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**ASSOCIATIONS**

# Board prefers lips to be zipped

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*Special to The Times*

**Question:** My homeowners association board has perfected a "non-response" response to owners' questions and concerns.

Owners wanting to obtain documents or other information are met with stalling tactics and exorbitant fees. It doesn't matter what the laws say; our board does what it wants, making a farce of board meetings and the minutes it publishes.

This situation infuriates homeowners, who must continue to placate the board by not raising their voices, not getting agitated, not asking questions and not complaining, or the board threatens to have us arrested or sued.

Our board knows that owners don't have the money to sue, but we have written to the state's attorney general and the California departments of real estate, insurance and corporations. We have even taken problems to our local sheriff's department and the FBI, but that process is slow, and the board doesn't seem bothered. Because of these actions, the board is now publicly

access to books and records.

One way boards avoid producing documents is by placing a surcharge on their retrieval. Any hindrance or ploy used to prevent owners from obtaining the information they seek must be addressed by the board or associations may end up having to pay damages to those owners who don't receive items when asked. (See Civil Code Section 1365.2(f).)

Under the law, complaints to government agencies cannot be the basis for any lawsuit or the threat of a lawsuit against you or other owners in similar situations. When a board refuses to obey the law or respond promptly to homeowners' lawful requests, it can expect repercussions.

There are undoubtedly more homeowners than board members. Eventually, owners wanting to protect their assets will overcome the intimidation factor, pool their resources and fight back.

Simply, the board has to respond in a meaningful way to owner requests. Doing so is not difficult unless the board has something to hide.

The California attorney gen-

**Answer:** In this instance, the use of the term "legal harassment" is pure fiction and has no legal significance. In rare situations where legal harassment applies, it is usually where defendants are prosecuted by the state without a supporting basis in law or fact, and the state then refuses to agree or compromise on a solution to the wrongful prosecution.

In the circumstances you describe (threat of arrest or lawsuit), use of that term is meant to intimidate, humiliate or badger those owners who have the courage to exercise their rights.

Falsely reporting minutes is actionable by law, and failure to respond to any owner is a breach of the board's fiduciary duty. Ignoring owner requests for documents or increasing the cost of obtaining those documents is tantamount to denying owners

Boards that avoid answering questions or complying with certain requests risk being sued. Boards that sabotage owner attempts to protect their property rights risk getting sued. Boards that fabricate minutes and then publish them risk getting sued. Boards threatening to sue owners or have them arrested risk getting sued.

No legitimate or ethical attorney will side with a board that ignores its obligations under the law, and those who do risk losing their license.

Keep demanding documents and asking questions. If you don't get satisfactory results, you then can consider seeking monetary damages against the association and the responsible directors.

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*Send questions to P.O. Box 11843,  
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