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What You Need to Know About the Growth in Condo/HOA Recall Elections

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Two of HOAleader.com's expert community managers say they're seeing a notable spike in recall elections.

You can hear more from them on this and other trends their clients are experiencing in this month's webinar: [How Bad Condo and HOA Boards Hurt Themselves: Expert Community Association Managers Offer 'Tough Love' Your Board Can't Afford to Ignore.](#)

Is it possible these two managers are somehow in the eye of recall tornadoes that have touched down only in their states—Oregon and Florida?

Unfortunately, no. Some of our other experts are also tracking these events that can leave destruction in their wake. Here's their advice to help you avoid these conflicts in the first place.

Not Everywhere, but There's Growth

Let's start with the good news. [Elina Gilbert](#), a shareholder at Altitude Community Law in Lakewood, Colo., who has specialized in community association law for 24 years, is not seeing “that many” recall elections in her state.

“I'm not saying they're not happening; it's just not a huge number of them,” she reports. “I'm seeing a lot more animosity in communities. But I don't think anyone wants to do the extra work that goes into a recall election.”

However, Gilbert is the outlier among the experts we checked in with. “Absolutely and unfortunately,” is the response from [James R. McCormick Jr.](#), CCAL, a partner at Delphi Law Group in Carlsbad, Calif., who has represented association clients for nearly 30 years, when asked if he's seeing a growth in recall activity among his clients.

That's also true for Melissa S. Doolan, an attorney at The Travis Law Firm in Phoenix, who has represented community associations for the last 15 years. “I have seen an uptick in recall elections,” she reports.

[Zuly Maribona](#), LCAM, the Bonita Springs, Fla.-based senior vice president and partner at KW Property Management who oversees the company's southwest Florida, Jacksonville, Orlando, Tampa, and North Carolina operations, reports similar activity. “I can tell you that in all the years I've been in this business, I didn't ever handle a recall election until five years ago,” she says. “Since then, I've been involved in a number of recalls. I don't know if it's more than 10, but it seems like it's between 7 and 10.”

“That seems like a lot for the amount of work and the money recalls take,” says Maribona. “In my experience, recalls cost associations at least a couple thousand dollars on average. And depending on the size of the association, it can cost up to \$5,000 or even more.

“Your onsite management team has to be involved in the administrative piece of vetting this process,” she explains. “They’re reviewing everything submitted, getting signatures, and recording documents correctly so that it’s all discoverable then the attorney gets involved to help the association through the legal issues. And not all the recalls I’ve seen have been successful.”

This Happened IRL

Recalls could be mirroring what’s happening in other parts of U.S. society. “It seems like since COVID, everyone’s gotten a little touchier, more litigious, less courteous, and less willing to sit down and talk and work things out,” says Doolan. “People are recalling and suing a lot more.”

Maribona agrees, but also believes owners flush with cash seem more willing to fund these fights. “Sometimes if owners are convinced enough of their position and have the money, they’ll hire their own attorney to help them pursue a recall,” she says. “I’ve heard of that a few times.

“It’s also easy to chalk it up to a sign of the times, and, generally speaking, people are just more vocal,” says Maribona. “These types of things are—as is a lot of association community business—typically driven by emotion. Often owners feel a loss of control or want to gain control. They feel the board has a hidden agenda, or they have their own agenda they want to tackle.”

That’s something McCormick has seen. “It seems that people have touched on recalls as a way to try to achieve what they want when they disagree with decisions boards are making,” he explains. “A lot of people are just pissed off at things not going the way they want and are costing their association a ton of money.

“For example, here’s a real-world event that just occurred,” says McCormick. “A community modified its architectural standards to approve something that hadn’t previously been allowed. The community has 65 total homes, and it decided to allow for low-water-use plants, as required by code. And they allowed homeowners to install pavers. A small group of owners disagreed with that.

“In California, in a small community association, it doesn’t take much to get to the 5 percent owner vote needed to set in motion a lengthy and expensive recall process,” he notes. “Recalls are a 90- to 120-day process that cost associations several thousands of dollars. In this case, it was only 10 people who signed this petition.

“But also in California, when architectural guidelines are adopted, there’s another option for 5 percent of owners to begin a petition to rescind the rule change,” says McCormick. “That’s a shorter process, and it doesn’t require California’s secret double-blind envelope election process.

"We initially went back to these owners' attorney," he explains. "We said: 'Since there's a petition process for rescinding a rule, why not just pursue that? And let's discuss this substantively instead of wasting resources on a recall.' They said, 'Set the meeting for the recall.'

"So we did," says McCormick. "And we hired an inspector of election as required by California law.

"But they also submitted a petition to rescind the rule," he notes. "So then we approached them again. We said, 'Now that you've set the petition to rescind, do you still want to do the recall? There's an election coming up, so it's sort of a waste of time'—which is what most of these recalls are. 'And will your clients withdraw the recall petition?'"

Education Backed Some Owners Off

McCormick says sharing information on the effects of recalls can make some angry owners think twice. And that's exactly what took place at his client's community.

"One thing that can be done is that you can contact individual homeowners who signed a petition and say, 'Do you understand what you signed, the process involved, and that it's expensive for members?'" he explains. "Sometimes we're successful in getting a sufficient number of people to withdraw their name from the petition.

"In the community that changed its architectural rules, in the end, a sufficient number of residents had withdrawn their names from the recall petition," says McCormick. "So we cancelled the meeting for the recall.

"But we had the recission election, and 30-something people voted to keep the rules. So nothing changed. Those objectors weren't able to rescind the rules. Now with a regular election coming up for the three-member board and people encouraging owners to vote for their candidate, we'll see what happens."

That tactic of educating owners on the cost and damage these elections can have on the community can be important because Gilbert believes few owners understand what's involved. "I don't think homeowners in general know that everything they do that's against the board costs the association money," she states.

How to Avoid Recalls Altogether

What's more important than education after the fact is working hard to prevent anger from building enough that it gets to the point of a recall. That starts with following all the processes you're required to follow and telling owners exactly what you're doing.

"When boards conduct themselves with a lack of transparency, don't take proper action, and feel like the association is their personal business rather than treating the association like an operation and a business, sometimes I think the owners' concerns are real," says Maribona.

"In other cases, owners have these perceptions that the board is hiding something—and the board may not be," she adds. "But because the board isn't being transparent, owners get hurt and begin the drive to change things."

Doolan agrees that transparency is a huge tool for preventing the discontent that can lead to recalls. "I think that sometimes there's a perception that things aren't being done correctly by the board," she says.

"What I find in most cases is that that's not actually true, that the board is doing everything properly," says Doolan. "But I think that if the boards had better communication with their members, through things like open meetings and email blasts, they could avoid many of these issues."