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Don't Get Caught in These Three Common HOA Lawsuits

In this week's tip, we reveal three of the most common reasons HOAs get slapped with lawsuits.

"The good news is that we don't see as many cases against associations as you think," says Bob Diamond, a partner at the law firm Reed Smith in Falls Church, Va., who helped write the Washington, D.C., condo act in 1976 and worked on the Uniform Condo Act, which 24 states have adopted. "To say, 'Everybody's likely to get sued' isn't accurate. We have more cases in our other litigation practices than we have against associations. The difference between this and a corporate-type lawsuit is that this involves people's homes, which makes people very emotional. And they're much harder to resolve than disputes between two businesspeople."

With that in mind, what are the most common lawsuits HOAs face? "That's easy," says Diamond. "It's all the issues of everyday living or money."

Other experts agree and offer a summary of three of the most frequent claims made against associations.

1. Upkeep failures. "The top reason is usually the failure of the association to either maintain, repair, or replace common elements or units after a casualty a natural event," says Randy Opotowsky, a partner at The Steeg Law Firm in New Orleans, who represents 15-20 associations at any given time. "The obligation in Louisiana is for the association to maintain the common areas and sometimes, notwithstanding what insurance may or may not cover, depending on the type of damage or loss, it may also be responsible for repairing units. If your roof has become worn out and started to leak and caused damage to a unit, under most Louisiana condo docs and the state's condo act, the association is really responsible for repairs to the unit. That's as opposed to a hurricane that may cause damage to both the common area and units."

2. Denial of plans. "We see suits in which you have a homeowner who wanted to do something architecturally and got turned down," says Diamond. "And he sues over that."

3. Election disputes. "We do a lot of recalls and a lot of election disputes," says Alessandra Stivelman, an associate attorney who specializes in community association law at Eisinger Brown Lewis Frankel & Chaiet in Hollywood, Fla. "Those are really time-consuming, and associations hate them. In addition, a lot of issues we deal with when associations get sued are for failure to keep up with the common elements and failure to comply with a records request or inspection."

Discover our experts' complete list of the seven most common reasons HOAs get sued—and get tips to avoid lawsuits—in our new article, [The Top Seven Reasons HOAs Get Sued](#).

Best regards,
Matt Humphrey
President