

Can Your Community Association Stop Bullying and Harassment in Their Tracks?

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Bullying in any form cannot be condoned either in schools, workplaces or communities. While a newly filed bill by Rep. Emily Slosberg (HB 123) has the laudable goal of protecting Florida's senior citizens from being bullied, just how feasible is it in a community association

context? From some of the board and membership meetings I've attended over the years, it is not at all easy to spot who is the bully and who is the bullied and the reality is that sometimes the bully becomes the bullied and vice versa.

HB 123, if passed, would create a new law known as the "Stand Up for Seniors Act." The law appears to apply only to "55 and over" communities in Florida.

What Behavior Would This Law Address?

Bullying under the Act would be defined as "intimidation or harassment that causes a reasonable person to fear for his or her physical safety or property" and may consist of physical actions including gestures; cyberbullying; oral, electronic or written communication or any threat of retaliation for reporting of such acts. Bullying can take place in person or can be done through the use of technology such as email, texts or the internet; this type of bullying is known as cyberbullying.

Harassment is defined by the bill as any racist, threatening, insulting or dehumanizing gesture, use of data or computer software or written, verbal, or physical conduct that has the effect of substantially interfering with or disrupting a member's opportunities, peaceful enjoyment of his or her home or the association common areas, or association benefits. A person who wrongfully reports an act of harassment in bad faith would be committing harassment.

What is Required of Associations Under This Proposal?

1. "55 and Over" associations would have to adopt and review at least every 3 years a policy prohibiting bullying and harassment.

2. The association's policy must ensure that association members do not subject others to fear or intimidation and the policy must apply to all members.
3. The association's anti-bullying, anti-harassment policy must contain the following:
 - A. A statement prohibiting bullying and harassment.
 - B. Definitions of bullying and harassment that conform to those set forth in the law.
 - C. A description of the type of behavior expected from each association member.
 - D. A requirement that the association investigate any reported act of bullying or harassment.
 - E. A list of penalties for people who bully and harass or who wrongfully accuse others of bullying and harassment.
 - F. A procedure for receiving reports of an alleged act of bullying or harassment including allowing a person to anonymously report such an act. A disciplinary action, though, could not be based solely on an anonymous report.
 - G. A procedure for a prompt investigation of a report of bullying or harassment.
4. After the association completes its required investigation of a report of bullying or harassment, the association must submit its findings to the Ombudsman who will then either send a written warning to the member upon the first offense; require the member to complete an anger management treatment program upon a finding of a second offense; or impose a \$100 upon a finding of a third or subsequent offense.

Is HB 123 Helpful or Just Window Dressing?

HB 123 contains a glaring omission inasmuch as it regulates the behavior of "Association members" but does not seek to address the behavior of abusive tenants, guests, visitors and other residents. Even more troubling is the obligation being placed on volunteer boards to regulate civility inside their communities. A board's role in a community association is to enforce the covenants. Absent a clear violation of those documents, most boards are not well suited to exercise almost entirely subjective judgment to determine who is the perpetrator and who is the victim in many disputes. Lastly, requiring associations to spend limited resources on investigations, some of which may result in inconclusive findings or findings that the complaint was unsubstantiated, creates a quagmire.

Bullies are pernicious and we have never been as exposed to them as we are today in various forms around the world. Progress has to start somewhere but I am not convinced that residential senior communities in the Sunshine State should be required to take the lead in this fight. Perhaps our government officials should be the pioneers in this anti-bullying and anti-harassment crusade by setting an example of civility?
