

## Keeping the Peace Among Neighbors

### Homeowners Associations Help Balance Individual vs. Community Rights

*By Susan Straight*

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Choosing where to live is about more than picking an architectural style or finding a house with enough bathrooms. It's about neighborhood, and throughout the Washington region, choosing a neighborhood can mean choosing whether to live in a place run by a community association.

A community association is more than a group that puts out a neighborhood newsletter. In many areas, it is a legally recognized form of self-governance by an elected group that manages common areas and oversees such architectural details as the colors that residents can paint their houses.

Two of the region's long-established planned communities, Reston and Columbia, have large, active networks of community associations. So do many big, newer planned communities, such as Ashburn Village and Broadlands in Loudoun County, as well as hundreds of smaller subdivisions, townhouse clusters and condominium communities.

Community associations, also called condo associations or homeowners associations, are characterized by three basic elements: Owners share common land and facilities such as a garden, gazebo, swimming pool or tennis court; they agree to adhere to rules governing homeownership and maintenance of the community; and they pay a regular fee called an assessment. Homeowners must sign papers accepting the association's authority when they purchase a home in the community.

A primary reason for the increase in community associations is that local municipalities increasingly place the burden of infrastructure costs on the developers, said Clifford J. Treese, president of Honolulu-based Association Information Services Inc. "Virtually no major subdivisions built in major urban areas now are built without a community association format," he said.

Nearly 50 million Americans live in community associations, according to the Alexandria-based Community Associations Institute, a membership group for associations. This equals nearly 1 in 6 Americans. In the past five years alone, the number of community associations nationally has grown from 205,000 to 250,000, according to the CAI.

As suburban areas become increasingly dense, there is a growing need to maintain balance between the rights of the individual and the rights of the community as a whole. Problems that need to be mediated by the association usually stem from this conflict, said Frank Rathbun, a CAI staffer.

Gene Luke, president of Reston's Woodwinds Council of Co-Owners, started attending meetings of his 144-unit condo community association 12 years ago after he became frustrated with a lack of rule enforcement. Several "junkie" cars were taking up limited space and creating eyesores in the parking lot, a violation of community rules, but no one approached the owners about

removing the cars. As a new board member, Luke helped enforce removal of non-working vehicles, instituted a permit policy (three permits per household), and helped push through \$100,000 lighting upgrades for the 1974-built townhouse and garden-style condominium complex.

Luke has been on the board for 12 years now, the majority as president, and is proud that the association has been named to the National Community Association of the Year Awards Hall of Fame, a competition administered by the CAI. He attributes the award, and the three local and national awards that led to it, to the fact that Woodwinds "keeps up maintenance, improves the property and maintains funds to do that."

Woodwinds' monthly fees range from \$146 to \$214 for the 28 townhouses, 14 patio homes and 102 garden-style units in three-story buildings on a wooded lot. Luke said that to maintain proper funds for renovations, the board tries to control spending, monitor vendors, and keep assessments adequate but reasonable.

Even with a community association firmly in place, conflict can develop. Each community association varies in how it enforces its rules. Some associations decided to take a passive stance on otherwise prohibited flag displays after Sept. 11, 2001. In fact, the CAI adopted a policy it called Old Glory to encourage associations to be flexible on this issue.

Many Washington area associations removed or relaxed restrictions on flag displays, said Crystal Danielson, executive vice president of the Washington Metropolitan chapter of the CAI.

At Woodwinds, for example, the association has decided to ignore displays of flags that would have violated community rules before Sept. 11. While the association normally prohibits any color of window covering besides white, it has allowed window displays of small U.S. flags.

Most community associations have a volunteer board of directors that manages directly or with the help of a professional management company.

Sometimes it pays to bring in professionals. Two major challenges for community associations are toxic mold and rising insurance costs, Danielson said. Dealing with these problems is complex and often beyond the expertise of residents who are not experienced property managers.

Another challenge for associations is getting residents to take on the responsibility of serving on the board. "Some [community associations] are multimillion-dollar organizations; it's a big responsibility," said Thomas M. Skiba, chief executive of the CAI. The duties of board members are not unlike running a business, compounding the problem for untrained volunteers.

