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Fair Housing Discrimination: 4 Potential Tripwires for You and Your Clients

An Exclusive Special Report from
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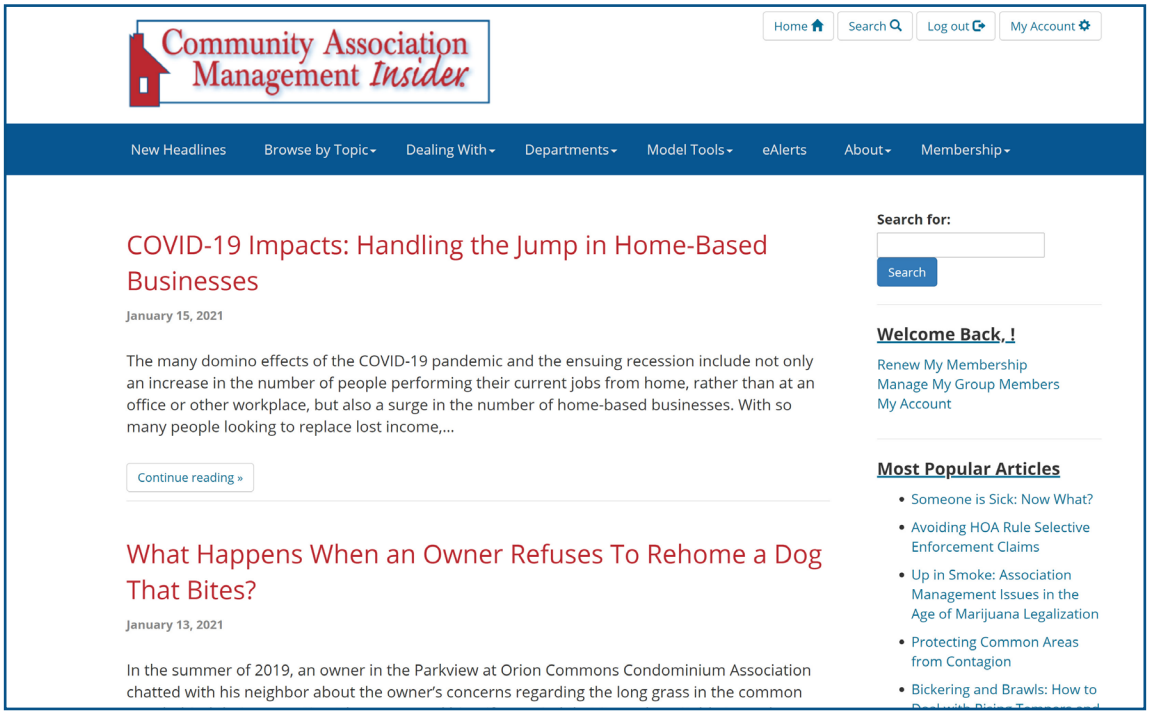

A Message from the President

In January 2021, a federal district court declined to dismiss an HOA and its management company from a lawsuit alleging liability for an owner's harassment of another resident under the federal Fair Housing Act and the Indiana Fair Housing Act (*Fair Housing Center of Central Indiana, Inc. v. New*). And this is just one example of what seems to an upswing in cases alleging discrimination against associations and managers.

The Indiana case involves what the court called an owner's "race-based campaign of harassing, taunting, and threatening African American and Latino residents, guests, and contractors," leading to the creation of a racially hostile environment at the HOA. It demonstrates one of today's biggest, and still evolving, fair housing risks — liability for neighbor-to-neighbor harassment.

In this special report, we explore the latest developments in this and three other particularly high-risk areas. In addition to liability for neighbor-to-neighbor harassment, we dig into liability issues that can arise related to the handling of requests for reasonable accommodations, familial discrimination, and the lack of sensitivity to shifting norms. And we provide fresh advice for heading off liability in a time when discrimination of all kinds is at the forefront of discussion.

Fair housing liability will always be a critical part of managing associations because some of the most significant risks are grounded in well-intended actions.

"The tricky part about fair housing is that common sense doesn't always get you where you want to go," says Kevin Hirzel, managing member of Hirzel Law, PLC, a Michigan-based firm that works with community associations. "Exercising what you believe to be common sense can get you in trouble. And these volunteer board members typically are completely unfamiliar with fair housing law and an association's obligations under it."

It's up to managers to stay abreast of the issues and share their knowledge with their clients. We hope this report helps.

