



## HOW TO AVOID MELTDOWN: DEALING WITH THE "CHALLENGING" MEMBER

by Kelly G. Richardson, Esq.

As an attorney handling legal matters for community associations, dealing with conflict is a weekly if not daily task. Community associations are private governments created by CC&R's, in which neighbors find themselves bound together by a lengthy document which truthfully most people do not read. Yet that document binds them together in a miniature government called a community association.

A healthy community association will work with, and even benefit from, dissension. [Yes, read that again, and think about it, you know it is true]. Unless an association is packed with automatons (and what help are they?), there will be disagreement. Community association service is often torturous, largely due to the manner dissension is handled. All too often it turns out that a Board, manager or even an attorney has handled dissension in a manner which almost guarantees further unpleasantness. We have all heard that one of the goals of mature living is to be able to "disagree without being disagreeable", but how do we do that? Moreover, how does one respond when someone ELSE is being more disagreeable than could have been imagined?


Having refereed countless battles in community associations (and staved off many wars), it is hoped that this article may assist in handling those situations where disagreement and dissension has become disagreeable.

### DISAGREEMENT IS NOT A SIN

Board members often feel that they must pass all matters on a unanimous vote, because unanimity is often confused with teamwork. Each member has their own fiduciary responsibility, and sometimes reasonable minds can differ as to how that responsibility should be exercised. A "nay" vote on a motion does not mean the person is bad, and such a vote does not mean the person making the motion is foolish. Allow your colleagues on the board the freedom to disagree. The freedom to disagree is also the freedom which allows fresh ideas.

So where does teamwork take over? After the vote is done. Once the will of the board has been expressed in a vote, the nay votes join with the aye votes to move forward. If the nay voters have the freedom to express their opinions without retribution, they also must be free to rejoin the board to implement the decision...whether or not they agreed in the first place.

### FIND THE KERNEL




Remember those puzzles we enjoyed as children, where objects were hidden in a larger drawing? The task was to find the object camouflaged in all of the distraction. The task in dealing with conflict is EXACTLY THE SAME. A member barges into a meeting, seething with accusations of incompetence, mismanagement, even dishonesty.... and amidst all of the insulting and harsh language is someone whose roof leak is still not repaired. The fact that the individual's manner of expression is unpleasant should not obscure the fact that a legitimate question is in there somewhere (translate "why isn't my roof fixed yet?"). Find the kernel in the tirade, and respond to that. If you focus on the other part of a tirade (which may be in fact the majority of the statement) the kernel will be missed. Consequently, the conflict will escalate, as you respond to the emotion and not to the problem which caused the emotion.

### FORGET HISTORY

Another critical rule when dealing with a fellow director or homeowner who is disagreeable is to forget history. Past history of disagreements, even perceived misconduct, is almost always the gasoline which fans the flames of a confrontation. Deal with the question at hand. Ignore the past history of conflict with the individual - even though it be encyclopedic in length. If you allow past history of problems with an individual to cloud, even obscure what is being said today, you may wind up missing their point (even if made inartfully, and with vinegar).

### LET THEM SPEAK



Friends, Romans, Homeowners, lend them your ear. Very often a situation can be defused by letting a person complete their statement without interruption. One local association had a member who had fallen on hard times, had lost a spouse and had become an alcoholic. Showing up at meetings, the member would never fail to launch into a tirade at some point in the meeting, usually out of order, and expressing primarily the same concern each time. Each outburst would begin with accusatory and insulting rhetoric, and then by the end would mellow, as he concluded his "say". The board learned to let the member speak (not interrupting or arguing with him) and, if a response was appropriate, to respond respectfully. The other members saw what was happening; the board was not discredited by letting this member vent or rant. This member never wavered in his support of the association (yes, he never campaigned or voted against the board), and the membership saw a board which had the confidence of allowing people to speak, even if they had nothing to add to the meeting.

Allow all members to have a voice. Provide a time in every board meeting for members to speak to items on or off the agenda. Most city councils have a "public comment" time at the beginning or end of every agenda, why cannot private governments do the same? Any citizen can speak to any issue, whether or not on the agenda, for usually three minutes. The fact that members know that, if they need it, they can bring up anything in a board meeting, is a fact which will inspire confidence and support.

**ESTABLISH A BUSINESS-LIKE ENVIRONMENT**

Association meetings need not be a free-for-all. A disorganized environment, with no communication guidelines, can lead to disorganized and non-productive discussions. Is the meeting held in a room which is set up so that members sit in the same circle as the board? That will overstate the input of non-directors in board discussion. On the other hand, are member chairs set up in an uncomfortable or cramped environment? The location of the meeting is important. If the Association has no suitable location to meet on-site, perhaps a standard location off site needs to be selected. Coffee shops are not a good place for meetings. Perhaps a suitable community room can be found in the area.

The conduct of the meeting can facilitate organized discussion. All too few associations have rules and regulations regarding the conduct of association board meetings. Why not have a standard meeting agenda format? However, rules can go further. Speakers should not be permitted to shout or use foul language. If the room is too small to allow for a standard location for people to address the board (such as a lectern), it may be helpful to require people to speak from a sitting position.

**ROBOTS OR DEMONS**

A smoothly operating association in the real world is not filled with robots. Neither is it filled with demons. Handle disagreement with your neighbors as colleagues, not as enemies. Whoever first said "what goes around, comes around" was right. Would it be wonderful to reduce hostility, and to increase professionalism in your association? Great, then get started - because it begins with you.

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