

SERVE OR OPPRESS

2nd Open Letter to Texas Legislators and Texas Homeowners

By Beanie Adolph April 2017

"Many homeowner associations just don't get it. Whatever they call themselves — HOAs, POAs, CIDs – all subdivisions, townhomes, and condominiums should exist to serve homeowners. But, too often, the boards, managers, and their attorneys act as if homeowners exist to serve associations. And, too often, associations abuse bad laws to sue homeowners." Attorney David Kahne <http://texashoas.abouthoas.org/>

If the goal of subdivisions, townhomes, and condominiums were to serve, then the question most heard from owners would not be, "They can't do this, can they?" "This" is usually found to be the fines, fees, harassment, control, liens, and foreclosure suffered by multi thousands of homeowners.

Attempting to justify their behavior, the boards, managers, and attorneys often allude to their concern for property values, but harassment and foreclosed properties are no assets to communities. Neighbors who live by the "Golden Rule" are the true assets to communities.

Listed below are messages from Texas homeowners overwhelmed by the abuses they have suffered by HOA boards, management companies, and attorneys.

Representative Vo (HB 3528) and Senator Menendez (SB 2234) have filed these identical bills in an effort to alleviate some injustices inflicted by 30 years of HOA Industry laws. We ask that you do all in your power to get HB 3528/SB 2234 passed by both houses. There are other HOA - homeowner-friendly bills that would correct other injustices. We will be contacting you about these bills also.

TEXAS HOMEOWNERS KNOW WHAT DOESN'T HELP HOMEOWNERS:

El Paso – 2017 - 86-year-old woman is on the brink of losing her fully-paid-for home because of a complex, condo association late-fee scheme. On a monthly income of about \$800, she paid \$240 in monthly condo fees and an additional "special assessment" fee once a year. After she was late paying the "special assessment" fee, her condo association charged her late fees of \$90 every month for 17 months in a row – even though she paid the 2015 special assessment fee a few months after it was due and never missed her monthly condo fee. Her condo association initiated foreclosure and sold her \$85,746 home for \$4,183.

San Antonio – 2017 - Our Condo Association high rise board president has put forth an elaborate new violation and fine policy. The violations are many and most are petty. The 1st violation would bring a letter of warning, the second \$150, third \$300, and 4th \$500. The violations could occur 10 days or 10 years apart and could be on 4 different infringements, (e.g. keeping a grocery cart 15 min. too long). The president has termed this "cumulative". The policy seems outlandish, unrealistic, and unenforceable.

Richmond - 2017 - In Oct 2016, I called our HOA and made a payment on our annual assessment. My wife had heart surgery in Nov 2016. I called back in Dec 2016, to make another payment. I was told that they could not accept my payment. My account had been turned over to an attorney for collection. We did not receive prior notification of this. We tried several times to contact the HOA manager to clarify what was going on but never got any responses. We requested a hearing or some answers in writing from the BOD about the matter. We never received any response from the BOD. We contacted the attorney's office the HOA hired. The attorney's office added outrageous fees and additional costs to include fees and default for the new upcoming (2017) assessment which was not yet due. The attorney's office said that we could not speak to the HOA manager concerning the matter until we paid all monies due. To avoid further costs and fees, we sent in (before the deadline) the amount stated that we owed (with which we disagreed) minus the attorney's fee for a default on the new assessment that was not yet due. (We sent a separate check for the new assessment amount, as advised). The attorney's office rejected the payments sent in, added additional interest, late fees and default fee and also filed a pending foreclosure document. We filed a complaint with the HOA BOD but have not heard anything from them. Where do we go next?

Tomball – 2017 – A registered nurse writes 4/4/17: I am dealing with my HOA placing a lien on my home due to my HOA fees not being paid. They have completely harassed me while refusing to take my payments. Is there any help out there?

Nacona – 2017 - In our situation, the multi-lot owners have rigged the voting system to get one vote per lot, BUT these multi-lot owners don't pay on all of their lots. One property owner has 746 lots and gets 746 votes, but pays on only 10 lots. This system has drastically decreased our association revenue and the management keeps trying to increase our maintenance fees. There are 2 Convicted felons (have documents) managing our HOA. We did not choose either one of them. The general manager is a federal convicted felon of Medicare/Medicaid fraud throughout most of the '90's and served in a California penitentiary. He knows exactly how to "cook the books" to send only what he wants us to know.(our financial reports are very general and vague.) The other felon has 3 felonies, mostly drug related .

We need a law that prohibits felons from managing financial affairs of HOA's. There is a state law for felony board members who serve on a board. We need this law to apply to managers also.

Houston – 2012-2015 - I did research on our HOA for the period January 1, 2012 through July 31, 2015, and during that period 51 law suits were filed against our homeowners. The suits sought to collect a total of \$11,946.72. The requested attorney fees were \$153,000.00. I am a retired accountant and can provide details.

