

Condo Regulations: Built by Association

For rules and repairs, condo boards hold the keys to power

Judi Stephenson was thrilled when she purchased her condo in November 2004. Buying her own home in Burke, Va., was a rewarding accomplishment for her.

Then her patio became a pond. "The first hard rain that we had I noticed the water pooled all the way up to my sliding glass doors," Stephenson said. "That startled me because it came so close to coming in."

She didn't know it when she purchased the place, but there was a problem with the drainage on her patio. A handicapped ramp had covered the problem area. When Stephenson reported it to the condo manager, she wasn't happy with his

initial response.

"Originally he thought it was a cosmetic issue and it didn't seem to be a high priority," she said. "That made me nervous because I've lived in Florida; I know how much damage water can do."

Stephenson wrote letters and revisited the issue with her condo association every month when she paid her fees. That, according to the experts, was absolutely the right thing to do.

"The theme to all of this is communication," said Thomas Schild, an attorney who represents condominium associations in Maryland and D.C.

"It's all about sharing information. Most of the time you can work it out."

The Community Associations Institute estimates that more than 54 million Americans live in some

type of association-governed community, including condos.

When you get that many people living in close quar-

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JUDI STEPHENSON OF
BURKE, VA., ON HER
CONDO MANAGER'S INITIAL
RESPONSE TO A POOL OF
WATER OUTSIDE HER DOOR

ters, there are bound to be differences of opinion over everything from pets to pool maintenance.

Disputes: Noise disputes are among the most difficult to solve because they're not quantifiable. Say your next door neighbor thinks of himself as a piano virtuoso; you think he can't find a tune in a bucket.

"One person's symphony is another person's noise," said Schild. You might not be able to keep his fingers off the keys completely but you should be allowed to get a good night's sleep. "It's important to document the time of day [that the disturbance occurs]. Noise that is acceptable at 3 p.m. is not acceptable at 3 a.m."

Once you've got a record of the racket, take the information to your condo's homeowners association (HOA) or board of directors. If they believe there is a potential violation, they'll send a letter to the offending unit owner explaining the complaint and requesting that the

Express Newspaper

November 18, 2005

noise stop, or at least be limited to reasonable hours.

All of this should be spelled out in your condo's governing documents or CC&R, which is not a reference to an early '70s rock band. It stands for Covenants, Conditions and Restrictions, and you should have received a copy when you took ownership of your unit.

"The purchaser should buy with their eyes open, knowing they'll be subject to those rules," said Stan Wrobel, a lawyer who deals with condo agreements in both D.C. and Maryland. "Unfortunately a lot of people didn't read them first and that's where the bad feelings come from."

If you disagree with a restriction in your governing documents, your hands aren't completely tied.

For instance, if you decide you need a pooch for protection but your covenants restrict pets, you can appeal it. Don't expect it to be overturned easily, though.

"You can go to the board. Maybe they have the authority to grant a

variance in some cases or you can ask for a rule change, which usually calls for a vote from the association," Wrobel said.

But if there are people in the building who are hyper-allergic

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LAWYER STAN WROBEL
ON THE GOVERNING
COVENANTS, CONDITIONS
AND RESTRICTIONS DOCUMENTS CONDO OWNERS
RECEIVE

to pets, are you bound by that rule even though you are fearful living without a dog? "The answer is yes. You are governed by that rule. Your choice is to sell and move."

While you may have trouble

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getting a policy changed to suit you, your condo board may elect to change the rules after you move in and there's not much you can do.

According to Wrobel, "It's a governing process. It's no different than moving into your neighborhood and then the county changes the law. As long as it's adopted legally with notice and a vote, and is properly adopted by the board, you are bound by the change. It's just like living in a democracy or a town hall meeting-style of government."

Maintenance: Say there's been a broken streetlight in front of your unit for months. Don't assume the HOA is ignoring it. "It may be something they weren't aware of, or it may be something that doesn't yet have funds allocated for repairs," said Schild.

Make sure your association knows of the problem; they can't repair it if they're in the dark about it. But regardless of whether you're reporting a broken light or Burke Lake on your patio, there's a protocol to sharing that information.

"It is critically important that the owner put everything in writing and make doubly sure that the owner's position is truly sound," said Judge William Huss, coauthor of "Working with Your Homeowners Association: A Guide to Effective Community Living."

Then it is up to the board to take appropriate action according to the governing documents, which typically include paying for repairs with funds from your monthly association fees.

The HOA is also responsible for ensuring things like the maintenance of the exterior grounds. If they're not keeping it up to snuff, Huss said, "bring it to the Board's agenda [via] a letter. If that is futile, notify the board that they are forcing you to seek legal counsel."

A broken streetlight is one thing, but if there are major repair issues in your condo community, you're on the hook. New roofs or a lobby makeover can become important budgetary issues.

"If the building needs expensive

repairs, [the cost] has to be shared by all of the owners," Wrobel said. "If your assessment share is several thousand dollars, you can't say, 'I can't afford it.'"

Leadership: If you disagree with how the board rules on a dispute, you may still have options. Many boards arrange for alternative dispute resolution, known as ADR, in

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which impartial condo owners are brought together to suggest a compromise. If no owners are willing to serve, or if the issue is serious enough, trained mediators may step in.

Boards are elected. If you feel your board is not representing the best interests of your community, the ball's in your court.

"If they're not acting appropriately, elect different people," said Schild. "Typically at least one or two board slots come open every year."

Can't wait? "In extreme circumstances, you can follow protocol to remove directors, like an impeachment." Sound political? It is. But it also may be the only way to get your peace of mind — and your dispute resolved.

Judi Stephenson was lucky. Her association recognized the problem and footed the nearly \$3,000 bill to repair her patio. Today, she's happy with her home and her HOA, and she's even looking forward to becoming active in the association.

"I wasn't in the past, but now I want to do this type of thing. I want to be involved," she said. "The [resolution] made me feel like I am a part of this community."

LYNN THORNE