



TURNING BAD TENANTS INTO MODEL CITIZENS

As the number of rental units within a community increases, so does the number of issues related to harmonious living. As association attorneys, we have seen a rise in the number of renters that simply refuse to comply with (or fail to recognize the significance of) the association's rules and regulations. When the landlord owner is unable to get control of his or her renters, the board may be placed in a difficult situation.

Renters often have the mistaken belief that because they are occupying the home in place of the actual owner that they then have all of the rights and benefits of ownership. Or worse, the renters just don't understand that the rules and regulations apply to them. In some cases, they don't even know the rules exist. Usually, only owners are permitted to, among other things, vote in elections, seek modification of the residential structure, or give permissions and instructions to management and vendors. Renters are often permitted access to common area facilities and amenities, but they must follow all of the rules and regulations established for the community.

Problems often arise when the renters do not follow the rules and their landlords, for whatever reason, fail to enforce the rules and bring them into compliance. With the exception of towing, associations have little ability to deal directly with the renters to enforce the rules. Certain issues do lend themselves to the indirect involvement of police, health and safety officials, code enforcement, animal control, and other governmental agencies and when such issues arise, boards should consider using these governmental agencies to assist in enforcement. Unfortunately, many situations don't allow for third-party assistance and, if the landlord fails (or refuses) to take action to regulate the renter's conduct, an association may be left with little choice but to formally discipline the landlord in hopes of a trickle-down effect to the renters.

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Most associations, through the governing documents, may impose fines and suspend common area privileges of members for violations of the governing documents. While fines cannot be imposed upon the renters directly, fines imposed upon the landlord, with a proper notice and hearing, often hurt where it counts the most - the landlord's bottom-line. As profit decreases from fines or their accounts become delinquent, landlords may be motivated to address the issue with the renter even when they have previously ignored the subject. Many landlords build in a pass-through of any such fines to the renters through the lease agreement. When the landlord confronts the renter or attempts to pass the fine along to the renter, that conversation may result in garnering compliance. Since eviction is a relatively easy process for a landlord to engage in, tenants may be more inclined to respond to a landlord than an association.

While suspension of common area privileges may not directly affect the landlord, the suspension may have a profound effect on the renter and their family. Many renters choose the community they live in based upon the common area amenities available. When those amenities are no longer available, the offending renter will often look to the landlord for reinstatement. Similar to the fines discussion above, it is this conversation between the landlord and the renter that is likely to have an effect on the behavior of that renter.

In some circumstances, repeated fines and continued suspension of privileges will just not get the job done and legal action against the landlord (and perhaps directly against the renter in some circumstances) may be necessary. This may be especially true when the renter is a relative of the owner and familial issues get in the way of aggressive action to gain compliance. If the issues significantly impact the membership or common areas, requesting internal dispute resolution (IDR) and perhaps formal alternative dispute resolution (ADR) may get the attention of both the landlord and the tenant. With any luck, these processes will help to resolve the issues and legal action might not be necessary. Unfortunately, not all compliance can be compelled without a court order. In those circumstances, little can substitute for experienced lawyers who can successfully navigate the court system to obtain an order compelling both the landlord's and renters' compliance as well as seek reimbursement of the costs and attorney fees incurred in doing so.