

# Mediation can find solution when disputes get out of hand

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A GROWING NUMBER OF PEOPLE ARE CHOOSING TO LIVE IN condominium communities, for the most part attracted by the lifestyle options.

The condominium corporation takes care of the maintenance and management of the buildings and the grounds, making condo living a good choice for everyone from seniors to busy executives. Condo residents can spend more time with their families, in the office, or on the golf course.

As more people move into condominiums, inevitably more disputes will arise.

The Condominium Property Act and the bylaws of each condominium property provide the direction and rules for the board of directors and unit owners.

But these general rules can be put to the test when an individual owner or board member becomes difficult and forgets he or she is part of a larger group and decides he or she is the best and only person to direct the condominium's operations.

In such cases, the Act supports the use of mediation as an option to resolve disputes.

Let me share with you a hypothetical situation where an owner/board member who happens to be a senior corporate executive for a large company uses emotional intimidation to get what he wants, with the goal of making his perspective the only correct one.

In this fictional story, the problem owner just happens to be an executive, which I chose purely for emphasis. I assure you there are many great executives out there contributing generously to their condominium boards as owners.

The intent here is merely to demonstrate the abuse that can occur when any individual unfairly tries to manipulate and control fellow unit owners or members of a condo board.

Problems can sometimes escalate to the point where board members resign, and owners sell their units and move away, because they feel their only other recourse

is filing a lawsuit and working things out in a courtroom -- which is costly, stressful and, too often, unsuccessful in these types of situations.

The hypothetical story takes place in an upscale seniors' condominium. The property is impeccably cared for and well-manicured.

Most owners are snowbirds who love to spend the winter months south of the border. The board of directors is made up of owners who live on-site, and the condominium is self-managed.

The trouble begins when a few of the unit owners are elected by their fellow owners to be directors of the condominium's board.

Because they have never held such positions before, the new directors decide to attend a workshop on managing condominiums. The course is offered through an accredited organization.

They view participation in this workshop as part of carrying out their duties to their neighbours. During the seminar, they learn about issues they feel should be brought to the attention of the board.

These include a suggestion that the board consider putting aside some money to update the bylaws of the corporation, encompassing changes in condominium legislation that took place in 2002.

At this point, they are branded as troublemakers by a single board member who believes himself to be superior to the others. He states that as a senior executive, he feels the existing bylaws are fine, and that these newcomers are being frivolous.

Despite his background, he was never hired by the board to act as its representative, and does not specialize in condominium management professionally.

He is simply one director on the board, enjoying an equal right to vote, to reasonably voice opinions and to contribute his share to the operation of the condominium corporation.

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However, he takes it upon himself to advise not only his fellow board members, but the owners at large that the board members who took the workshop are not competent in their understanding of the condo board's role.

He says they are putting forward suggestions that are self-serving and unnecessarily costing the condominium corporation -- and hence the unit owners -- money.

He sends letters to all the owners to humiliate the new board members, who in reality only wanted to be thorough and informed so they could responsibly perform their duties.

The executive asks that these board members should be requested to resign.

Many of the items brought forward by these new board members end up being dismissed through the opposition of this one difficult person, who uses his professional position as a cudgel to intimidate the rest of the board.

In my fictional story, the dedicated new board members resign, feeling isolated in their battle with the senior corporate executive. Their fellow owners have not dealt with the executive's barrage of notices and letters, choosing instead to avoid confrontation.

By being silent, the remaining board members in effect side with the intimidating and overbearing board member and give him greater power by default than he is entitled.

Mediation would have been a responsible way to work toward a solution between the different parties.

The board of directors -- and the one board member who believes himself to be superior to the others -- has a serious problem that affects all the owners.

As a result, people in the beautiful, immaculately-kept seniors' condominium are choosing to hide in their homes, or sell their units and get out, because they do not want to feel they need to take sides.

Again, please note the details contained in this story are fictional. Any resemblance to any individual or corporation is purely coincidental.

Unfortunately, these kinds of disputes have an impact on the sale options of the individual homes in the condominium.

When a condominium has this type of controversy, the corporation's documents reflect the conflict and this can ultimately impact the value of the property.

Potential purchasers -- who have the right to read the minutes of board meetings and the general meetings of the owners -- will often avoid buying into projects with such problems.

Whether the problem is a physical one involving such things as the building's structure, or emotional such as a bitter dispute, the value of the property bears the impact and the owners end up with unnecessary stress.

It is the fiduciary duty of the elected board of directors to ensure properties can be sold for fair market value at any time. When problems such as these go unresolved and the property loses value, the board members are liable.

It is their duty to do all things possible to resolve such matters in the best interest of the corporation, which consists of all of the owners -- not just one vocal person or group. Mutual respect and tolerance are vital.

When elected board members find themselves in a place where they cannot speak up or ask questions without being berated or embarrassed, they soon realize their time is being wasted.

Too often, they walk away, not realizing services such as mediation are available to help resolve such disputes.

The same is true for condo owners who find their board of directors aren't communicating or behaving respectfully.

Mediation -- when facilitated by someone who understands the condominium system -- can be an invaluable alternative. Unfortunately, this option is greatly underutilized in the condominium setting.

If you would like to know more about mediation as a dispute resolution alternative, contact Deborah Howes of High Clouds Inc. at (780) 466-8250.

Deborah is knowledgeable in the topic of condominiums and she offers customized seminars and dispute resolution services to suit your needs.

Her company is one of many services profiled in our new Exclusive Condominium Trades and Service Directory, which is available on our website ([www.condo-check.com](http://www.condo-check.com)).