Best regards,

Matt Humphrey
President
Plain-English Media
Publisher of *Community Association Management Insider*

In This Report

Reasonable Accommodation Requests

Reasonable accommodation requests are nothing new, yet community association attorneys continue to see lawsuits and enforcement actions as a result of associations' flawed processing of residents' requests.

"The alleged discrimination issues these days seem to be mostly surrounding the demand for accommodations and disputes over whether the accommodation requested is reasonable," says Kelly Richardson, a partner in the law firm Richardson Ober De Nichilo in Pasadena, Calif.

It sometimes seems like the root of the difficulty in handling such requests is human nature. "It's difficult for people to accept change that helps only one person," says JoAnn Burnett, an attorney in the Fort Lauderdale, Fla., office of Becker & Poliakoff who focuses her practice on fair housing and discrimination claims.

"So granting a reasonable accommodation tends to be problematic for some board members, which can be difficult for managers."

The Basic Requirements

The Fair Housing Act requires reasonable accommodations to allow persons with a disability an equal opportunity to use and enjoy their unit and the association's common areas and amenities. An owner must request an accommodation and provide proof of a disability (unless the disability is readily apparent).

Associations generally must grant the request unless the accommodation would impose an undue burden or fundamentally alter the nature of a policy, practice, or service — as determined on a case-by-case basis. But associations can deny a request if the owner doesn't provide appropriate information.

"It's not about what they want but what they actually need."

Kevin Hirzel, managing member, Hirzel Law, PLC

When the disability or the need for the accommodation isn't known or obvious, an owner must present information necessary to evaluate the disability or need. Owners aren't required, however, to provide specific details about the disability or a detailed medical history.

The information can come from the owner or a reliable third party who's in a position to know about the disability. "You may take a look at the documentation and find the signer isn't a doctor or a psychologist but a nurse," Richardson says. "It doesn't even have to be someone in the relevant field.

"Once you get a note saying the owner has issues, that's the end of the inquiry on the disability side. You don't get to interrogate the provider."

Still, the owner submitting a request must demonstrate a connection between the disability and the requested accommodation, says Kevin Hirzel, managing member of Hirzel Law, PLC, a Michigan-based firm that works with community associations: "It's not about what they want but what they actually need."

"I had a situation where an elderly gentleman stomped into a board meeting and threatened to sue because he had severe mobility issues and wanted to

park on the street of a community with very narrow streets, where every house had a garage," Richardson says.

"When that request came in, I reached out to the owner and said the manager and I would like to come to your property so we can understand how it would help your disability to park farther from your front door than your garage. He never accepted our invitation and never brought up the subject again."

Is It Reasonable?

"The most active conversations involving reasonable accommodation are still about parking spaces, support animals, and hard floors," Richardson says. Hard floors?

"The recurring thing I'm dealing with are people converting a carpeted floor to a hard surface floor in a multiunit residential structure," he says. "The association has to balance the need of the one owner for a non-carpet floor, typically due to allergies, against the need for the owner below to not have a nuisance overhead every time the upstairs owner takes a step.

"While the upstairs owner may have a legitimate disability requiring that the carpet and pad be removed, it still has to be reasonable, and, if it creates a nuisance for the owner below, it's not reasonable."

Similarly, says Edward Hoffman, Jr., founding partner with Hoffman Law, LLC, who represents associations throughout Pennsylvania, an owner may have a genuine need for a dog — but that doesn't mean the dog can bark all night and day. "At the end of the day," he says, " the question is whether granting the accommodation is an expense or detriment to anyone else in the community. That's the standard."

"Boards and managers don't recognize those red flag moments where they're on the cusp of really getting into trouble."

David Muller, shareholder and board-certified specialist, Becker & Poliakoff

3 Danger Zones

Reasonable accommodation requests can prove perilous for managers and their clients, even if the answer seems clear to them. The path that appears proper and obvious at first glance often is paved with potential pitfalls.

"Boards and managers don't recognize those red flag moments where they're on the cusp of really getting into trouble," says David Muller, a shareholder and board-certified specialist in condominium and planned development law with the Naples, Fla., office of Becker & Poliakoff.

In particular, boards and managers must take care to avoid the following when presented with a reasonable accommodation request:

1. Reflexive denial

"Summarily denying a request is a bad idea," Hoffman says. "It's kneejerk or visceral decisions, like denying someone a chairlift in a pool because it would be expensive without actually looking into it."

