Loathe Thy Neighbor
Beware $3,400 flamingos, $7,000 flowers—and angry homeowners’ associations

Jeff Seigrist and his wife, Carolyn, had a midlife fantasy. Stifled in the urban sprawl of St. Louis, they longed for a life in the great outdoors. After much research they set their sights on Loomis, Calif., northeast of Sacramento, a seeming paradise. “Native grasses, oak savannahs, a beautiful lake,” Seigrist says. A home designer, he built an eclectic, $1.5 million house from recyclable materials. And in June 2002 he and Carolyn moved in. They planted a garden, and by the next spring their new home was awash in native wildflowers.

Then came the call from the head of the Sterling Pointe homeowners’ association. “He said, ‘Would you mind defending your landscape in our next meeting?’” Defending it? Seigrist says, “I thought, ‘This is a little worrisome.’”

It came to feel like an ambush. “People with red faces were yelling at me,” he says. His sin? They claimed the native flowers and grasses violated community rules because they didn’t fit the manicured look favored by the board. “He may call it ecologically friendly,” says a spokesman for Sterling Pointe's...

“If we fight, it will cost several years and hundreds of thousands of dollars,” says Jeff Seigrist (with wife Carolyn). “So we’ve decided to sell.”
management company. "The homeowners' association calls it unacceptable," the board retroactively fined the couple $2,700; they refused to pay because they didn't believe they'd violated any rules. Instead of fighting in court, they put their house up for sale, figuring to avoid the angst and expense. They figured wrong. The board kept finding them and this summer placed a lien against their home to pay the now $7,000 in fines and lawyers' fees. "It's a race—I believe they're trying to foreclose before we can sell," says Seigrist. "This was our dream house. Now it's a nightmare."

And more common than you think. More than 50 million Americans live under homeowners' associations, most in relative harmony. But these neighborhood governments have also brought abuse, acrimony—and seemingly absurd litigation. Many homebuyers agree to association rules but don't realize what they're getting into. In Lawrenceville, Ga., Doug and Ellen Henry were selling their house when they discovered a $3,400 lien on the property. The reason? The HOA objected to a pair of pink plastic flamingos on their lawn and had been fining them $25 daily for months. When retiree Ken Murray and his wife bought a home in Fair Oaks, Calif., he replaced his wooden roof with forestfire-resistant concrete tiles. His HOA forced him to tear off his new roof and put on another wooden one. "Cost me nearly $70,000," says an embittered Murray, 54, who moved to a more accommodating enclave this summer. Karen Cave of Kingvale, Calif., spent four years in court and faced foreclosure over the right to drive her car to and from her home in the winter. Why? Her board was dominated by vacationers who refused to plow her street because they wanted it for skiing and snowboarding. They also banned winter auto traffic—even for Cave, 34, a single mother of four disabled by a back injury. Her take on HOAs: "Little Taliban." (None of the HOAs in these cases responded to requests for comment.)

HOAs do have their place, providing services such as trash and snow removal, long handled by overburdened municipalities. And who wouldn't like some recourse against that neighbor's kid who blasts Korn at 3 a.m.? "Conflicts are rare and get all the publicity, but it is a very good way to assemble a community," says Frank Rathbun, vice-president of the Community Associations Institute in Alexandria, Va. Perhaps—but buyers beware: HOAs are largely unregulated. "The Constitution doesn't protect us against private organizations," warns University of Illinois political scientist Evan McKenzie. "With these groups the Bill of Rights goes right out the window." And chief among the HOA's arsenal is the power to foreclose. Less than 1 percent of such disputes end that way, but the problem is thought big enough that in August the California legislature sent a law to Governor Schwarzenegger's desk severely limiting HOA foreclosures; Arizona has taken a similar step, and Texas and Florida may follow suit.

Claudio and Luz Trujillo beat the system, but it took the weight of federal law. Last year they bought a condo in Glenview, Ill., just north of Chicago. It was their dream home—a perfect place to raise their children, Jaime, now 10, and Melissa, 5. "It's beautiful, the neighborhood is great, the school district is the best," says Claudio, a hotel auditor. "There's a clubhouse and pool."

There was also a problem. Jaime is
disabled by a seizure disorder and must use a wheelchair. According to condo rules, he would have to enter the building through the rear service door because his chair might damage the front entrance. But after moving in last September, the Trujillos realized the rear door was barely wide enough for Jaime’s chair. More than that, they felt the board had demeaned their son.

“A wheelchair is not furniture,” says Claudio. “It’s part of the body of a person with disabilities.” The Trujillos contacted Access Living, a Chicago advocacy group for the disabled, which in March filed suit in U.S. district court, charging the condo had violated the Fair Housing Act. The court agreed, despite protestations by the HOA’s lawyer, who claimed the board would have accommodated the Trujillos without a lawsuit. On Sept. 8 the Trujillos won a $70,000 settlement allowing Jaime to use the front door. For his parents, it wasn’t about the money. “My main concern,” says Claudio, “was that my son be treated with dignity.”

In Georgia, the Henrys fought for their flamingos. “[The HOA] said they would let it go if we paid the attorney fees,” said Ellen, 42, a paralegal, of their HOA. “I said if you’re going to use an attorney for something that stupid, you pay them.” In 2000 she sued and recouped $2,200 of the $3,400 lien. They moved and now live under a flamingo-friendly HOA.

George Andres, however, isn’t going anywhere—not yet. A retired electrician and ex-Marine from Jupiter, Fla., he has spent five years in court—and $40,000—to fly an American flag from a 15-ft. pole in front of his townhouse. An Indian Creek subdivision is suing him to remove the display. Now Andres and his wife, Ann, face foreclosure. “If these people feel the flag is not good, they should pack their bags and get out of town,” says Andres, 67, whose stand has made him a folk hero, on Flag Day in 2002. Gov. Jeb Bush visited George’s home to present him with a U.S. flag that had flown over the state Capitol. But HOA president Christine Reyes says the controversy has nothing to do with patriotism. It’s a matter of uniformity and property values. “This is not about the flag,” she says. “We’re talking about poles.”

Andres’s home was slated for auction last October, but he won a postponement pending appeal and plans to take his fight to the Supreme Court, if he has to. “The flag George flies is red, white and blue,” says his attorney Barry Silver. “Not white. He’s not surrendering.”

But for some, the battle takes a heavy emotional toll. Defying her HOA, Karen Cave drove through the snow, racking up $35,000 in fines. She filed a complaint with the Department of Housing and Urban Development, which sued her HOA, claiming it had violated fair housing law. Good news came when California passed a law forcing the association to plow the road. Now Cave drives freely and things have settled down. “I do have a home of my own, so I can’t say I regret everything,” she says. “Just today I put flowers in the yard.” Uh oh.

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