

Creative Living



Monday, June 26, 1989 O&E

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condo queries Robert M. Melsner

Q. Our condominium has a number of construction defects. Our condo association is having a very difficult time getting our plans and specifications from the developer. The city building inspector seems to be stalling as to turning over whatever documents the city has. What can we do?

A. Contact the chief building department official and request in writing under the Freedom of Information Act copies of the plans and specifications for the project. Also contact the head of the engineering department by written request. The city should have the plans on file, which are a matter of public record. Some municipalities are reluctant to release architectural plans, since they claim that the architect retains a copyright on it.

On the other hand, they should be subject to review and perhaps copying under the Freedom of Information Act, and if the city balks, you should attempt to contact either the mayor or city manager or the board of trustees, as the case may be, concerning the unwillingness of the city to discharge its responsibilities. It may become a political as well as legal matter, particularly when it appears that the municipality is unwilling to turn over documents that it should have no reason not to do.

Q. One of the residents in our condominium is an abusive alcoholic who drives the woman beneath his unit crazy by throwing things against the wall, being loud and otherwise abusive. The person has complained to the board of directors and I, as managing agent, am concerned that the board is unwilling to do anything about it.

A. This is an extremely difficult question because it appears that the problem relates to only two co-owners in the condominium and it does not affect the rest of the condominium project. Many boards have taken the position that when only two co-owners are involved for a relatively subjective item such as noise or, in this case, alcohol abuse, they will not get involved because, as a practical matter, they cannot do a thing about the alcoholism even if they were to get a court order.

A co-owner does have the right to seek redress against another co-owner based on the restrictions of the condominium documents. Whether the board has an absolute obligation to pursue an individual co-owner because of a complaint by another co-owner, when the common area is not necessarily affected, is a subject with which I have debated with other community association lawyers throughout the United States at various seminars we have attended throughout the years.

Perhaps the board can serve as an intermediary between the two co-owners initially in an attempt to resolve the matter amicably, if at all possible. If not, the board must then consult with legal counsel as to the necessity and/or propriety of bringing legal action against the alcoholic co-owner or otherwise seeking help for the sickness of alcohol.

Robert M. Melsner is a Birmingham attorney specializing in condominiums, real estate and corporate law. You are invited to submit topics which you would like to see discussed in this column, including questions about condominiums, by writing Robert M. Melsner, 30200 Telegraph Road, Suite 467, Birmingham 48010. This column provides general information and should not be construed as legal opinion.

Prune with care

How a tree is pruned in its first few years of life will affect its shape, strength and even its life span.

An illustrated, easy-to-follow guide called "How to Prune Young Shade Trees" has been prepared for homeowners. It can be obtained free of charge by writing the National Arbor Day Foundation.

The how-to-prune guide includes step-by-step illustrations showing how proper pruning in the early years of a tree's life can save money in the long run and result in safer, more beautiful, healthy, easy-to-maintain trees.

The booklet is filled with illustrations showing you how to make a pruning cut, how to prune for desired form, how to strengthen your tree by removing certain branches, how to maintain the tree's health by removing trouble spots — when to leave temporary lower branches, and when to cut them.

The booklet even shows how to hold a pair of pruning shears and how to make pruning cuts at the proper angle.

You'll learn how to shape and guide a shade tree when it's young so that it's tall, straight, strong, and healthy when it's old. The design of the booklet makes it easy to browse through to pick up tips. You'll discover why tree paint isn't necessary, even on large cuts, how to select and care for pruning tools, how to prune according to the tree's function.

To obtain your free copy of this booklet, send your name and address to: Prune, National Arbor Day Foundation, Nebraska City, NE 68401.

Anti-junk mail campaign gaining

NUMEROUS letters arrive daily on my "Less Is Better" campaign to decrease junk mail by having bulk mail returned at the sender's expense. All but two (both from bulk mailers) heartily support this effort. Here are some samples:

"You are my heroines for taking on the junk mail forces! This one column has made my subscription to the Observer worthwhile. I called (a mailer) to get my name off their list and was told advertisers have a right to send out mail and the Post Office has to deliver it and I have no choice but to accept it. He said the only chance I have to reduce it would be to rent a post office mail box. (I got one little letter and one big piece of junk mail addressed to "incident" the first day I had my P.O. Box.) Don't I, as a homeowner, have some rights to not have mail delivered against my will?"

JHS — Plymouth

"As a working mother, I have little time to shop so I order many things by mail. Now I am inundated with anywhere from 10-40 catalogs

every day — up to eight of the very same ones in the same mailing. I am nearly ready to go back to shopping, even with three kids. Thanks for working on this."

JM — Birmingham

"I'm turned off from so many solicitations. If I send a donation to one group, I can count on five new ones asking. They should be required to keep donor's addresses confidential."

IEB — Rochester

"1) Design the bulk mail stamp to include a "refused" box to be checked and include cost of return postage for each piece of junk mail. 2) Allow only recyclable materials to be used on junk mail. 3) Tax each piece of junk mail, then use proceeds to pay for disposing of it.

LM Bloomfield Hills
These last ideas merit special consideration. If the Postal Rate Commission won't allow bulk mail to be returned at the sender's expense, perhaps Congress could tax it to help pay for disposing of the two billion pounds of unwanted waste it creates

annually (not counting the other 4% of "wanted" bulk mail).

This would be in line with the EPA's Feb. 89 report on solid waste which states that the United States is running out of landfill space, causing a "burgeoning problem." It underscores the need "for a fundamental change in the nation's approach to producing, packaging and disposing of consumer goods . . . American consumers have no incentive to limit their waste generation because they are not charged for disposal accord-

ing to the amount of waste they produce." Source reduction is a major focus of its agenda for action.

My strategy is to test the response to this column at the local level. If overwhelming support comes from our community, I will appeal for a national letter writing campaign to the Postal Board of Governors just before the next postal rate hearings. If you care, clip or photocopy this form and return it — or just write to me — and encourage others to do the same.

organizing



Dorothy Lehmkuhl

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