

ASK REAL ESTATE

Can I Sue My HOA for Something My Neighbor Does?

Disputes between neighbors can be settled in court, but that can be expensive, time-consuming and bad for relationships.

By Jill Terreri Ramos

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Q: I live in a neighborhood in Glendale, Calif., that has a homeowners association. The covenants, conditions and restrictions clearly state that a homeowner cannot add anything to the exterior of their home that would impede the privacy of another home. And yet, new neighbors erected a balcony that overlooks my yard and pool. The association says there's nothing they can do because the city doesn't have a law preventing it. Can I sue the HOA for not enforcing a contractual obligation?

A: You could ask your homeowners association to intervene in your privacy dispute, or you could file an action against your neighbor directly. Before you do anything, consider the most practical options and the potential consequences.

Privacy disputes between neighbors can certainly be settled in court, but it can be expensive, time-consuming and bad for relationships. Do you really want to sue someone who lives so close to you?

If you haven't already, approach your neighbor and let them know that you believe their balcony is invading your privacy. Perhaps there are ways to block the view, with tall plants or other obstructions. "A barrier that restores privacy is significantly cheaper than going through a lawsuit," said Zachary D. Schorr, a real estate lawyer in Los Angeles.

This should be your first step for two reasons: Courts will want to know whether you tried to come to an agreement before litigation. And a lawsuit could be settled with an agreement to install a barrier or plantings to obstruct the view, anyway.

You'll want to have an attorney look at your case before pursuing a lawsuit. If you lose in court, you could be liable for paying your neighbors' legal fees, depending on what your HOA's governing documents say. If you win, your neighbor might have to pay your legal fees.

As for the other legal option: You can initiate an action against the HOA for failure to enforce its covenants, conditions and restrictions, which would likely involve an alternative dispute resolution process. Essentially, you'd be asking the HOA to act against your neighbor, and the board may be reluctant to get involved in a dispute between owners, or lack the resources to sue the offending neighbor.

Either way, a legal victory in a dispute over privacy depends on the facts of the case, Mr. Schorr said. A court would decide whether you have an expectation of privacy in your yard and pool, and whether your neighbor's balcony is in character for your neighborhood.

“In any neighbor case, I’m always looking for a practical solution,” Mr. Schorr said.

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