

homefront

ENFORCEMENT

Behaving Badly

AFTER NUMEROUS complaints, one Florida homeowners association board decided it had had enough of two residents' abusive behavior toward others in the community. The Lake Dexter Woods Homeowners Association in Winter Haven recently filed suit against Daniel F. Connors Jr. and Delbert Watson, claiming they "verbally threatened, cursed and harassed Lake Dexter's homeowners and their guests, including minor children."

The harassment has caused homeowners to move out of the community and has scared away would-be home buyers, according to the complaint filed in Polk County Circuit Court. Watson threatened to beat a woman's head in when she walked to her mailbox in December 2005, the suit alleges. In September of 2007, he yelled and cursed at a potential home buyer looking at a neighboring house. Since October 1997, almost 40 calls have been received by the Polk County Sheriff's Office about disturbances in and around their home, the suit says.

The Lake Dexter Woods board is seeking an injunction against Connors, who owns the home, and Watson, who lives with him, to stop the harassing behavior. "The homeowners association only wants



them to do what they're supposed to do in the first place, which is to be good neighbors," the association lawyer, Robert C. Chilton, told the *Orlando Sentinel*. Stephen F. Baker, the attorney representing Connors and

Watson, denied the allegations. Both attorneys declined further comment.

Such cases are every board member's worst nightmare. Unfortunately, homeowners aren't always neighborly. Sometimes, they can be just plain mean. While associations shouldn't jump into disputes between two feuding neighbors, they need to intervene when a homeowner's bad behavior affects a large number of others in the community, several attorneys say.

Because of the cost and time involved, associations should only go to court in the most egregious cases, says Stephen M. Marcus, an attorney in Braintree, Mass., whose firm represents 2,500 community associations. If the judge grants an injunction and requires the homeowner to pay the association's legal fees, it can be a deterrent to continued misbehavior. If the homeowner violates the injunction, court sanctions can be imposed, adds Marcus, a member of CAI's College of Community Association Lawyers (CCAL).

In most cases, however, the simplest way for an

GOOD THINKING

Pitching In

WHEN STEVE BALLARD AND Art McDonnell were elected to their association board in 2006, they were interested in sprucing up their aging Colorado Springs community. But they didn't want to be labeled as bad guys by sending out a batch of violation notices.

So, Ballard came up with an idea. Instead of demanding that homeowners fix their fences and paint their houses, the board members would pitch in and help. That's how the "Neighbors Helping Neighbors" program got started.

They regularly walk the five miles of greenway trails. When they see a fence in need of repair, they stop and ask to help. Often, they'll find an elderly widow or someone with a broken leg, who obviously can't do the work alone.

"It doesn't have to be confrontational. That's the whole point," says Ballard, who is vice president of the Village Seven Homeowners Association board. "We work very hard in the community and we enjoy doing it because it's the right thing to do."

A tragedy in the community also helped inspire a greater desire to help others. After three children were killed in a house fire, the community came together to fix up a nearby park, which was dedicated as a memorial.

The "Neighbors Helping Neighbors" program is advertised in the association newsletter. "We would much rather hear from people who need help than go through the process of writing (violation) letters," says McDonnell, who is board president. "It's really turned out to be a positive thing for the community."

NEIGHBORLY SPIRIT. Instead of sending violation notices, Steve Ballard and other volunteers in the Village Seven Homeowners Association in Colorado Springs pitch in and help make needed repairs.

WHAT'S THE BIG IDEA? IF YOUR COMMUNITY HAS DONE SOMETHING EXEMPLARY, INTERESTING OR JUST PLAIN DIFFERENT, WE WANT TO KNOW ABOUT IT. SEND IDEAS TO COMMON GROUND, 225 REINERERS LANE, SUITE 300, ALEXANDRIA, VA 22314. FAX: (703) 684-1581. E-MAIL: COMMONGROUND@CAIONLINE.ORG



association board to address problem homeowners is by citing them for violating the nuisance clause contained in most governing documents.

Lake Dexter's declaration states: "No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which constitutes a public nuisance."

Associations should have a procedure in place for enforcing the nuisance provision, including a method for individuals to appeal a board decision. If the behavior continues after the individual has been notified of the violation, fines can be assessed. Legal fees can be added if the case is referred to an attorney for collection. If those can't be collected, the association can move to foreclose on the property.

If the individuals disturbing their neighbors are mentally ill or disabled, associations should move more carefully—and as always with advice from legal counsel—

because of protections granted those individuals under the federal Fair Housing Act.

"You have to make sure you're not jumping into a fray purporting to have facts when you have no facts. You pretty much have to stay neutral on these things until you or a member of your board has personally seen and/or witnessed the activity in question," says attorney Mark F. Makower of Bloomfield Hills, Mich., who also is CCAL member.

