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Dealing With the Headache of Unruly Condominium Residents



The impact of COVID-19 also appears to have resulted in a widespread decline in mental health. Airlines, for example, recorded a 47% increase in unruly passenger incidents in 2021, reported the International Air Transport Association. At Haber Law, we have also experienced the number of unruly resident incidents skyrocket at condominium and homeowners' associations in South Florida.



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Board of Contributors

By Jessica Kopas | November 07, 2023 at 09:19 AM

According to the University of Florida Bureau of Economic and Business Research, "Florida continues to be one of the most rapidly growing states in the nation ... Florida's percent increase (14.6%) was the ninth largest in the nation. Because of this rapid growth, Florida's share of the national population almost doubled over the past 50 years."

The pandemic and the remote work phenomena also helped to boost the number of new residents seeking a warmer climate and no state income taxes. Unfortunately, the impact of COVID-19 also appears to have resulted in a widespread decline in mental health. Airlines, for example, recorded a 47% increase in unruly passenger incidents in 2021, reported the International Air Transport Association. At Haber Law, we have also experienced the number of unruly resident incidents skyrocket at condominium and homeowners' associations in South Florida. The number of community association litigation matters we have handled in the past two years alone has grown by about 38%.

As part of at least two separate litigation matters, associations for two luxury buildings in Miami encountered residents who repeatedly yelled at and harassed fellow residents, vendors, and guests; rammed shopping carts into other people; crashed a car into a property wall while intoxicated and threatened other residents with the use of firearms.

This uptick in negative behavior serves as a wake-up call not only for community associations, but also for the management and security companies that work for them. Often handled by onsite personnel, these resident incidents can become potentially criminal, especially when physical harm results.

In short, community associations have a duty to enforce their governing documents and rules, which frequently include a prohibition against nuisances. These provisions also typically contain a prohibition with language such as the following: “no use or practice shall be allowed which is a source of annoyance to occupants of Units or which interferes with the peaceful possession or proper use of the condominium and association property by its residents, occupants or members.”

The first and most important step, of course, is to make sure procedures are in place to properly respond to and adequately report incidents. Do onsite personnel know what to do and who to call if a resident gets out of control? Do forms and written policies exist to carefully document details about each situation? Any onsite security or management personnel need to be trained on such protocols.

With respect to making and keeping records of incidents, details in these reports are key, as this information is going to be vital to legal counsel who may need to use these details for court filings or other legal proceedings. Additionally, the immediate retention of video footage is critical as many surveillance systems have a timeframe when footage is available before the video of the incident is potentially deleted or overwritten. Any individuals involved will likely also be asked to come forward to testify as witnesses in a deposition or in court concerning their personal knowledge of specific events.

When behavior is elevated and reported to the association’s legal counsel, a cease-and-desist letter may be enough to resolve the problem in many cases. However, sometimes more than a letter is warranted, and the association’s counsel, in conjunction with the board of directors, may need to consider potentially initiating legal proceedings against the resident in order to compel compliance with the governing documents, in order to protect the property as well as other residents and personnel. Compliance with Florida Statutes Chapters 718 and 720, which may require presuit mediation or arbitration proceedings, is often necessary with respect to these types of disputes. If the circumstances rise to the level of an emergency, or the type of relief an arbitrator is unable to provide, the association through counsel may be able to also seek injunctive relief in circuit court—an option that is often effective in resolving such incidents, especially if the court enters fines or sanctions in connection with violations of its injunction orders. Our experience employing Florida Rule of Civil Procedure 1.610 has resulted in securing injunctive relief on more than five occasions in 2023 alone. In these cases, injunction orders have been highly effective in restoring peace to a community where a disruptive and sometimes dangerous resident refuses to comply with the rules and restrictions necessary for community living.

Jessica Kopas, a partner at Haber Law, focuses her practice on in commercial litigation, including complex business litigation.

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