A visceral reaction to a request is somewhat understandable, though, especially for board members who have been around the block.

"There are some people who try to take advantage and use fair housing laws to get whatever they want — people who think that their disabled placard from the DMV is an 'I can do whatever I want' card," Richardson says. "That spurs resentment and resistance, and some people just assume that every request is suspect.

"But it's not only the guy who still has a placard from knee surgery a year ago and still wants to park wherever. Think about the paraplegic who genuinely needs a closer parking spot."

2. Board overreach

At the other end of the spectrum are those clients that go overboard when it comes to requesting information. This is most likely to happen when the owner making a request doesn't have an obvious disability.

"There may be no actual physical disability, so the board doesn't believe the person," Hoffman says. "The board decides to be physicians making their own diagnoses.

"I remember one case where the association denied the request 13 times or so. By the fourth or fifth request, they had all the information they needed, but they just kept saying no." Hoffman persuaded them to grant the request.

"They weren't sued, thankfully, but it was heading in a bad direction."

3. Decision delays

Similarly, some boards simply refuse to give a timely response to an owner's request. "They delay the decision by not responding," Hoffman says.

Delays can have unintended consequences. In Michigan, for example, delay could translate to approval. "The state condo act deems it automatic approval of a request to modify the common elements if you don't respond within 60 days," Hirzel says. "And under the Fair Housing Act, if you don't respond in a 'reasonable' time, it's a denial that can lead to a claim."

Such claims probably won't end well for an association. "Courts view that as purposeful denial," Hoffman says. "It's as if you're discriminating."

"[Associations should] avoid jumping to conclusions until they have all the information."

Kelly Richardson, partner, Richardson Ober De Nichilo

The Right Way to Handle Accommodation Requests

So how do the associations that deal with accommodation requests well go about it? For starters, Richardson says, they ask questions and listen before they make any statements. "They avoid jumping to conclusions until they have all the information."

Managers may need to gently remind their clients that the law requires them to put in the work to obtain that information.

"Associations are required to engage in the interactive process to gain information that establishes a physical or mental impairment that substantially

impairs at least one major life activity and an explanation of how the accommodation lessens the symptoms," Burnett says,

Once the impairment is established, though, the board must limit its questions to the accommodation. "You can't ask about the injury, illness, or prognosis," Richardson cautions. "Ask about *what* the owner is asking for, not *why*."

"[Associations] should have procedures, rather than making it up as they go along."

Edward Hoffman, Jr., founding partner, Hoffman Law, LLC

Don't let your clients handle accommodation requests on an ad hoc basis. "They should have procedures, rather than making it up as they go along," Hoffman says. "It should be like collections or anything else they do on behalf of the association.

"They need procedures for looking at the feasibility of a request, the impacts, why the owner is requesting the specific accommodation, and the evidence provided. Timeliness is a key part of the policy, too."

Hoffman also advises boards to speak with their attorney before they take action. "I've been involved where requests already have been denied, and they should have been approved."

Burnett agrees. "It's a very self-serving statement," she says, "But it's true — they need to consult an attorney." The fair housing laws are complicated, with differences between federal and state law, and the proper course of action is very fact-specific. Legal advice is critical to reducing the risks for associations.

Familial Discrimination

Familial discrimination is among the dicier types of fair housing claims for one reason — it's so easy for boards and managers to inadvertently discriminate when they're only trying to keep people safe and happy.

"The common trap for associations is posting signs and imposing age limits for certain facilities for safety reasons or to keep quiet hours."

Kevin Hirzel, managing member, Hirzel Law, PLC

"The common trap for associations is posting signs and imposing age limits for certain facilities for safety reasons or to keep quiet hours," says Kevin Hirzel, managing member of Hirzel Law, PLC, a Michigan-based firm that works with community associations.

Read on to learn more about other potential traps and how you can help your clients avoid liability for familial discrimination.

How It Happens

Familial discrimination claims often stem from older governing documents, says JoAnn Burnett, an attorney in the Fort Lauderdale, Fla., office of Becker & Poliakoff, P.A., who focuses her practice on fair housing and discrimination claims.

"They have sections titled 'Children' with rules that say things like all children under age 18 must be supervised by an adult on the property, no babies under age 3 or in diapers are allowed in the pool, children can't have floaties in the pool, or children may not skateboard in the parking lot."

Rules like that may have flown under the radar 30 or 40 years ago, but the law has progressed, says Robert Ducharme, a solo practitioner who has represented New Hampshire associations for 20 years.

