

Wrongful Death Suit Against Association Illustrates Perils of Negligent Security, Screening

Commentary by Michael L. Hyman, Daily Business Review

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Yacht and Country Club of Stuart

The filing of a double wrongful death lawsuit against the property owners' association for the exclusive Yacht and Country Club of Stuart gated community is drawing the attention of many community association attorneys, property managers and directors. The case appears to illustrate the potential extent of the horrors that can occur in any community association when it has a lapse in its security and screening procedures.

The suit was filed in Martin Circuit Court on behalf of the estate of a mother and son who were shot and killed in one of the residences inside the Yacht and Country Club of Stuart. Robert Gulick, who turned the gun on himself and committed suicide, had an extensive criminal record that included at least nine arrests for 19 different crimes, despite which he was allowed to become a resident in the gated community due to its alleged lapses in its security and screening procedures.

Gulick had been employed by his father's company, Gulick Construction, which is also named as a defendant in the suit along with homeowner Judith Matthews, who retained the company to conduct renovations and repairs on her home while she was away. He apparently formed a relationship with the front gate security guards and some of the neighbors, as he was able to take up residence in Matthews's home where the owner also kept her rifle and ammunition.

According to the complaint, Gulick was known by the association and its security guards to be residing at the Matthews home, as he was waved through the security gates, parked his vehicle directly outside of the residence and was consistently treated as a lawful tenant. He allegedly began dealing drugs from the property. On Nov. 9, 2014, he contacted the front gate security staff to instruct them to grant access to the mother-and-son victims.

Even though the community association's rules and regulations prohibited Gulick from giving access to nonresidents, the guards waved the mother and son through, and shortly thereafter they were both shot and killed.

This case appears to be the result of a perfect storm of failures on behalf of the three defendants. The contractor looked the other way to accommodate the company owner's criminal son; the homeowner turned over the keys to her residence containing a loaded gun to the employee and apparently enabled him to become a permitted resident of the community under her authority; and the association's security and screening protocols were completely disregarded by its staff, who also failed to contact the homeowner after becoming aware that Gulick had taken up residence at her property.

Guest Screening

The level of guest access screening for communities varies greatly. Some properties scan driver's licenses in addition to contacting the homeowners before granting admission to guests, while others are much more lax.

However, one of the most paramount responsibilities for associations is to properly vet those who are granted status as full-fledged residents or tenants of the community, as Gulick had apparently achieved in this case.

Many communities have rules and protocols in place calling for professional background checks of prospective new residents and tenants, as this is a very prudent and effective practice that most attorneys and managers would advise. In the age of Airbnb and home sharing, the proper vetting of tenants has become one of the key tools for associations to prevent unit owners from creating a revolving door of unfettered short-term rentals.

Community associations must work closely with their management and security staff to ensure that all of the proper protocols are in place in order to clearly distinguish who may be elevated from guest to resident-tenant status. In these troubled times, community associations must have in place policies and procedures that encourage the staff and security to err on the side of caution on these important security matters, as they will help to diminish the potential for horrific tragedies such as the one that took place in this case.

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