



## Condominium Law Q&A

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**Question:** I live in a 41 homeowner community (HOA). Every so many years two of our board members drum up their friends to run for the Board and we get the "Nazi" Board, who run havoc. I guess it's everyone's fault since not too many people want to continuously do the work. We are a self managed community (for about 5 years). So, the newly elected Board which included 2 members which have been on the board of about 8 years (our community is 12 years old), sent me a letter indicating that my clothes line that was erected two years ago, and survived 2 boards, has to be moved to another location where no one can see it from any direction. I installed an umbrella clothes line in my backyard. It's in the right corner covered by a mango tree and an avocado tree. I live on a lake. Our community is a circle. So, if you walk around the community in a 45 degree angle you can see it. This has not been an issue until now. I cannot install it anywhere else because there isn't enough room for it. The president who is one of the "Nazi" members told me to install a T-Line on the side of my property, and close it with a door. I was also told that I have 10 days to remove it or I will be fined \$25 a day. Our by-laws do not provide for fines. I told that to the President. He said the Association can fine me if the board chooses to do it. HELP.....The Nazi's are coming. Thank you for all your help and guidance. I.G., Boynton Beach

**Answer:** First, with all due respect, when one characterizes over reaching boards with the conduct of a Nazi, it trivializes that which the Nazis did which, no doubt, is not your intent. Insofar as

whether the Board of your HOA can require you to camouflage your clothes line, be advised that Florida Statutes 163.04 (Energy devices based on renewable resources...) provides that "A deed restriction, covenant, declaration, or similar binding agreement may not prohibit or have the effect of prohibiting solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restrictions, covenants, declaration, or binding agreement." While the law does allow the association to determine where a solar collector needs to be located, so long as it does not impair the effect of the solar collector's operation, it does not specifically address rules governing where clotheslines need be placed. That said, I am of the opinion that a unit owner has to be allowed the right to place the clothesline where it will be able to have direct access to sunlight; which, of course, is the purpose of drying clothing on a clothesline. In any litigation resulting from enforcement of the law, the prevailing party is entitled to recover costs and legal fees.

**Columnist Note:** A couple of final notes concerning the recent amendments to the shared ownership Acts. First, in the past I have advised readers that efforts of master associations and homeowners associations to acquire country clubs and other recreational amenities have been voided by the courts as being a fundamental change in the character of the community. This all now changes due to an amendment of the HOA Act. Section 720.31(6) now permits an association to enter into

agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities including, but not limited to, country clubs, golf courses, marinas, submerged lands, parking areas, conservation areas, and other recreational facilities by the vote required by the covenants, conditions and restrictions and, if the declaration is silent, upon approval of 75% of the total voting interests of the association. Finally, in order to preserve and protect unit owner confidential records the Acts have been amended to exclude certain records and information from access to other unit owners. The following records are not accessible to unit owners: (1) any record protected by the lawyer-client privilege; (2) information obtained by an association in connection

with the approval of the lease, sale, or other transfer of a unit; (3) personal records of association employees, including, but not limited to, disciplinary, payroll, health, and insurance records; (4) medical records of unit owners; (5) social security numbers, driver's license numbers, credit card numbers, e-mail addresses, telephone numbers, emergency contact information, and other personal identifying information of any person; (6) any electronic security measure that is used by the association to safeguard data, including passwords; and (7) the software and operating systems used by the association which allows manipulation of data.

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