Dated documents aren't always the culprit, though. More recently boards have gotten into dire straits drawings, or playing in the parking lot or common areas. All of these could spur allegations that an association discriminates against families with children.

A Cautionary Case

A 2020 case in Idaho demonstrates the risk well (*Hill v. River Run Homeowners Ass'n*). The Hills bought a single-family home in the 333-unit River Run HOA. They and their children — ages 1, 3, and 5 — lived there from August 2014 through March 2015.

In 2013, the HOA had enacted rules for its recreation center, which includes the clubhouse, pool, and tennis courts. The rules defined the term "adult" as an individual age 19 or older.

Under those provisions, during the summer when the pool was open, the recreation center manager would open the clubhouse for "ADULT USE ONLY." No one under age 14 could use the pool unless accompanied by an adult, and residents ages 14-18 were limited to one guest per person, notwithstanding a per-household limit of six guests.

In addition, while the Hills lived in the community, a sign on the tennis court gate gave adults court privileges over children after 3:00 p.m. weekdays and any time on weekends or holidays. A sign on the clubhouse wall read "Quiet Swimming Only in Pool & Jacuzzi."

The Hills filed a lawsuit against the HOA, alleging that the signs and clubhouse rules targeting children and families with children were unlawfully discriminatory on their face. The federal district court found the HOA liable without even going to trial.

According to the court, the tennis court sign, clubhouse rule, and pool guest rule all were facially discriminatory — and the HOA's justifications for them were insufficient. In the case of the tennis court sign, the HOA didn't even present a justification.

For the pool guest rule for kids ages 14-18, though, the association argued it was intended to address concerns of overcrowding, vandalism, drug use, sexual assault, and the like. The court pointed out that adults can create the same problems but nonetheless were allowed up to six guests.

The HOA claimed the rule limiting the clubhouse to adult use was meant to require a reservation by an adult. But the court found the explicit language of the rule undermined this justification.

"The sign for the tennis courts actually stated a preference for adults over children," Burnett says. "The handbook said only adults could use the clubhouse, which implied kids couldn't even come in — a complete ban on children in the clubhouse is just unheard of.

"Normally, it might say they can't use the pool table or something the HOA is trying to protect, but this was just an empty room. It did seem like they were targeting children."

How to Preempt the Problem

"Replace the older language with language that affects everyone the same. You want to prevent certain conduct, not just if done by children."

JoAnn Burnett, attorney, Becker & Poliakoff, P.A.

The good news is that familial discrimination is one of easiest types of fair housing liability to avoid.

The first step is to review the governing documents and rules, especially those that pre-date the 1988 amendment that added familial discrimination protection to the Fair Housing Act. Some of the restrictions may continue to be relevant but might require revisions.

"We try to replace the older language with language that affects everyone the same," Burnett says. "You want to prevent certain conduct, not just if done by children."

Kelly Richardson, a partner in the law firm Richardson Ober De Nichilo in Pasadena, Calif., seconds this sentiment: "Any time you're using the word 'children' or ages, it's a red flag." He advises referencing the activity — not who's doing it.

"Instead of saying children have to wear swim diapers, you say all persons who are incontinent must wear appropriate attire when in the pool," says David Muller, a shareholder and board-certified specialist in condominium and planned development law with the Naples, Fla., office of Becker & Poliakoff.

"A lot of clients think this is silly and just politically correct, but, as lawyers, we're interested in potential liability, and associations have run afoul of this in the past."

David Muller, shareholder and board-certified specialist, Becker & Poliakoff

"A lot of clients think this is silly and just politically correct, but, as lawyers, we're interested in potential liability, and associations have run afoul of this in the past."

Rather than saying "No playing on the grass," a rule might say "Keep off the grass." Instead of "Children's bicycles may not be left in common areas," the rule could become "No bicycles may be left in common areas."

A rule prohibiting or referring to specific items like roller skates or soccer balls rules might be revised to refer to "recreational equipment." At the pool, an association could insist on "no horseplay."

But what about safety concerns? It's easy to see why an association might think a minimum age requirement for the pool or the gym — for example, age 18 — would pass muster as reasonable.

"But then you're saying 16-year-olds with lifeguard training can't use the pool, but a 22-year-old who can't swim can," Ducharme says. And a 90-year-old might be just as unfamiliar with free weights as an 8-year-old.