Leander – 2017 - I have had to file suit against my HOA for egregious fines filed against me weeks after I closed on the house for a landscaping design they approved. Currently in litigation. (1/5/17)

Dickinson – 2016 - Thought \$514 dues had been rolled into refinance. It was not. When owner tried to pay, not allowed to because it had been sent to a collection law firm, and sum was now more than \$4,000. Not allowed to pay dues and now demand is for \$8500.00 on \$1,000. Debt that owner has tried to pay many times. On 12/1/16, a summary judgment demanded \$9,058 for \$1400. of debt and \$7500. attorney's fees.

San Antonio – 2017 - My HOA charges \$20. late fee each month owner is behind plus interest.

Houston – 2017 - I spent \$22,500. improving my driveway appreciated by my neighbors and myself but because I did not know to ask permission to improve my property I am facing \$20,000 fines, injunctions, and court battles. I feel I am living in a tyrannical society.

Rockwall – 2016 - My daughter got behind in her HOA payments and owed \$500. which has turned into just under \$7,000. She sent a check for \$2,000. and planned to send her tax return of \$1,900. The lawyer said they had not agreed to any terms and returned her payment and she is facing foreclosure.

Dallas – 2014 - The property management company keeps billing homeowners for extra fees of \$1,200. and \$800. for no legitimate reason and are now billing all homeowners for a major office fire \$800. What agency controls these HOAs, management companies, and attorneys?

Houston – 2017 - .My HOA changed hands with a new owner that has about 80% of the units and other homeowners having the remaining 20 %. The new owner wants to make the mid-rise building in Houston an all rental building. At a recent 2017 meeting the new owner increased the HOA dues about 230 % from the original dues . He stated that the building needs major rework. That same work was done 4 years earlier at a cost of \$1 million dollars or more.

Frisco – 2016 - Involved are multiple documented instances of fiscal malfeasance and willful gross negligence related to debit card abuse, check fraud, self-compensation, commingling of funds, bid rigging, illegal use of undocumented workers (tax fraud), favors to friends, budget manipulation, whistle-blower retaliation, electoral fraud, and outright theft.

Mission – 2017 - HOA may communicate, but for every single notice that they send. We will be charged with a lot of money on fines and fees. They charge more than a bank when you fail to make your payments on time.

San Antonio – 2015 - Navy veteran paid his mortgage but returned to San Antonio to find a letter to vacate his home in 11 days. The \$900 he owed in HOA dues turned into \$15,000 in legal fees fighting the HOA.

Kingwood – 2016 - We have a blatant violation of board election laws, and this has occurred twice. In addition, the management firm wants over \$400 for individuals to review records.

Flower Mound – 2016 - I was only six months delinquent when the HOA put a lien on my house. The attorney stands to collect over \$3500.00 in attorney fees for an \$840.00

outstanding liability.

Austin – 2015 - Uncle of property owner who had the owner's proxy and POA to represent his nephew at a board meeting was called a "criminal trespasser", was arrested, placed in a squad car and taken to jail where he was finger printed, mug shot taken, booked in for criminal trespass and locked up for three nights and two days. During his jail confinement he was strip searched by two men and a woman. Ultimately the wrongful criminal trespass charge was dismissed by a judge on May 7, 2016.

Travis County – 2017 - POA initiated foreclosure proceedings when owner owed less than \$80. in assessments but over \$2100. in attorney fees, court costs, and related expenses.

San Antonio – 2011-2012 - Embattled San Antonio Ventura HOA homeowners finally got justice. A series of disputes began when the former HOA president shut residents out of their own board meetings in November 2008 and, with the aid of her selected attorney, chose to sue 8 homeowners rather than meet with residents. Legal costs to the HOA in excess of \$200,000 ensued over the next two years as residents refused to be silenced until the court intervened in October 2010.

In a trial that began December 10, 2011, the jury got the case at 3:30, Friday, June 21, 2012, and came back with a verdict at 7:00. Both the former board president and the attorney were found guilty of breach of fiduciary duty with \$208,000 in damages to the Association. The attorney was hit with an additional \$50,000 in exemplary damages.

Jury members said the breach of fiduciary duty verdict was a no brainer. They say the haggling came in deciding what to award Ventura.

Houston – 2013 - We are being harassed by our HOA. We have paid over \$14,000 in the past eight years to various attorneys, including over \$10,000 to the HOA attorney for a missed 2010 \$375 HOA payment. We have now 10/4/12 received another bill stating we are in violation of:

- Chimney damaged in Hurricane Ike (we fixed and have receipts from supplies purchased. It was fixed 3 days after receipt of letter from HOA.
- Trash can on side of house.
- Basketball goal in front driveway. (We gave it away the day after receipt of letter.)

Thirty years of HOA laws have wreaked havoc on Texas homeowners. The above stories are a very small sampling of the many thousands who have suffered HOA abuse. Please pass HB 3528/SB 2234 to help Texas homeowners. Thank you.

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<https://hoareformcoalition.org/>