important to know when not to engage a curmudgeon. Sometimes curmudgeons can thrive on confrontation. Curmudgeons will keep a conversation going simply to agitate and intimidate.

When a curmudgeon asks a question or has a comment, an Association should endeavor to only answer a question once or address a comment once. Not responding to repeated questions on the same topic is allowable when dealing with a curmudgeon.

When a Curmudgeon Goes Too Far

Sometimes a curmudgeon will go too far. The curmudgeon may engage in harassing or even violent behavior. Also, the curmudgeon may be disruptive at Board or other Association meetings making it impossible to conduct business.

When a curmudgeon goes too far, it is important to limit, as much as possible, communication with the curmudgeon in order to attempt to put an end to potential harassing behavior.

The Association may also be required to contact its attorney to engage in litigation against the curmudgeon. The Association's attorney may have to seek a protective order/injunction against harassment against the curmudgeon in favor of the Board or Manager of the association.

The attorney for the Association may also seek an injunction requesting that a judge forbid the curmudgeon from attending Association meetings. An injunction is only appropriate in serious issues where the Association cannot function with the curmudgeon in place.

Conclusion

It is unfortunate when a community association has to deal with a curmudgeon. The most important thing to remember is to identify the curmudgeon, attempt to communicate with him and if communication is not successful, take steps to ensure that the curmudgeon does not adversely affect the operation of the Association.

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COUNSELORS TO COMMUNITY ASSOCIATIONS

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