The wiser approach is to focus on competence, not age, Burnett says. "We normally recommend language requiring supervision by someone who is 'competent' in swimming or in using free weights." Alternatively, for gym equipment, she suggests crafting rules that reflect the manufacturer's recommended age restrictions.

Ultimately, the wisest course of action is for your clients to have their rules reviewed by an attorney who can suggest revisions to bring them into compliance with the fair housing laws. "One thing we do is a report card," Hirzel says. "We'll go through the governing documents, especially the rules that haven't been drafted by an attorney, and check for issues."

Associations also should consult counsel *before* enacting new rules.

"One day, I received a call from a client association about a class action lawsuit by some tenants suing it over a rule I'd never seen but the board had passed — that children couldn't play in the courtyard," Richardson says. "As a general rule, if that's how the attorney finds out, it's a little late.

"Had the HOA simply sent me an email, I could have told them to change it say 'there shall be no recreation in the courtyard.' Instead, the association paid more than $100,000 to settle the case."

Neighbor-to-Neighbor Disputes

Although many community association boards and even some managers seem unaware of it, disputes between neighbors can trigger more than just headaches these days — they also can trigger liability under the Fair Housing Act for third-party harassment. Failing to take action can lead to litigation involving both associations and their managers.

The Basis for Liability

In 2016, the U.S. Department of Housing and Urban Development (HUD) issued a final rule that makes community associations potentially liable under the Fair Housing Act for harassment committed by third parties based on a protected characteristic, including neighbor-to-neighbor harassment.

"It's a game-changer," says Edward Hoffman, Jr., founding partner of Hoffman Law, LLC, which represents associations throughout Pennsylvania. "Prior to 2016, associations typically would say 'it's a neighbor-to-neighbor issue, we don't have skin in the game.' Now, if there are allegations that involve harassment of a protected class, the association may have to get affirmatively involved as a housing provider."

The final rule provides that housing providers — including community associations — are "directly liable" for harassment based on race, color, religion, national origin, sex, familial status, or disability by third parties when the provider:

- Knew or should have known of the harassment,
- Had the power to correct it, and
- Failed to take prompt action to do so.

"Hostile environment" generally refers to unwelcome conduct so severe or pervasive that it interferes with an owner's use or enjoyment of his home.

The rule covers both quid pro quo (or "this for that") harassment and hostile environment harassment. Harassment between owners who aren't on the board of the directors typically falls into the latter category.

"Hostile environment" generally refers to unwelcome conduct so severe or pervasive that it interferes with an owner's use or enjoyment of his home. Neither psychological nor physical harm must be demonstrated to prove that a hostile environment exists.

Use or enjoyment of the home includes use of a community's amenities. Sandra Gottlieb, a founding partner of California homeowner association law firm SwedelsonGottlieb, describes a situation at an HOA where one resident told another that she was a "dirty Pakistani" who shouldn't be allowed in the community.

"She's in her mid-70s, and she doesn't want to leave her unit or use any of the amenities because she's terrified. He's interfering with her quiet enjoyment of her unit," Gottlieb says.

Brendan Bunn, a partner practicing community association law with the Fairfax, Va., law firm Chadwick, Washington, Moriarty, Elmore & Bunn, P.C.,

cautions that some homeowners may recast a garden-variety dispute as being about a discriminatory issue. "For example, what used to be just a normal noise dispute becomes 'they're complaining about my noise because it's my children so it's familial discrimination,'" he says.

Best Practices

"The main takeaway is not to put your head in the sand," Hirzel says. "If you or your client becomes aware of mistreatment, that's what really triggers the duty to act."

Hoffman advises investigating the circumstances and opening the line of communication between the association and the parties. "Do your due diligence," he says.

If the investigation finds legitimate harassment, Hoffman suggests checking whether the governing documents have a provision that the association can wield to alleviate or eliminate the harassment.

"If the documents prohibit nuisance or noxious behavior, based on a standard of interfering with someone's use and enjoyment of their property, that could be enforced against harassing conduct," he says.

"Of course, that's easier said than done — it's different than enforcing a prohibition about above-ground pools or clotheslines that can be seen with the naked eye. You generally don't have a smoking gun of overt discrimination. It's word against word."

"The HUD regulation suggests that if the association believes there could be discriminatory factors at work, it has to do what it can legally to stop the discrimination."

Brendan Bunn, partner, Chadwick, Washington, Moriarty, Elmore & Bunn, P.C.

Actions based on rules violations aren't the only option, though, and may not be enough to avoid liability.

