

Neighborly Advice

Condo closeness can breed discontent

By Melissa Scott Sinclair • Illustration by Arnel Reynon

A resident of one Chesterfield condominium community had a little too much to drink at a community party, so other residents offered to walk her home. When the door to her condo opened, they were shocked.

The place smelled. Boxes were stacked everywhere on the stained carpet. It looked like several dogs were kept inside.

"I felt bad for her," says one resident, who asked that his name not be used. Not only does he wonder what her immediate neighbors have to deal with, he says, but he worries about the effect of unkempt condos on the reputation and property values of the development. But in this situation, the neighbors ultimately decided there was nothing they could do except live and let live.

Had it been an apartment complex, suffering neighbors could have called the landlord to wield the mighty power of eviction, or just waited until their leases expired and moved out. But when everyone shares ownership of the property, one neighbor's bad habits can become everyone's problem.

Neighborly disputes are par for the course in condominium developments. It's how you handle them that may mean the difference between living in harmony and moving out.

In large, modern condo developments, such as Riverside on the James or Vistas on the James, the rules are usually extensive and quite detailed with regard to what is acceptable behavior and what's not, says Robert Kaltsounis, managing partner of Dominion Properties Virginia. (The company manages

condos in both downtown developments.) In cases of clear-cut violations — such as a resident owning an 80-pound Doberman when the rules permit nothing bigger than a Pekingese — the condo board can help address the problem swiftly.

Kaltsounis advises people to be cautious, however, when buying a condo in a small, recently converted building. In those developments, space is intimate and the rules may be more loosely defined. Owning a piece of an historic Fan building may seem ideal, he says, but if there are five condos in a community, "three people make the rules there." If you disagree with the board, he says, sometimes "the only thing you've got left to do is move or go to court."

Common sparks for condo disputes are pets (barking, roaming, jump- ➤

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ing on people), parking (hogging visitor spaces) and, increasingly, owners who rent their units. "There's a definite trend toward wanting to control the number of rentals in condominiums," says attorney Michael Inman of Inman & Strickler PLC, a firm that specializes in community association/condominium law. Typically, 15 percent to 20 percent rentals is the upper limit for condominiums.

The No. 1 neighborly complaint? Noise transmission, Inman says, "both up and down and sideways." Usually noise is an issue better addressed by a conversation with the neighbors than a complaint to the board. Although condo rules generally include guidelines for covering a majority of hard-wood floors with carpet and some prohibition of "excessive noise," it's difficult for the board to define what "excessive" is.

If the noisemaker is "an incorrigible sort of person," Inman says, a homeowner can take drastic action and file a private nuisance claim. Collect evidence of the incessant nature of the noise — record it, write down each instance in a notebook, get other neighbors to attest to the problem, call a noise expert — and go to court. If the suit is successful, the court will issue the noisy neighbor an injunction, and they can be fined for future violations.

But this avenue is neither cheap nor quick. It costs a few thousand dollars, minimum, to file such a suit, Inman says. And it's a safe bet your neighbor won't smile when she sees you after court. A better option for resolving condo-neighbor arguments, Inman says (and remember, this is an attorney saying this) is mediation.

In mediation, a neutral third party helps opposing parties reach a voluntary, mutually acceptable resolution. Unlike in arbitration, the parties are not legally bound to accept the resolution. About 90 percent of mediated disputes end up being resolved, says attorney and mediator Paul L. Warren, president-elect of the Virginia Mediation Network.

A mediation clause should be in every condominium community's documents, Warren says. Mediation costs just hundreds of dollars, compared to thousands to file a suit. If a resident-vs.-resident case averages 18 months, costs can easily add up to

\$20,000 to \$25,000 in court and legal fees.

The key to amicably resolving a dispute with your neighbor, Warren says, is this: "Try to gain a full understanding of the other party's perspective." Do your best to understand what's important to them. He cites a case in which one condo resident was angry with another resident for continually usurping a visitor parking spot with a second car. As it turned out, that second car was used to care for the resident's grandmother, who had multiple sclerosis. The board deemed this a medical exception and allowed the second resident to park the car by the tennis courts, out of the way.

"We don't ask the question, 'Who wins?'" Warren says. Instead, it's "Did you get what was a good result for you?"

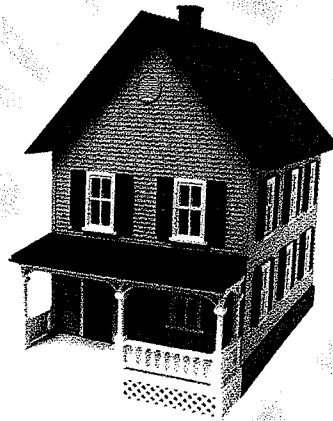
Warren tells another true "tale of two condos." They were in similar developments with standard condo agreements, the chief difference being that only the second included a mediation clause (written by Warren himself).

The issue at hand in both communities was a seemingly small one: Who had the right to use a commonly owned deck? Did deck privileges belong by right to the owner of the adjacent unit? Or could anyone use it for throwing parties? In both cases, young people who were renting a condo unit liked to use the deck for entertaining, while the residents of the adjacent unit felt very strongly that it was for their personal use alone.

In the first case, "the little old man who owned the condo [next to the deck] became very angry at the teenagers," Warren recounts. He took them to court and spent around \$20,000 on legal fees, only to have the judge rule that the deck was for the use of all residents. After this blow, the man sold his condo at a loss.

In the second case, the "little old man and his wife," bound by the mediation clause, went to mediation with the young tenants and the owner of the rental unit. The condominium board paid \$500 toward the mediation tab, leaving the aggrieved parties to chip in about \$100 each. They reached an agreement that the deck could be used only by groups of three or fewer, and not after 7 p.m. "And," Warren says, "those parties lived happily ever after." ■

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