

U.S Community Associations May Be Liable for Harassment by Residents Against Other Residents

[Changes to the Fair Housing Act](#) (“FHA”) in the United States could impose liability on community associations (i.e. condominiums) for the discriminatory actions of residents against other residents. The FHA prohibits discrimination and harassment because of race, colour, religion, sex, national origin, handicap and family status in the context of housing. (Note that age is not included in this list – for that reason, older adult or seniors’ condominiums are permitted in the US.)

[Concerns were expressed by the Community Associations Institute](#) (“CAI”) that the proposed rule change would impose an overly-onerous obligation on community associations to stop harassment by individuals over whom they had no control and beyond the community associations’ scope of authority. This would result in unknowable and unmanageable risks for community associations. (CAI is an organization that provides information, best practices, education and advocacy for community associations.)

In response to the concerns expressed by the CAI, the proposed rule change was amended to provide that a community association would only be obligated to stop harassment and discrimination if required to do so either by applicable laws or by the governing documents of the community association. A “reasonable person” standard was also added to determine if a community association had acted promptly in taking measures to stop harassment and discrimination.

In Ontario a condominium corporation could be held liable if it does not promptly investigate and deal with an alleged breach of the Human Rights Act. In a [prior blog](#) post we reported about a housing co-op that had to pay damages to ten residents because the co-op’s board of directors failed to deal promptly with a number of offensive posters that had been anonymously posted on the co-op property.

Condominium boards should be pro-active and should consider adopting a Human Rights Policy and amending its rules. This policy and rules would outline what kinds of behavior constitute harassment or discrimination, and what steps should be taken where there is any alleged incidents of harassment or discrimination against any resident, board member or management.