

THE IMPACT OF *trees*



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IF A TREE FALLS IN A HOMEOWNERS ASSOCIATION, AND NO ONE IS AROUND TO HEAR IT, DOES IT MAKE A SOUND?

Most communities in Southern California have views, whether they are ocean, golf course, hillside, city lights or desert vistas. There are premiums associated with these views, and in today's market, homeowners are doing what they can to preserve home values and enjoy their living environment. Unfortunately, the problems that arise from preserving views are multifold. Views are subjective. One person's beautiful tree is another's view obstruction. Homeowners often rely on others to preserve their views, and when it comes to the role of the homeowners association, the board of directors must be careful to make decisions that are not in conflict with the documents that govern the association. As a result, when the issue of trees vs. views arise in a community, emotions rise, the community divides, and the board ends up stuck somewhere in the middle.

A DIVIDED COMMUNITY

When it comes to trees and views, there are community members who want to remove trees to preserve views while others rely on the same trees for privacy. The strong opinions and emotional ties to trees and views often lead to bullying tactics, fears, and desperate actions. Residents have been known to cut down trees in the middle of the night or point to the trees as fire hazards. Interestingly, these homeowners may have fire hazards within their own yards, but they

are confident that if the one tree that happens to block their view was removed, their home would be safe from any threat of fire. And, while the person on the top of the hill is poisoning, topping and removing trees, the neighbors below are demanding the trespasser is dragged off to a holding cell until a punishment that suits the crime can be established (this really happens!). As the community divides, the actions of the board and manager can have a significant impact. They either bring the group back together or create a lasting rift.

THE ROLE OF THE BOARD

As with all association-related issues, the board of directors must be prudent and thoughtful in its actions. When considering the impact of views and tree removals:

- Be familiar with the documents. CC&Rs often prohibit the association from preserving views while others may protect views for certain lots, such as those adjacent to golf courses and water. If the board is unsure when reviewing the documents, consult with legal counsel.
- Confirm that a proposed policy to address view concerns is not in conflict with the CC&Rs or original city approvals for the community.
- Be as objective as possible and rely on the documents for the association as well

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as government agencies and industry experts. It is much easier to support a decision to remove a tree if the fire department requested it or if an arborist reported it was infested.

- Be consistent when enforcing restrictions and following up with alleged violations. Consider an enforcement and fine policy that is specific for trespassing and altering common area. The threat of a \$50 fine may motivate a homeowner to drag those empty trash cans into the garage, but a \$50 fine for removing a tree from the common area is a small price to pay to preserve a \$100,000 view premium. Simply put, the punishment should fit the crime.
- Focus on association-related issues and not neighbor-to-neighbor disputes. It is not the board's responsibility to intervene on a

dispute between two adjacent lots if there is not a violation of the association's governing documents.

THE ROLE OF THE MANAGER

Both the board of directors and the individual community members rely on the manager to facilitate the discussions and actions related to community issues. When an emotional issue arises, the manager may be the only objective party initially involved. Tips for managers include:

- Do not choose sides or openly share personal opinions regarding the issue.
- Be sensitive to the emotional impact the issue has on the board and community members while encouraging them to rely on the governing documents and legal restrictions for the community.
- Take time to listen to both sides of the issue and offer suggestions to diffuse disputes. Encourage neighbors to talk with each other

and ask them to be part of the solution.

- Document all violations related to the issue with details and photographs. Follow-up with homeowners and the board as soon as an alleged violation presents itself.
- Ensure that any safety issues are addressed by confirming all brush management requirements are met and landscaping is properly maintained. If appropriate, consider inviting the fire marshal to inspect the common areas and provide a report that confirms the association is meeting all fire code restrictions.
- Encourage the board to solicit support from experts, including legal counsel, landscape architects, arborists and safety engineers.

WORKING TOGETHER

It is important that both the board and the manager acknowledge the

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concerns of the community and take action that helps diffuse disputes and encourages members to be an effective part of the solution. Consider the following:

- Hold a special meeting that is focused on listening to concerns and brainstorming solutions regarding the issue at hand.
- Appoint a new committee to address the tree and/or fire safety issue. This action sends a message that the issue is important to the association and encourages members to actively participate in resolving it.
- Distribute educational articles to help keep members informed on the role of the association, the bounds of the governing documents and the actions the board is taking.
- Schedule public forums with government agencies, such as the fire department, to address and disseminate information regarding safety concerns.

Rather than dividing a community, a hot topic such as trees and views can present an opportunity to bring the community together and remind members of the benefits of living in a homeowners association.

So, if a tree falls down in a homeowners association, does it make a sound? If the tree doesn't impact a view, then maybe not. But if it does, the board and manager can work together to validate concerns and maintain unity. You are not always able to protect a view, but the value of community is just as important. And that's a sound worth waiting for.

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