

In short, your HOA might be liable to you if it:

- ignores structural damage to a common area building that threatens to cause even greater damage down the road;
- neglects to make repairs to your community's pool and spa, thus robbing you and the other members of its use during the hot summer months; or
- fails to slurry your association's roads, resulting in potholes that damage your car.

Typical Covenant violations by community associations include things like:

- failing to preserve, maintain, or repair the association's common areas;
- failing to address another owner's nuisance behavior;
- failing to enforce the HOA's governing documents, especially when such failure is negatively affecting the rights of another HOA member;
- failing to properly manage or account for the HOA's finances;
- failing to follow the election or meeting requirements; and
- harassing certain members or treating some HOA members differently than others.

Many HOAs still engage in conduct that violate rights of its members and residents by, for example:

- refusing to permit a resident from having a service or comfort animal (violates reasonable accommodation requirements; also violates other statutes, such as Fla. Stat. § 413.08; see *Bhogaita v. Altamonte Heights Condominium Assn.*, 765 F.3d 1277 (11th Cir., 2014));
- refusing to permit a disabled resident from building a ramp (violates reasonable accommodation regulations);
- prohibiting a resident from displaying a United States Flag (or, for that matter, a flagpole, Florida State flag, a military branch flag, or a POW-MIA flag) on the resident's property (Fla. Stat. §§ 720.304; 720.3075(3)); and
- attempting to fine a resident more than the statutory maximum (Fla. Stat. § 720.305).

Some of the more common claims that give rise to liability against a neighbor occur when your neighbor is guilty of:

- parking on your property, or otherwise blocking your access to your property by parking in front of your driveway or garage;
- allowing noxious odors to make their way onto your property (*Merrill v. Bosser*, No. 05-4239 COCE 53 (Fla. 17th Cir. Ct., 2005));
- trespassing;
- participating in illegal activities (e.g., drug dealing, non-permitted activities, etc.); or
- causing excessive noise—or for that matter, engaging in any other activities that interfere with your reasonable use and quiet enjoyment of your property.

Regardless, because an association's common areas are considered amenities by the members, and because they are often very expensive to construct and maintain, frequent common area-related disputes between homeowners and their HOAs arise regarding things like an HOAs:

- failing to make necessary repairs to the common areas;
- failing to reasonably maintain the common areas;
- neglecting a member's damage to or destruction of the common areas;
- neglecting to take action against a member who has taken exclusive control over a portion of a common area;
- facilitating the transfer of some portion of the common area to a member without membership approval; or
- allowing the destruction of a portion of the common area.

You may have a claim against your HOA for selective enforcement if your HOA:

- allows a board member to enjoy a perk or privilege denied to other similarly situated members;
- denies your application for an improvement to your home after having already approved applications from other similarly situated members;
- strictly enforces certain rules against you while ignoring similar violations of other members; or
- arbitrarily enforces certain rules while ignoring others.

For example, you may have a strong negligence claim against your HOA/neighbor in any of the following types of situations:

- your neighbor changes the grading on his or her property (with or without permission from the HOA) causing water to flow onto your property that in turn causes leaking and property damage;
- your HOA fails to reasonably maintain the common areas, resulting in expensive replacements and repairs; or
- your HOA's board ignores its accountant's advice and fails to dedicate sufficient funds to hold in reserve to fix certain assets owned by the association.

For example, a lot of HOAs violate Florida law by:

- ignoring election requirements;
- refusing to maintain proper reserve accounts for future maintenance, replacement, and repairs of the common areas;
- failing to properly account for the HOA's funds;
- violating a member's due-process rights, such as the right to a hearing before being fined for a transgression;
- refusing to allow members to own a pet; or
- disregarding "sunshine" or open meeting requirements

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