

# Legal Q&A

## Handling Harassment

**Q** What can be done when the president of the condo association verbally harasses the building's superintendent?

—Super Supporter

**A** “Board members of common interest communities can easily put the association in hot water by harassing employees or creating a hostile work environment,” says Steven Mlenak, partner of New Jersey law firm Greenbaum, Rowe, Smith & Davis, LLP, based in Roseland. “If acted upon by the employee, this can result in a lawsuit against the association which may or may not be covered by the association’s insurance carrier depending upon the terms of its coverage.”

“If a board member is harassing an employee, the rest of the board should take steps to curtail that behavior by communicating with the board member about his/her actions. When a board member refuses

to cease the harassing behavior against the employee, the remaining board members should seek legal counsel as to the board’s options. Many governing documents will permit the board to remove the board member from an officer position. Others will allow the board to remove that member from the board completely or, more commonly, to call for a community recall vote of that board member.

“Boards should further consider adopting a code of conduct resolution setting forth standards by which the board members agree to be bound. These standards can address how board members are expected to interact with employees, other board members, and homeowners, and can provide a framework for how situations such as the one posed in this question can be uniformly addressed.”

## Double Boarding

**Q** Can a board member who has served on one board for many years serve on another board that is in the same HOA association? I

don’t want to cause a problem with this member, but it does mean they would be casting votes on two association issues. It seems like a conflict.

—Is This Legit?

**A** “It sounds like a master association with sub-associations,” says attorney A. Christopher Florio of Stark & Stark, which has offices in New Jersey, New York, and Pennsylvania. “On its face, and unless barred by either of the two associations’ governing documents, it’s not an absolute conflict. But it can pose a conflict if these two associations [are or become] at odds with one another.”

“The only thing this person who serves on the two boards needs to do is to recuse himself/herself from any matter that may be a conflict and would affect one or the other association. That will mean the attorney for these associations may need to be brought in on more corporate governing issues than either association had origi-

nally planned.”

## Ardor over Our Door

**Q** I live in an association in Princeton. I have to have my front door lock replaced, and they are telling me once it’s replaced, I will get a bill for it. How can this be fair? I don’t own the door and can’t take the lock with me when I leave. The association claims windows, doors, etc., to be our responsibility. What am I paying \$312 a month for?

—Feeling Unfairly Charged

**A** “Many, if not most, condominium association master deeds provide that the front door, including the hardware, is part of the ‘unit,’” says attorney Fran McGovern of McGovern Legal Services, LLC, which has several offices in New Jersey. “In most cases, the unit owner is solely responsible for maintenance, repair, and replacement

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