However, there also are situations in which an association can be held liable if the board doesn't step in to protect residents from harassment, Marcus notes. A federal district court in 1997 ordered a condominium association in Washington, D.C., to pay \$550,000 to an African-American woman who was the target of racial and sexual harassment, including a threat of lynching, by another unit owner. The board and manager took no action despite her repeated complaints.

Individual homeowners also should be encouraged to take action on their own. "Those individuals who have been threatened are the victims of assault, and they can and should be contacting lo-

FACTS/
FIGURES

60.8 million

The number of people who volunteered at least once for some organization between September 2006 and September 2007.

SOURCE: U.S. Bureau of Labor Statistics

cal police," says Fort Lauderdale attorney Donna Berger, a CCAL member.

PUBLIC SAFETY

Deadly Delay

Rescuers responding to a 911 call inside a gated community in Shell Beach, Calif., in January were delayed because a power outage made the gate inoperable. A 75-year-old woman was having difficulty breathing. Her son let the emergency responders in the pedestrian gate. They hauled their equipment on their backs, using flashlights to find their way to her. But Joyce Cotton died of an apparent heart attack before they got there.

"When I first saw the flashing lights below, I thought everything was going to be okay," Daryl Cotton, the woman's son, told *The Tribune* of San Luis Obispo County, Calif. "But I realized they couldn't get in the gate. What if they had just been able to get there?"

Emergency responders told *The Tribune* they didn't think the delay made a difference. Most cities in San Luis Obispo County require some safety devices such as boxes containing gate keys that emergency personnel can use. Newer gates can be installed with a battery backup that operates the gate when the electricity goes out. But they aren't required, they said.

REGULATIONS

Turf Fight

It might be the first time a homeowner has been threatened with fines for having a lawn that is too green. Connie Hollstein and two of her neighbors recently installed synthetic turf in their Newport Beach, Calif., yards to save water, reduce polluted runoff and decrease maintenance. But the Newport Hills Community Association threatened them with fines of \$1,000 or more if they didn't remove it.

"They basically don't care if we have dead grass or dirt—they just don't want anything that's not real," Hollstein told

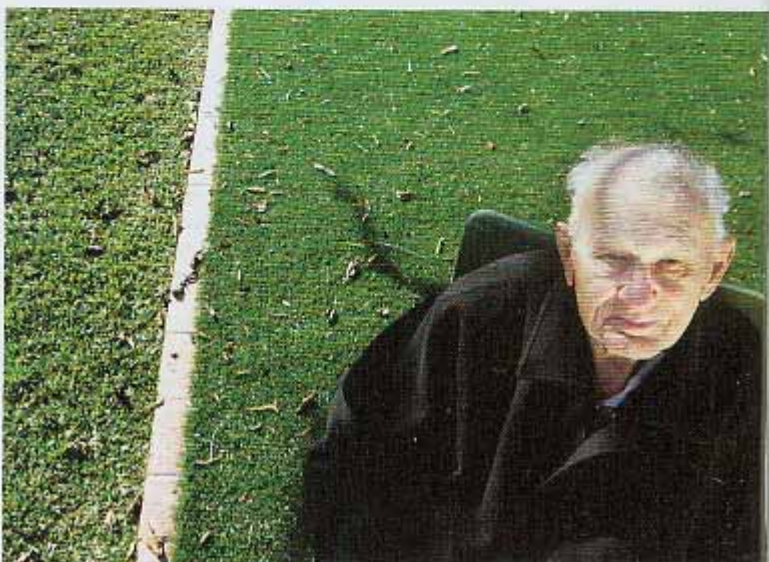
The Orange County Register.

The association's manager wasn't available for comment.

The Irvine Ranch Water District, which serves part of Newport Beach, and several

woman for the Irvine Ranch Water District. The homeowner can save 22,000 gallons of water a year by installing synthetic turf, she says.

The water district teamed



LAWN ENVY. Al Presnell, 84, sits on his artificial lawn, next to his neighbor's yard with real grass. His homeowners association in Newport Beach, Calif., has threatened to fine him and others if they don't remove the synthetic turf.

local cities encourage the use of synthetic turf. About half the water used by the average Southern California homeowner is outside the home, says Marilyn Smith, a spokes-

up with the cities of Irvine, Lake Forest, Newport Beach and Tustin to put the man-made turf in four parks so that residents can see for themselves that "the lat-

QUOTE/UNQUOTE

"They get complacent and chummy with them and think they'll never steal. But you have to remember when dealing with money, there is always a human element involved."

Chandler, Ariz., Police Detective Robert Lenz on how associations become victims of financial fraud by managers and vendors, quoted in *The Arizona Republic*.

"The rule was there for a reason which is to keep the place from looking trashy and, I would say, like a trailer park, but we called some trailer parks and they won't let you do that...."

Bill Kirchenbauer of Austin, Texas, angry over his association's failure to enforce rules prohibiting basketball hoops and other sports equipment in front yards, in an interview with KVUE-TV.