"The HUD regulation suggests that if the association believes there could be discriminatory factors at work, it has to do what it can legally to stop the discrimination," Bunn says. "That could involve filing a lawsuit, writing demand letters, or assessing rules violations and fines.

"But when there's a dispute that becomes somewhat personal, you often find the classic rules enforcement mechanisms don't work that well, so the association will sometimes invest some resources in trying to reach an accord between the owners. If you can help the neighbors get along better, you can rid yourself of a potential fair housing claim."

The Role of Mediation

One way associations can facilitate such an accord and reduce the odds of liability is to pursue mediation of disputes before they escalate. HUD has explicitly identified mediation as a "powerful tool" associations can use to control or remedy a resident's unlawful discriminatory conduct.

Where appropriate, mediation can be conducted by a skilled board member, the association's manager or attorney, or an outside mediator. "You would want to use a third party if the parties believe the board, manager, or lawyer is biased or too involved," Bunn says.

Although not required, Gottlieb says it can make sense to offer to pay for part or all of the costs of a mediator: "If you're keeping the association from being embroiled in a lawsuit, it's worth it. Sometimes people just want to be heard."

Jim Lingl of Lingl ADRS in Thousand Oaks, Calif., a longtime mediator who has worked with numerous HOAs, says the costs vary. Depending on a range of factors, mediator rates can average around $300-400 per hour, and mediators require a minimum of two or three hours.

According to Lingl, a typical mediation begins with a general session including all parties, where he provides admonitions about confidentiality and similar concepts. He then meets separately, or caucuses, with each side, going back and forth until the parties agree on a resolution.

Not every mediation finds a mutually satisfactory resolution, but mediation is worth considering.

Not every mediation finds a mutually satisfactory resolution, but mediation is worth considering. "There are times people leave and go out for a beer, and times when they leave more polarized," Bunn says. "You can't know until you try, and, if it doesn't work, it doesn't usually make the situation worse."

At the very least, offering to pay for mediation can show the association is taking the issue seriously. "Trying to nip it in the bud shows some kind of due diligence," Hoffman says.

"Generally, after we offer to pay for mediation, we don't hear anything more. It puts everyone on notice that such behavior won't be tolerated."

Lack of Sensitivity

Perhaps one of the least obvious — yet highly risky — areas of concern when it comes to fair housing discrimination these days is largely due to our changing society. The failure, or refusal, to adapt to new norms can land your clients in hot water.

Relics Can Come Back to Haunt Your Clients

"You don't need to become the thought police or P.C. police, but go back and see if there are situations where there could be an unintended offense or deterrent to living in the community."

Michael Kim, counsel, Schoenberg Finkel Newman & Rosenberg, LLC

"We're in a different climate with a heightened sensitivity, and certain practices should be re-examined," says Michael Kim, of counsel with the Chicago law firm Schoenberg Finkel Newman & Rosenberg, LLC.

"You don't need to become the thought police or P.C. police, but go back and see if there are situations where there could be an unintended offense or deterrent to living in the community. They might just require tweaking, and it helps you defend against claims that you have a culture that isn't friendly to certain groups."

For example, Kim once visited a condo development in Florida that had rooms that were labeled Men's Club Room and Women's Club Room. "That would seem to be a bit dated, to say the least."

He points to cultural shifts as a reason for associations and managers to scrutinize practices that may not have raised an eyebrow in the past.

"These are things that, in their most innocent treatment, would be considered quaint but could be offensive to current sensibilities," Kim says. "They might not be a per se violation of any statute, but they may indicate a certain mentality or culture that makes it a little more challenging to say you're up to date on what you should be doing.

"I've had clients accused of discrimination, and I'm confident they're not bigoted, but when you have these things out there and somebody makes a claim, agencies seem to be looking for anything that could reinforce the claimant's argument."

An emerging battle on this front relates to racially motivated or charged covenants, according to Kevin Hirzel, managing member of Hirzel Law, PLC, a Michigan-based firm that primarily works with community associations. In a recent case, though, he represented an owner.

"The owner was Catholic and the rest of his family was Jewish," he says. "The governing documents basically said you had to be Anglo-Saxon to live in the association. It amazed me how much of a struggle it was to get the association to remove that covenant. We actually had to to court."

Watch Your Words

Seemingly innocent statements can raise issues, too. "We live in the 21st century and have to be more careful about our speech," says Kelly Richardson, a partner in the law firm Richardson Ober De Nichilo in Pasadena, Calif. He bases that warning on past experience.

