by Frank A. Lombardi, Esq.

Coming Home

Associations and Multi-Generational Households

Someone once said that "Home is the place that you go where they have to take you in." With the onset of the Great Recession, the world's most powerful economy went into a deep and extended contraction and correction. As a result, millions of people have lost jobs, experienced a catastrophic loss of equity in their homes, if not an out-and-out loss through foreclosure or short sales.

Scores of family members, both young and old, are coming home. By "home," I mean that place where 60- to 80-something seniors are living with their 30- to 40-something children, who in turn, are living with their infant, pre-teen and teenage children as well. Throw in aunts, uncles and cousins with their significant others, and you have some or all generations of a family living under one roof.

A very quick reference to history would reveal that multi-generational homes were actually the norm. It was only after World War II that we began to see the advent of single- or dual-generation homes with mom and dad and 2.5 kids, living in single standing homes or apartments. Later, with the economic boom, the houses became so big they were called "McMansions." Gone were the days when grandma or grandpa, or even the aunt, was present in the household from birth to death. In most cases, the extended family became contracted. There was simply no one to help out around the house, to assist in bringing up the kids or taking care of grandma. Whether it would be learning how to cook, dealing with broken hearts or bruised egos or even balancing a checkbook, we all can appreciate the benefit of having relatives live with us for an extended period of time.

Circumstances Pose New Questions

I will not speculate as to whether there will ever be a return to the McMansion housing phenomenon — it may happen as soon as next year or the next decade — but for now, what I am seeing is the beginning of a great shift of people into multi-generational households where grandparents, uncles, cousins and the like are living under the same roof. Since a good part of these homes are in fact condominiums, this merits some general observations and comments.

The first case scenario: an association that prohibits leasing. But what if the unit owner's mother and father move into the unit and the unit owner gets a job transfer and moves out? Are these parents that are left behind tenants? Unless they are paying rent, I would argue that they are not. Suppose more relatives come to live in the unit. In that situation, associations may consult with the zoning ordinance, which may have a limit of occupants per bedroom. I would tread carefully on this issue, as attempting to remove these people or fine their unit-owner relatives may trigger state and/or federal regulations prohibiting discrimination on familial status.

A second case scenario would be the 40-year-old son who comes to live with his parents. After a messy divorce, he is granted custody of his three children, eight, 10 and 15. The eight-year-old makes several colorful drawings on the driveways and streets to play hopscotch and leaves her bicycle on the next-door unit owner's driveway on occasion. The 10-year-old loves to work on his basketball dribbling skills on the wooden rear deck, and in fact, when he moved in, brought his portable basketball hoop apparatus. And, of course, the 15-year-old is constantly hanging around the clubhouse pool with his school friends.

The board should check its documents carefully and use common sense when enforcing the nuisance and quiet enjoyment provisions within their documents. Also, the provision prohibiting activity which would expose the association to increased insurance premiums could be invoked. To be sure, due to economic reasons, these children won't be going elsewhere anytime soon. The board has the unenviable task of balancing the need for protecting the quietude of the entire association, versus the need to let children simply be children. Perhaps the community should take extra steps to embrace these children as their own. I realize that this may try the patience of many unit owners, but as I said, many of these children will not be going anywhere soon, so there might be a need for a live and let live approach shared by many in conventional single-family neighborhoods.

A third scenario would be where the unit owner owes assessment arrearage and their son is in Afghanistan, while their daughter-in-law moves in with two children. The collection action begins and the board — or its attorney — is left to wrestle with this

question: Does the Soldier & Sailor Relief Act govern here, which would necessitate a delay in collection proceedings until after the soldier returns? Again, the board should be deliberate and tread lightly here due to the possible penalties involved. But, on the other hand, the board needs to balance the need for funding with the civic duty to accommodate the nation's soldiers and their families. That may be easier said than done when the wife's Mercedes is now parked in the driveway.

The last scenario would be when a unit owner's widower Dad formerly lived with his daughter, but the daughter lost her house and has to take a job in another state and can't take him with her. On her way out of town, the daughter drops Dad off at his son's (her brother's) condominium. The son and his wife work all day. Dad has Alzheimer's and is frequently roaming the grounds. As the situation is, and can be, very delicate, the board should meet with the family and simply review their plans about Dad and gently remind them that the association is not Dad's caretaker, nor should it be. But, regardless of a lack of formal obligation, if a member of the condominium association sees Dad wandering around looking lost, at the very least there should be a call list available for someone to contact the son.

The above four scenarios, I am sure, are just the tip of the iceberg. There are, and will be, many others. Boards would be wise to do a thorough review of their policies and documents to determine whether there are provisions therein to address these issues. If the documents do not contain appropriate regulations, the R.I. Condominium Act may be of assistance.

RIGL 34-36.1-3.02 has a catch-all provision, subsection 17, which states that the association may exercise any other powers necessary and proper for the governance and operation of the association. That is, if the general operational and management provisions within that statute do not fit the fact pattern presented, then subsection 17 can be used. Policies, provisions or not, boards should anticipate these issues and deal with the unit owners and their families with a light touch, as for some this may be very new. Common sense, compassion and understanding should be the mantra in dealing with this new population change as our day-to-day lives adjust to the new economic reality. CM

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