

We Understand Community Associations.

Lazega & Johanson LLC is a law firm dedicated to representing community associations. We believe in building and maintaining long-lasting relationships with community associations and their managers by providing personal attention and superior services. We take pride in being a part of the team of experts you rely on to ensure the successful operation of your community.

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STOP! You Can't Do That!

Has your community been faced with the sound of chainsaws beginning to clear trees on a lot, or the sight of a concrete truck pouring the foundation for an addition to a home, or perhaps bulldozers beginning to dig for a pool -- all where the owner never even applied for association approval?

One of the many important roles of a community association board of directors is to enforce the community's governing legal documents. Most community legal documents give the association's board of directors' various powers to address homeowner violations, such as a fining power, or a power to use self-help to correct a violation. But, what can boards do when self-help is not practical or realistic and fines are ineffective? For example, what if urgent action is needed because construction of an unauthorized pool will be finished quickly, or a homeowner is extremely hostile and threatening towards board members. In these situations, fines and self-help may be unlikely to resolve the troublesome issues. And,

unfortunately, these examples are becoming much more common.

What options are available to a board of directors in extreme situations like this when other enforcement efforts fail? Court Injunctions and restraining orders might be the answer in many of these cases.

An *injunction* is a court order that restrains a person from continuing some improper or unauthorized action (such as harassing a board member), or that compels a person to take some action (such as removing an unauthorized fence, or repairing a deteriorated home). In a situation where abating the violation is urgent, like stopping improper construction, the association can file a court petition for temporary restraining order (commonly referred to as a "TRO"), which could then lead to an interlocutory injunction and permanent

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injunction. This is a strong action - a violation of a court order can result in significant monetary penalties and even jail time. Judges simply do not like it when folks disregard a court order.

In essence, the TRO is an emergency and immediate order by a Superior Court Judge directing a person to do or not to do certain things. As implied by the name, the order is temporary - typically lasting 30 days. The idea is to maintain the status quo until the Court can review and consider more evidence and decide whether to impose a longer injunction, such as a permanent injunction.

The TRO functions like a quick time-out, so that no further damage is done before the case can be more fully developed and presented to the Court. With this in mind, the evidentiary burden to obtain a TRO is relatively low, and typically the rules of evidence are relaxed in favor of allowing and considering the immediately available information. Depending on the urgency and emergency nature of the need for a time-out, a party can even get a TRO granted in some cases without formal notice to the other side and within a few days (which is quick by court standards)! To issue a TRO, the Court must be convinced that immediate and irreparable harm will result if the problematic action is not stopped. The TRO, again, only lasts up to 30 days with much more being necessary to further notice the other side to extend the injunctive relief to a longer or permanent injunction. But, in many instances, obtaining that initial TRO - that instant time-out - gets the owner's attention like a big red STOP sign, grinding work to a halt, stopping hostile owner conduct, and encouraging cooperation to get the dispute resolved. At that point, these disputes often get resolved by some settlement agreement with the owner, once the owner is helped to understand that ignoring the association and the applicable rules is not

If your community is faced with urgent homeowner violations or issues that must be immediately stopped, consider the TRO!



Contact Us:

To learn more about the services and programs we offer our clients, please feel free to contact us directly at:

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