Not long ago, a board member for one of Richardson's clients was discussing chain of command as far as staff management. "He said that no man can have two masters and that a slave with two masters is free," Richardson says. "He was just trying to say you can't have an employee with multiple bosses, or no one really controls that employee."

A black employee complained, though, calling the remark racial harassment. "Under the fair housing regulations, the association had a responsibility to respond, look into the alleged harassment, and see if there was a violation," Richardson says. He interviewed the people involved to determine the context of the statement.

"It turned out it had nothing to do with American slavery; he basically quoted the Bible," Richardson says. "But it got a lot of people concerned because they found it unacceptable.

"It just wound up being very unpleasant for both sides — the board member felt like he was being attacked, and the employee was dissatisfied that no action was taken against the board." And the association had to pay Richardson to investigate the situation, all because of a board member's choice of words.

"I think this is a microcosm of what we're going to be dealing with going forward," Richardson says.

Age Matters

Generational differences are partly to blame for the increase in these types of conflicts.

"We have a huge challenge in that we have — particularly with senior communities... The things that are now illegal were considered funny and entertaining 50 years ago. We have an entire generation that doesn't get it."

Kelly Richardson, partner, Richardson Ober De Nichilo

"We have a huge challenge in that we have — particularly with senior communities — people who grew up in a world where they'd tell ethnic jokes and insult comic Don Rickles was hilarious," Richardson says. "The things that are now illegal were considered funny and entertaining 50 years ago. We have an entire generation that doesn't get it."

JoAnn Burnett, an attorney in the Fort Lauderdale, Fla., office of Becker & Poliakoff who focuses her practice on fair housing and discrimination claims, agrees that some older residents can struggle to adapt to things they're not familiar with, such as same-sex relationships.

"Transgender people have become a bigger issue," she says. "We had a request for a transgender woman to play on a female softball team, and it was challenged whether she should be able to use a female bat. In the beginning, the board took a tough stand, but, once I explained the law, they agreed to let her use the equipment women are allowed to use."

While transgender people aren't protected under federal law, she says, they are under some local laws. In Florida, for example, protections vary by county. "You have to check to see which protected classes associations must accommodate," Burnett says.

But older owners aren't solely responsible for these types of problems. "Younger people will call people Boomers or Karens, and an older person can find that

"We have a younger generation that doesn't seem to appreciate yet that the standard for discrimination and harassment is objective. The fact that you're personally offended doesn't make something a violation."

Kelly Richardson, partner, Richardson Ober De Nichilo

offensive," says Edward Hoffman, Jr., founding partner with Hoffman Law, LLC, who represents associations throughout Pennsylvania.

Richardson says some Millennials and Generation Z owners can have unrealistic expectations. "We have a younger generation that doesn't seem to appreciate yet that the standard for discrimination and harassment is objective. The fact that you're personally offended doesn't make something a violation. Would the reasonable person think a remark was sent at you or your protected class to malign you?"

The solution, he says, is education on both sides of the battle.

"We need to educate older people that the world has changed and what used to be considered entertainment is not only socially unacceptable but also can be illegal in the housing context. We need to educate younger people who are growing up in a more politically correct society that it's not just any offensive remark that's unlawful but one that anyone in that protected class would find offensive."

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Up in Smoke: Association Management Issues in the Age of Marijuana Legalization Protecting Common Areas from Contagion

This Special Report takes an in-depth look at some of the most pressing marijuana-related issues for community association managers and their clients and provides expert guidance on how to mitigate the associated risks.

Bickering and Brawls: How to Deal with Rising Tempers and Incivility

From profane name-calling to fistfights, we're hearing from experts that the behavior at community association meetings has been on the decline. Owners' anger and anxiety are spilling over, and they're directing their vitriol at board members, fellow owners, and managers. "The ability to contain oneself and act appropriately in a public forum seems to be...

Coronavirus Creates Meeting Mayhem

Community associations of all kinds, regardless where they're located, are subject to stringent requirements regarding board of directors and annual membership meetings. Strict compliance can pose a challenge for some associations in the best of times, let alone during a public health emergency. Social distancing protocols and prohibitions against gatherings make traditional meetings nearly impossible...

Know When to Hold 'Em: Document Retention for Community Associations and Their Managers

From governing documents and vendor contracts to communications with owners, community association boards of directors may feel like the constant deluge of paperwork is drowning them. "This can become a problem because community associations are required to keep a great deal more documents than any individual director is accustomed to in their personal lives," says...

