

AVOIDING LITIGATION

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At times, egos get in the way of resolution of problems in a common interest community (CIC). It becomes who has the best attorney, who makes the biggest threats and who has the greatest need to prove their point.

Directors serving their common interest community are required by law to comply with their documents or seek a vote of the owners to change the documents. Owners don't understand this requirement and "think" it is about egos or personalities vs. legal requirements. Communication is critical in CIC's as it helps the owners to understand what else they purchased when they purchased their home; their agreement to comply with the documents.

Good attorneys will make the Board back up to take additional steps if they don't feel that the Board has adequately followed their own policies and protected the owners' rights. This can include starting over if necessary.

Courts require that an issue be mediated or arbitrated before they will hear an issue. If both parties mediate or arbitrate in good faith, litigation can be avoided, which includes avoiding the expenses that come with litigation. Litigation is NEVER cheap and you don't want to be in litigation unless you absolutely have to be in litigation. It takes a long, long, long time to complete and ultimately most litigation is settled through negotiation anyway.

Please keep this in mind when going down that path and research alternatives in your area. Even Arbitration can be expensive if the parties are not negotiating in good faith as an arbitrator is paid for his or her time. Mediation through the county is normally free and works if the two parties are willing to discuss issues. Unfortunately, the Board can only give so far as I mentioned above, they are required by law to enforce their documents.