



‘Substantial Annoyance’ as a Basis for Eviction

BY RYAN EGAN, Esq.

Park residents are constantly complaining to Park owners or management about how “annoying” their neighbors can be at times. Park owners can address the majority of these situations through friendly informal notices. However, if a homeowner or resident’s conduct begins jeopardizing the quiet enjoyment, health or safety of other Park residents; swift action is required by the Park owner. Like other jurisdictions, California Civil Code § 798.56(b) authorizes termination of a homeowner or resident’s tenancy for conduct constituting a “substantial annoyance to other homeowners or residents.” Under the right situation, it can be one of the most effective tools available to a Park to ensure safety and security for its residents. This article will focus on the California requirements for terminating an “annoying” tenant in a Community.

Conduct that amounts to a “substantial annoyance” is particularly commonplace within the confines of a Manufactured Home Community based on a Community’s unique configuration. Homes within the typical Manufactured Home Community are extremely close to one another. Residents, both friends and foes alike, share common areas and recreational facilities. And, due to significant relocation costs, homeowners are unlikely or unable to move elsewhere to escape the “annoying” environment.

California’s *Mobilehome Residency Law* pro-

vides a basis for Community owners to terminate a tenancy based on “[c]onduct by the homeowner or resident, upon the Community premises, that constitutes a substantial annoyance to other homeowners or residents.” (Civil Code §798.56(b).) To identify the right situation, a Community needs to confirm that conduct constitutes a “substantial annoyance.” Second, a Community needs to investigate and identify all witnesses and evidence to ensure the

termination notice will have proper support. Finally, a Community should also analyze the costs associated with a “substantial annoyance” claim in light of alternatives, e. g. , injunction action, to confirm it is the best method to achieve the desired results.

Who and Where— Homeowners, Residents in the Community

California Civil Code § 798.56(b) applies to the conduct of

a homeowner (a person with a tenancy under a rental agreement (Civil Code § 798.9)) or resident (a person lawfully occupying a mobile home, which would include guests (Civil Code §§ 798.11 and 798.34)) upon the Community premises. For homes with multiple homeowners or residents, a termination notice must set forth facts (evidence) supporting the allegations.

What Exactly is a “Substantial Annoyance?”

Not all “irritating” conduct constitutes a

“substantial annoyance” described in Civil Code § 798.56(b). Community owners may encounter confusion about § 798.56(b)’s operative phrase—“conduct . . . that constitutes a *substantial annoyance*.” What is an annoyance? How can a Community determine if conduct is an “annoyance” or not? When does an “annoyance” become a “*substantial annoyance*?” These are a few of the many questions we are routinely asked by our clients.

“Substantial” means “not seeming or imaginary; not illusive; real; true . . . considerable in amount, value, or the like . . . firmly established; solidly based.” (*Webster’s New Internat. Dict.* (2d ed. 1948, unabridged).) “Annoy” “means to disturb or irritate, especially by continued or repeated acts; to weary or trouble; to irk; to offend; to disturb or irritate, especially by continued or repeated acts; to vex; to molest . . . harm; injure.” (*Id.*) Thus, there must be some actual and repeated acts of a homeowner or resident that is “irritating, offensive, or harmful” towards others. No objective measurement exists as to what is or is not a substantial annoyance—a trier of fact must determine if the action(s) of a particular resident or homeowner constitute a substantial annoyance or not. “Substantial annoyance” is a “fact and circumstance” determination, which must be dealt with on a “*case by case*” basis.

The How—Document, Document, Document!

Witnesses and documentary evidence (resident complaints, photographs, prior notices, etc.) are crucial to establish and support a valid termination notice under §798.56(b). The Community must issue a Sixty (60) Day Notice, providing the particular reason(s) for the termination, including specific facts that permit the resident to identify the date, place, wit-

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nesses, and circumstances about the reason. (Civil Code §§ 798. 56 (b) and 798. 57.) The Community also needs at least *two residents* (more if possible) willing to have their respective names, addresses, and factual complaints included in the Sixty (60) Day Notice, and, most importantly, also willing to testify in court respecting their complaints and experiences to substantiate the “substantial annoyance” conduct.