"Sometimes your CPA neighbor can serve as treasurer, but frequently it's someone with no financial background," Skiba said.

For this reason and because residents may not care to be saddled with a volunteer job in addition to their regular work, professional management companies provide the services necessary for maintaining a community: liability insurance, exterior maintenance, accounting.

The association still maintains the governance and policymaking for a community. Approvals for variances, hearings for violations, recruiting for and filling of vacant board positions, and social events may all still fall under the domain of the board.

While associations differ in specific rules, two main variations are the extent to which residents run the associations themselves, as opposed to hiring a management company, and the extent to which the associations govern community behavior.

About 42 percent of associations hire a professional management firm to run the community, performing or contracting for such tasks as snow removal, pest control, trash, landscaping and routine maintenance, according to the CAI. Volunteer residents run 27 percent of community associations, and on-site, paid staff who work for the association rather than an outside firm run 26 percent. The rest have some combination of the above.

While volunteer staffs can save a lot of money, professional management staffs are preferred for the more intensive work of large or condominium communities. These outsiders can also serve as a buffer between board members forced to play the heavy and noncomplying neighbors.

Not everyone wants to live in a neighborhood governed by an association. Many older neighborhoods in the Washington area, especially those in less-dense areas, have never had homeowners associations.

School principal Samia Harris lives in the Darbydale neighborhood of Dale City, where there has never been an association. Though she has never lived in a neighborhood governed by an association, her previous home in Toronto answered to strict municipal codes.

When she moved to Dale City, she said, the lack of neighborhood regulations was hard to get used to. She remembers her initial surprise at seeing an occasional car parked on a lawn, large commercial vehicles and grass grown too high -- all practices forbidden in her previous neighborhoods. But there has never been a problem she has not been able to work out with her neighbors.

"We solve problems on a personal basis," she said.

For example, when Harris's view to the street was blocked by her neighbor's truck parked at the curb, she simply walked next door and spoke with him. The neighbor apologized and quickly moved the truck. It has never blocked her view again. "Everybody does pretty well here" at getting along without an overarching authority, Harris said.

Others find that living in a community in which there are fewer decisions left to individuals -- even if somewhat inhibiting -- is ultimately more harmonious. When it comes to living close to a neighbor, it helps to have well-defined rules, said Allen Vejdani, president of the Council of Civic Associations of Fairfax City. With specific regulations, "it's black and white -- there's no interpretation," he said. Vejdani said he receives a complaint about once a month regarding rules of one of the 17 civic associations in Fairfax City.

Generally, the council helps the resident understand the rule in question. Vejdani cannot recall a time when the council had to step in on behalf of a resident's complaint. Usually complaints stem from residents' failure to thoroughly read their association's guidelines, he said.

In rare cases, a homeowner buys into a community not realizing the extent of restrictions, such as those governing home exteriors. Nonetheless, the rules hold.

"People sometimes give more attention to buying a car than to their HOA rules" of the community they're considering, Luke said. Woodwinds has dealt with such situations by first sending letters, then having the property-management company contact offending owners, then imposing fines, and finally hiring contractors to remove unapproved additions or unlawfully stored items when owners refused to comply.

Luke said his group does more than enforce the rules. It strives to maintain property values and a fine appearance while making the community a nicer place to live.

In November 2001, the community finished construction of an outdoor picnic pavilion that is now used frequently by residents for meetings, parties and barbecues. Because it falls within the master-planned community of Reston, for structures beyond the original construction, the Woodwinds association requires approval from the Reston Association, an umbrella association governing all of Reston. The approval process for plans for the \$60,000 pavilion was "just not easy" because of the Reston Association's aversion to several proposals for lighting. But the Woodwinds association persevered and is pleased with the result. "We really needed a gathering place," Luke said.

Strict homeowners associations may sometimes get a bad rap for actions that people see as overly picky. However, they attract buyers who want to live with that level of structure.

"Often there is the perception of the heavy-handed association versus the poor homeowner," the CAI's Rathbun said. He points out that in a 1999 Gallup poll, 75 percent of homeowners surveyed said they were "very satisfied" with their community association.

A strict association enforcing its rules is not the problem, Luke said, but those whose rules lack teeth. Those who move into a community who "want those rules and then they're not enforced are the victims," he said.