

HOA Homeowner Discrimination: Hidden-in-Plain-Sight

Would it surprise you to know that the HOA movement (aka, Common Interest Developments or CID's) began in the late 1960's as a way to get around civil-rights laws? Yes, it's true!

Since then, HOA's have also become a way for land developers, home builders, real estate agents and politicians to obtain a captive audience to sell "their dreams" of environmental-control, greater security and desirable amenities to otherwise unsuspecting homebuyers – dreams that benefit them far more than homeowners.

Problem is that due to these "roots", HOA's have become one of the largest and latest arenas for perpetrating discrimination against another group of citizens – homeowners. First, HOA's provide local governments with easy ways to escape traditional duties: road building and maintenance, sewage system construction and maintenance, water system construction and maintenance, policing, fire and flood protection, etc. HOA owners pay "assessments" (aka "dues") to cover these services. But, then, HOA owners also STILL pay local property taxes, just as other non-HOA residents; except that HOA owners can't get any of those services from the local government, e.g., policing.

Secondly, HOA laws in almost all States decisively favor the governing Boards of those HOA's. Most all HOA's are legally organized as "private, non-profit corporations." These factors have led to the development of numerous dilemmas for owners: (1) Although all US Constitutional Rights do apply to HOA owners, this fact has been repeatedly defied, questioned and legally challenged by HOA's Nationwide; (2) With unilateral power invested in Boards, owner/members have little formal power and, thus, few built-in mechanisms through which to challenge and change Board actions; (3) Most States have few, if any, HOA regulations that are actively, vigorously enforced; (4) Consequently, HOA's are left to the realm of human-nature in formulating and developing their community, or "corporate culture."

Thirdly, another result of the foregoing has been a proliferation of HOA's wherein the "Good Ol' Boys and Girls" (GOBGOG) social-systems have developed a strong-hold that won't let-go. Most disturbingly, within this type of system, "HOA Best Practices" no matter how well promoted by the HOA Industry stand only a feeble chance. This leaves owners with even fewer options -- learn to work the "Good Ol' Boy" system, join them or get elected to the Board -- none of which tend to work out that well.

I can confirm that seeking assistance from local, State or Federal agencies is fruitless, as it is from private "watchdog" groups and investigative journalism sources. Here's a partial list of one's we've contacted (some multiple times):

County Sheriff – no response

County Grand Jury – no response

County DA – no response
County News Outlets – occasional publication as “letters to the editor”
CA State AG – require complainant to “prove” complaint(s)
CA RE Dept. – not their jurisdiction
CA Dept. of Consumer Affairs – not their jurisdiction
Cal/OSHA – not their jurisdiction
CA Dept. of Fair Employment and Housing - pending
CA Franchise Tax Board – no response
CA Criminal Investigation Unit – no response
Congressman Mike Thompson – no help; only politically oriented
CA District 4 Assemblyman - same
CA District 2 Senator - same
FBI – issues too local, too small, too minor
IRS – will investigate if able
Consumer Financial Protection Bureau – no response
US Justice Dept. Criminal Investigation Unit – no jurisdiction
Center for Investigative Reporting (Berkeley, CA) – no response
Ripoff Report – posted complaint online
CA Common Sense – no response
Watchdog. Org - same
Consumer Watchdog – same

Mind you, we got these responses despite having significant amounts of evidence of contracting fraud, election fraud, theft/embezzlement, serious violations of the Davis-Stirling Act (e.g., severe neglect of amenities), conflict-of-interest and abuse-of-power. This evidence was not rumor or hearsay. It was from official Association records, Association management and administrative staff and several past Directors.

So, what about HOA owner/member “discrimination?” Where is it and how does it work?

- *Most HOA problems boil down to owners’ lack of “representation” in governance
- *Owners are a captive group
- *Owners are **dependent** on the Association for nearly everything related to their house/property
- *Owners are easily manipulated due to this “dependency”
- *Most owners do not have the time or organizational acumen to search-out or see these dynamics
- *Most HOA Boards require no special training or experience from Directors, nor do they provide any education or in-service
- *A high percentage of Directors become victims of the old adage: “power corrupts”

- *HOA's frequently don't give full disclosure of their fiscal/managerial/social functioning.
- *HOA's frequently enforce environmental rules selectively and/or inconsistently
- *Some HOA's actively cover-up dysfunctional aspects
- *Many HOA's are controlled by small cliques – GOBGOG's
- *"Good Ol' Boys and Girls" social-systems thwart members from participation
- *Many rural HOA's resist "Best Practices" and other "outside" influences
- *State Agencies charged with enforcing HOA regulations only do so to a limited extent
- *State Agencies whose purview would appear to cover HOA's, deny jurisdiction, e.g., RE, Consumer
- *Owner bullying goes unchecked due to HOA's denial or claiming "no threat was intended."
- *HOA's develop de facto "systems" that thwart member complaints, e.g., poor follow-up/follow-thru
- *HOA's develop de facto "systems" of "blame-the-victim", thwarting member complaints
- *Some HOA's develop election procedures that eliminate selected Board candidates
- *Some HOA's develop other procedures that eliminate selected directors
- *Owners with no organized-base stand little chance against most Boards
- *Owners with an organized-base tend to have the opposite effect, e.g., frequent golfers

When these activities/circumstances occur in local government there are often charges of fraud, corruption, conflict-of-interest, abuse-of-power and/or gross mismanagement leveled. Local "authorities" typically spring into action: police, sheriff, DA, grand jury, State agencies and/or local media. Not so with HOA's! Hardly anyone "bats-an-eye!" HOA leaders say, "we're only volunteers" and many owners support this cop-out, or, "we're working on it", "we've hired a new GM." Any owners who complain "too much" are socially ostracized, called "complainers", excluded from Committees, blocked from social-media sites and generally ignored. Directors who are too critical are "censured" or recalled in a rigged election. And the "Association" just rolls-on as before.

HOA/CID's are a classic example of what happens when community governance is left to uncontrolled, unmonitored human-nature: "Lipstick-on-a-Pig" for the American homeowner.