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# Hoarding in Community Associations

BY MARY  
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Community association managers and board members often find themselves dealing with the mental illness of a resident, especially if the resident has no family members nearby. Florida sometimes becomes a place where families leave other family members and ignore them. By default, community associations are forced to deal with the situation. It is a fine line between wanting to protect the safety and well-being of residents and interfering in someone's private health issue.

Hoarding has especially grown in prevalence in community associations. Many associations find themselves wondering how to deal with a hoarder or suspected hoarder.

What is hoarding? Hoarding is a diagnosis recognized in the *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*. It was formerly a symptom of obsessive-compulsive personality disorder but now stands alone as its own disorder, though obsessive-compulsive behaviors still play a significant role.

Hoarding is characterized by a persistent difficulty with discarding or parting with

possessions, regardless of their actual value. This difficulty is due to a perceived need to save the items and the distress associated with discarding them. The difficulty in discarding possessions results in the accumulation of possessions that clog and clutter active living areas and substantially compromise their intended use. Serious hoarding can include the presence in the home of human and/or pet excrement, rotting food, pervasive mold, inadequate or inoperative ventilation/HVAC, unusable plumbing and appliances, or rodent/insect infestation; key living spaces made unusable or inaccessible; windows, doors, and fire escape routes made inaccessible; and animals or pets that are deceased or at risk.

Some hoarders (and non-hoarders) may also have a diag-

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nosis of Diogenes Syndrome. The main symptoms of Diogenes Syndrome are excessive hoarding, extremely dirty homes, and poor personal hygiene. Their surroundings will often contain an overwhelming amount of garbage; an intense, unpleasant smell; rodent and insect infestation; and filthy living conditions. They are often in denial about their situation.

What is a community association manager or board member to do when you have a suspected hoarder in your community? Do you have evidence of hoarding or self-neglect? Some signs include a bad smell emanating from the unit, surrounding units complaining of pests migrating from the unit, the resident not being seen outside the unit for



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extended periods, and/or belongings piled to block windows. The first calls should be to any family members or known friends. That is why it is important to keep emergency contact numbers for residents. If there is no one willing to help, you may need to place a call to local agencies for resources, such as the Florida Mental Health Hotline (call or text 988 or call 866-903-3787), Florida Adult Protective Services (800-962-2873), the Florida Department of Elder Affairs (800-963-5337), or a local mental health facility. Many locally operated mental health facilities have mobile response units that will send mental health professionals to the site with or without law enforcement.

Some associations must contemplate whether to get law

enforcement or the courts involved. The Baker Act provides opportunities for voluntary and involuntary admission of a patient into a qualified treating facility for observation, diagnosis, and treatment. Involuntary admission is most often initiated by law enforcement or a certificate of a health care provider. The initial involuntary admission is for 72 hours, after which more due process must be followed in order to continue an involuntary admission.

The courts offer a guardianship process for persons who may need some level of care that a guardian can give, such as guardianship of the person (hygiene, medications, organizing living spaces) and/or guardianship of the property (such as help with financial management). Anyone can petition the court to start a guardianship process. There are also professional guardians who will initiate the process and continue through to the appointment as guardian.

If a condominium association suspects there is a situation in a unit that warrants the association's immediate access to the unit, the law allows the association certain rights of access. Section 718.111(5)(a), Florida Statutes, states: "The association has the irrevocable right of access to each unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any common elements or of any portion of a unit to be maintained by the association pursuant to the declaration **or as necessary to prevent damage to the common elements or to a unit.**" (Emphasis added). A similar right of access exists in the residential cooperative statute. No such similar rights exist in the homeowners' association statute.



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For a condominium or cooperative association to gain such access, it should get its attorney involved. Access must be in response to a well-founded belief that access is necessary to prevent harm to the unit or the common elements. Often in a hoarding situation, there could be a presence or fear of mold, insect infestation migrating to surrounding units, or a suspected state of plumbing disrepair affecting common elements or surrounding units. Upon gaining access, the association may have the right to cure some of the violations that are harming or threatening to harm the common elements or the unit itself. How the association obtains payment of such repair expenses from the unit owner will be dictated by the association's governing documents. If the unit owner will not grant access, an emergency court proceeding for access or injunctive relief may be necessary.

If judicial or emergency options are not a consideration, the association can look at whether the resident is violating the association's governing documents or Florida community association laws. The association's governing documents should contain use restrictions that would prohibit hoarding-type behaviors, such as disallowing obnoxious odors to emanate from the unit; disallowing use of the unit that violates laws or ordinances (such as fire codes); and disallowing nuisance behavior. The enforcement process, starting with detailed violation notices, should be started as soon as the issues arise. Proper notice of the violations must contain citation to the governing documents and/or statutory provisions being violated, how the resident must cure the violations, and the deadline for compliance. The violation notice should also clearly outline how the association will determine whether the violations have been cured.

If the violations are not cured, the association will need to consider its next steps, such as arbitration or pre-suit mediation, leading to a court action if necessary.

Some associations opt to fine violators if the association has the ability to fine and has a fining committee in place. But will fining lead to compliance? Often it does not. Sometimes the violator is also in arrears on paying maintenance assessments. Would a collection action and foreclosure of a lien be a more efficient solution? Many hoarders faced with such a legal action either comply or sell the unit and move on.

There are many options for a community association when faced with the problem of a hoarder in the community. The correct route will depend on the facts of each case; the cooperation of the hoarder and their family, if any; the severity of the problem; and the extent of the damage or potential harm. These risks are best discussed with the association's attorney at each step of the way to ensure an effective and legal resolution. ■