
Condo Association Took Proper Disciplinary Action

3 Mar 2023

Selena A. Motley

On February 16, 2023, the D.C. Court of Appeals upheld a decision that a condominium association's failure to precisely comply with certain provisions of its bylaws may not deprive a member of due process rights.

In *Rayner v. Yale Steam Laundry Condo. Ass'n*, No. 21-VA-122 & 22-CV-58 (D.C. Cir. Feb. 16, 2023), the Association issued a written notice for a hearing to determine a violation of the bylaws after Appellant's dogs jumped on a neighbor and tore his clothing. Contrary to the Association's Enforcement Procedures, the Association failed to attach a copy of the neighbor's complaint to the notice. Weeks later, Appellant's dogs again approached the same neighbor who then filed another complaint. After the second incident, Appellant informed the Association that he was unable to attend the original hearing due to scheduling conflicts. A new hearing was scheduled. Although Appellant timely submitted written statements to the Association regarding his dogs, he failed to appear at the rescheduled hearing.

The Association later issued another written notice for a hearing regarding the second incident and attached the neighbor's complaints. Appellant requested a continuance to the hearing alleging that the Association repeatedly violated Enforcement Procedures regarding the incidents. Appellant failed to attend the rescheduled second hearing that resulted in a fine being assessed against the Appellant related to his dogs' behavior. Appellant sued the Association for breach of contract for failure to provide due process under its enforcement procedures, negligence, breach of fiduciary duty and retaliation.

The trial court held in favor of the Association stating that "Enforcement procedures do not require the Association 'to undertake specific efforts during a preliminary investigation'" and that the Association's "Enforcement procedures 'provide latitude [] to carry out its duties' as long as the Association provided due process." The court reasoned that there was sufficient due process because Appellant received adequate notification of the hearings, submitted statements, and received video evidence of the incidents. The Court also stated that, because the Association attached the complaints to the notice for the second hearing, all procedural defects stemming from the first notice were remedied.

On Appeal, the Court affirmed the trial court's decision, noting that the Association's bylaws allow the for the Board to determine the specific manner in which the provisions are implemented as long as due process is afforded. The bylaws also contained a safe-harbor clause stating that "any inadvertent omission or failure to conduct any proceeding in exact conformity . . . shall not invalidate the result of such proceeding, so long as a prudent and reasonable attempt has been made to ensure due process according to the general steps set forth" The Court ultimately held that Appellant's breach of contract claim regarding the bylaws failed because due process, outside of a constitutional matter, does not require perfect adherence to the procedure but a prudent and reasonable attempt to adhere to the bylaws and that the bylaws recognized such possible shortcomings. The Court also concluded that Appellant's tort claims for negligence and fiduciary duty failed because such claims cannot survive independent of the parties' contractual relationship. Appellant's retaliation claim was also properly dismissed by the trial court because, at most, the Association's fines were "unreasonable."

Condominium associations could benefit from having their bylaws and rules reviewed in light of this recent case to ensure that the documents contain safe harbor provisions and are extensive enough to fully protect their boards from potential legal disputes.

If you have any questions about this case or laws impacting real estate in and around the Washington, D.C. region, feel free to contact us. Our Real Estate Litigation and Transactions Practice Group is ready to assist.

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