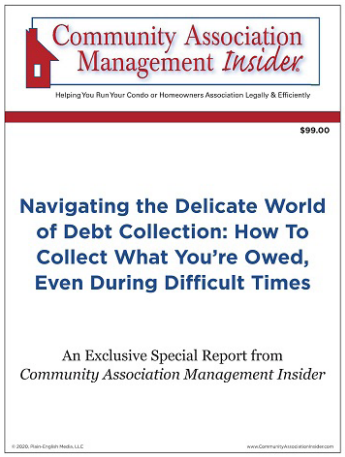
Delinquent Assessment "Acceleration" Policy Pays Off

If the community you manage is considering setting an "acceleration" policy to cut down on the number of delinquent monthly assessments, make sure you know how it works.

Preserve Common Areas from Wheelchair Damage

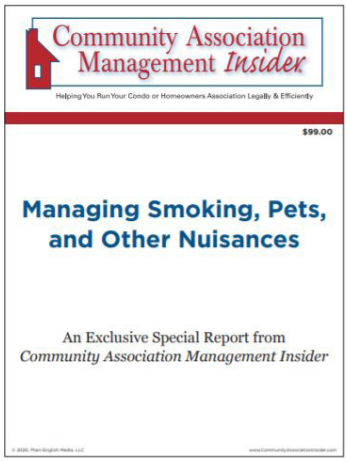
Q: Several community members, and, occasionally some guests, use wheelchairs. Because of the size and design of some of the common areas, the walls have been dented, paint has been scratched on the walls and doors, and corners and doorways have been nicked. There has also been damage to carpets and wood floors from wheelchairs. It has been expensive to repair wall and floor damage caused by those wheelchairs to the common areas. What can I do to prevent this damage?

Special Reports from *Community Association Management Insider*



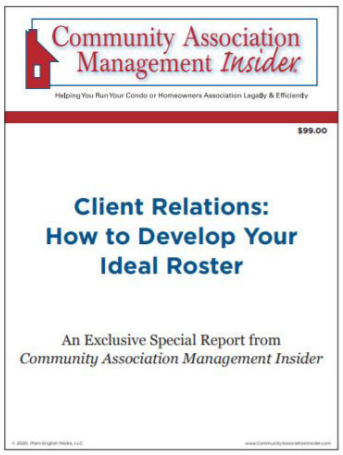
Navigating the Delicate World of Debt Collection: How To Collect What You're Owed, Even During Difficult Times

This Special Report provides expert advice on how you can increase the odds of collecting from every kind of debtor you and our clients may encounter. It includes insights on how to improve collections during both regular times and those periods when developments such as COVID-19 threaten the finances of wide swaths of owners. **Download now »**



Managing Smoking, Pets, and Other Nuisances

Regardless of where you're located, or how long you've been in the business, the same types of problems tend to crop up over and over, don't they? It's not the big emergencies that make you pull your hair out, but the everyday hassles that start to grate when you get lots of people living together in the same community. Things like pet issues. And smoking. And the other chronic niggling nuisances that, over time, become a real pain in the neck. Which is why we've pulled together this Special Report specifically about managing these sorts of challenges. **Download now »**



Client Relations: How to Develop Your Ideal Roster

Strong relationships with your community association clients are always important — but not always easy — to maintain. As a manager, you don't have to settle for rocky treatment from clients that are overly demanding, unappreciative, or even abusive. Concessions can be made for exceptionally trying times, of course, but wouldn't you rather develop solid, productive, and mutually satisfying relationships with your clients? This exclusive Special Report aims to help you do just that. It provides valuable guidance on how to identify and land the right clients, establish and enforce boundaries, manage poor conduct, and leverage happy clients. **Download now »**

Up in Smoke: Association Management Issues in the Age of Marijuana Legalization

Those states with legal marijuana have seen it rapidly commoditized, with new businesses such as delivery services cropping up and becoming a part of homeowners' daily lives. Not surprisingly, the proliferation of pot has begun to have repercussions for community association managers, both as property managers and employers. Whether you live in a state where marijuana is fully legal, partially legal, or on the cusp of some degree of legalization, you need to know what that means on the ground.

This Special Report takes an in-depth look at some of the most pressing marijuana-related issues for community association managers and their clients and provides expert guidance on how to mitigate the associated risks. **Download now »**

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- Articles with step-by-step **management techniques**
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