It is important for Community owners not to lose sight of the cost associated with this type of notice (and subsequent trial). Unlike typical termination cases for non-payment of rent, often established through a Community Manager’s testimony, a “substantial annoyance” termination requires the testimony of the impacted homeowners or residents. Community owners and their attorneys need to interview the impacted homeowners and residents to make certain their beliefs are reasonable under the

circumstances. Community attorneys also need to prepare each witness for trial to “flesh out” the factual basis for their unique claims and written complaints.

Why?—Maintaining Peace and Quiet Enjoyment for All Residents

Community owners are charged with the duty to take action against a resident or homeowner who causes a substantial disturbance or foreseeable risk of harm to other residents. For example, in *Andrews v. Mobile Aire Estates*, a case involving a neighbor dispute which eventually escalated into one homeowner assaulting another homeowner, the Court recognized a Community owner’s right to pursue eviction or injunctive relief under Civil Code § 798. 88 in response to conduct rising to a substantial annoyance. The Court made clear that “a mobile home park owner cannot disregard conduct by a tenant upon the park premises that constitutes a substantial annoyance to other homeowners

or residents.” Since Community owners are charged with reasonably responding to conduct that may potentially rise to “substantial annoyance,” they need to conduct proper investigation and determine if sufficient evidence establishes that conduct amounts to a “substantial annoyance.” The Community owner will need to confer with its legal counsel to determine if a “substantial annoyance” termination is appropriate based on the evidence, the availability of other more appropriate alternatives, and which alternative is best under the circumstances, e. g. , serving rule violation notices or filing an injunction action.

Hart King has substantial experience investigating and prosecuting the termination of tenancies based on many factors, including terminations based upon “substantial annoyance.” Our specialized team of attorneys can assist a Community owner in understanding and addressing the responsibilities and pitfalls of terminating any tenancy within a manufactured community.

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Ryan Egan is a litigation associate with California law firm, Hart King, and is a member of the firm’s manufactured housing practice group. Ryan may be reached at (657) 622-4703 or at regan@hartkinglaw.com.

Trey Miller Tapped as Chairman of the 2014 RV/MH Golf Classic Annual Fundraiser

Atwood Mobile Products’ Aftermarket Sales Director Trey Miller has accepted the position of chairman of the 2014 RV/MH Golf Classic annual fundraiser, according to Darryl Searer, president, RV/MH Hall of Fame (Hall).

Searer said, “We are delighted that Trey has stepped up to lead our golf fundraiser. Trey will be contacting golfers from the RV/MH industries in the coming months, and I encourage all golf enthusiasts to join us for a fun-filled day and at the same time, help support the Hall.

The Hall’s 2014 Golf Classic fundraiser will start at 7 a. m. on Monday, August 4, 2014, with a full breakfast followed by a shotgun start at 8:30 a. m. at the Bent Oak Golf Club in Elkhart. The awards luncheon begins immediately following the golf tournament.

Individuals can sign up as a Lone Eagle (\$200) or reserve a four-some as a Silver Pro Sponsor. (\$800).

Miller said, “The golf event is an important fundraiser for the Hall. Once the cost of the golf outing itself is deducted, all of the remainder of the funds is used to reduce debt and pay operating expenses.”

Searer said, “Reservations for the 2014 Hall of Fame Golf Classic are limited so it is important to reserve early.

“The golf outing has historically been great fun for those participating—a chance to interact with clients and potential customers in a relaxed forum, a chance to really get to know them and build lifelong friendships and business relationships.

Miller said, “I hope all RV/MH industry members will set Monday, August 4, 2014, as not only a day to celebrate the induction of the Class of 2014 into the RV/MH Hall of Fame, but also, support the RV/MH Hall of Fame and Museum itself by participating in the golf outing.”

To make reservations for the golf outing visit www.rvmhhallof-fame.org. You can also send your reservations and check to: 2014 RV/MH Golf Classic, RV/MH Hall of Fame, 21565 Executive Parkway, Elkhart Indiana 46514.

For questions or special requests, contact Trey at: t.miller@atwoodmobile.com



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