

***HOA* WARRIOR**

*Paraphrased remarks by Shelly Marshall
From her great book of the same title
(*Home Owners Association)*

<http://www.hoawarrior.com/>

Effecting Board Change:

Is your Association Board violating rights you think are self-evident? Are they taking advantage of their position to pursue personal vendettas? Do they violate State Code, rig elections, and hold secret meetings? Do they selectively enforce covenants? Do they make rules and regulations without input from members?

Please know that you are not alone—it's going on across the country and there is only one effective movement that can stop this growing menace, a reform effort that begins from the Grass Roots up—probably with you, the soon-to-be HOA Warrior.

To prevent homeowner associations from becoming petty, punitive, or worse, a form of corrupt rule, a meaningful system of checks and balances must be introduced. A balance of power between the boards and the members must be imposed, which in many cases does not exist in the current hierarchy of Planned Development Communities (PDC).

According to Paul Franzese and Margaret Bar-Akiva of the NJ Star Ledger (2006), more than 250,000 homeowner associations now exist and more than 50 million Americans live in Planned Development Communities. PDCs were originally intended to protect property values and homeowners ensuring a certain standard of living. Instead they often turn out to be dictatorial organizations that strip away constitutionally granted property rights, take away your home without the benefit of appearing in court, and hold you hostage in a home whose expenses you cannot control. These associations are known as condominiums, town homes, cooperatives, walled or gated communities, property and home owners associations, or disguised as "subdivisions."

Most people don't understand the wide sweeping powers entrusted to the boards of these communities until they are ensnared in something they never saw coming. And, after fighting & winning "the good fight", you may be little better off. You can end up being left with other inexperienced volunteers to serve as the new trustees who also attempt to circumvent proper procedure just like the directors you thought you were rid of.

Also, most buyers of property, in a planned development community, don't understand their potential liability. Take the 2012 Trayvon Martin case, in which Zimmerman, the neighborhood watch guy, shot and killed the teenager while volunteering for the homeowners association of a Sanford, FL gated community: You can be sure that each and every homeowner did not know that they would be personally liable to pay for any adjudicated liability in excess of the Associations insurance. The HOA ended up settling Martin's parents' lawsuit for an amount that was something over (but probably close to) its liability insurance limit. But, if the HOA had lost a suit for, say, \$10MM (not at all inconceivable), the 263 homeowners in the community would have been obligated to pay tens of thousands of dollars, each, out of their own pocket. This is a risk that is never relayed to those who are considering buying into a planned development community!

Fight or Flight?

Every HOA horror story is different but the theme is usually the same: A board comprised of your neighbors tells you what is best for you, often ignoring or reinterpreting the law and governing documents, and then charging you money for what they want, claiming you voted them in and gave them these powers, without any rights of redress by the community.

Your best bet, if forced to live in a Planned Development Community, is to stay involved. You probably have many other concerns that vie for your attention such as involvement with your church, school and sports activities for the kids, community volunteerism, and other social commitments. The reason you want to remain involved in your HOA first before all other involvements is because none of your other commitments have the power to take away your home or property for amounts as little as \$100. None of your other commitments have the right to impose fines and penalties on you for petty things that may or may not be enforced against your neighbor. None of your other commitments can be your accuser, judge, jury and enforcement over your home and property. None of your other commitments can take away your constitutional rights without your say so—but your HOA can.

On the other hand, you must first to decide exactly when you should simply accede to the demands of a board, and “get over it”...versus what should drive you to take a stand. Petty fines, a personality conflicts, a nasty unfair letter, or even a citation for petty infraction(s) of the HOA rules are probably not the kind of things that are worth fighting your board about. The directors may be petty, incompetent, and incorrectly interpreting the HOA documents or rules—but if you can get out of the situation by paying a fine and remedying your perceived infraction, take the easy way out, and grumble about it afterwards.

But, when the directors repeatedly bully residents, and truly tyrannize multiple residents of the HOA, filling their lives with misery; and when the Board controls elections so the status quo stays intact; you may decide you have to take defensive action. This is when you must learn to become an HOA warrior, to reinstate fair governance of your community and your lives.