

Elder Abuse in HOAs

HOA Syndrome: The evolution of Elder Abuse into a community based psychiatric disorder

I have been a college professor, psychotherapist, published author, and expert witness well beyond a decade. In that time I have had numerous occasions to work with the elderly. I have witnessed elder abuse firsthand. Never have I experienced the current level of elder abuse caused as a direct result of Homeowners Associations (HOAs).

Most people with a modicum of enlightenment are aware of what is known as elder abuse. Each year the reported number of elder abuse cases increases exponentially. An estimated 2.1 million elders are victims of physical, psychological or other forms of abuse and neglect. The unreported/undocumented cases are almost beyond comprehension. For every reported case of elder abuse it is believed that five cases go unreported. Some research suggests that abused elders tend to die earlier than unabused elders, even when factoring out chronic conditions or life threatening disease. The reality is: as we age we become more likely to suffer elder abuse. There are a number of reasons why this phenomenon is occurring in the Western culture, primarily the United States.

Statistically, significant numbers of people, baby boomers, are turning sixty-five. Pre-World War II babies are surviving well beyond the second millennium; as a result of scientific research and medical intervention people who live in the United States are living longer, well into their eighties and nineties. This collective population requires more attention and care than the younger population that is to follow, most of whom will one day become classified as, “The Elderly”. Therefore, the younger universe of people has the task—or burden—of taking care of their elders through the end the elder’s life.

Insurance companies are primarily responsible for sustaining the healthcare system for the elderly. Families are now working to maintain a safe, healthy lifestyle for their aging parents, grandparents and great-grandparents while simultaneously working to raise their own children and grandchildren. Never before in the history of the world has the family unity extended the number of years that currently exists in the U.S. The strain on families, communities, cities, and states is leviathan in size. As a bi-product, more seniors are being abused, neglected and harassed for whatever assets they own. Enter into a newly recognized world of elder abuse: HOA Syndrome: The evolution of elder abuse into a community based psychiatric disorder.

From time to time the media releases a story about the elderly man or woman who was neglected in the local hospital, nursing home or retirement facility. Some readers may have firsthand

knowledge of a parent or grandparent who is sequestered in a back bedroom while their family live off of the elder's retirement and savings. They have little or no regard for their elder's comfort, safety or well-being. These elderly people may rarely, if ever, see the light of day. There are those who can not afford to live outside of poverty stricken neighborhoods that are ruled by gangs, drive-by shootings or drug deals beneath unlit corners. The aforementioned population is recognized by the mainstream population. Efforts are made to see them to safety to little avail. Until recently, elder abuse in middle and upper middle class neighborhoods has slipped under the radar. Homeowners Associations, property management companies and collection companies are hypervigilant, ever looking for an increase in cash flow. Over the last twenty years they have hit the mother load: the elderly living in HOA communities.

The new generation of elderly have increasingly elected to live outside the confines of a retirement community, hospital or hospice center. These boomers and pre-World War II'ers want to be free to live out the balance of their lives in a dignity fitting their human rights and senior generation; self sufficient and independent from the routine of their former work lives. In an effort to find their desired living style the elderly vied for their independence electing to live in the illusionary comfort and safety of HOA communities.

Signing a document known as the CC&R's the elderly literally contracted away the very freedom that they worked for their entire lives. They did not know that there were predators waiting for them, people living in the same communities, on the same block, their next door neighbors, who would seek financial gain at their expense. Still others, in their mid-forties and fifties, aged into seasoned HOA neighborhoods never comprehending what was about to happen to them.

The stress and strain of this recently recognized phenomenon matriculates into a psychiatric disorder known as *Elder HOA Syndrome*. To comprehend this problem the reader must understand a few fundamental concepts.

What is HOA Syndrome?

HOA Syndrome falls into the psychiatric category of Anxiety Disorders. The Syndrome is characterized by a cluster of signs and symptoms—psychophysiological indicators—such as:

- feeling angry much of the time
- tired and fatigued
- anxious
- being on-edge or irritable
- unhappy in one's own home
- depressed and sad
- worried

- nihilistic (hopeless)
- over or under eating
- sleeping disorders and/or nightmares
- fear of going to one's own mailbox
- paranoia
- loss of trust
- loss of identity
- fear of allowing one's children to play in their own neighborhood
- fear of having one's car ticketed or towed
- stressed
- body aches and pains
- intestinal problems and/or acid reflux
- Irritable Bowel Syndrome
- memory loss
- obsessive rumination
- Temporal Mandibular Joint problems (TMJ) and/or Bruxism—grinding of teeth
- hypervigilance
- restlessness
- fear of losing one's pet
- fear of losing one's home
- fear of vandalism to one's belongings
- fear of retaliation from the HOA
- suicidal ideation
- sexual dysfunction

[For a more in depth investigation see: Gary Solomon (2010). *HOA Syndrome: A Two Tailed Psychiatric Disorder.*]

What Causes HOA Syndrome?

At the root of *HOA Syndrome* is intentional, longitudinal, methodical harassment. Shortly after the individual takes possession of their property, the HOA strategically begins to focus on the homeowner's minor, if not non-existent infractions. The purpose for these attacks is to create an income stream. This income stream makes its way into the pockets of the management companies, collection agencies and attorneys, none of whom live within the community that they are harassing. Like ravenous parasites, these organizations feed off of fear-based harassment. The homeowner, now locked into a mortgage, feels powerless over the HOA's relentless hounding for more and more money. In short: the evolution of schoolyard bullying and lunch money stealing has turned into adult comportment known in the legal world as, racketeering,

financial exploitation, extortion, and neighborhood money pilfering. The elderly are highly susceptible to *HOA Syndrome*.

What Is Elder Abuse?

Most who hear the term, “elder abuse and neglect” envision older people living in nursing homes or elderly relatives who live alone and never have visitors. But elder abuse is not just a problem of older people living on the margins of our everyday life. To the contrary, elder abuse is right in our midst.

Elder abuse is defined as the infliction of physical, emotional, psychological, or sexual abuse; financial exploitation, or intentional/unintentional neglect of an older adult.

Physical Abuse:

Hitting, beating, pushing, kicking, pinching, burning, biting, over or under-medicating, depriving the elder of food, or exposing the person to severe weather-deliberately or inadvertently.

Emotional or Psychological Abuse:

Name-calling, giving the “silent treatment”, intimidation, and threats causing fear, mental anguish, and emotional pain or distress. Manipulation of the older adult also constitutes elder abuse

Neglect:

Withholding appropriate attention or intentionally failing to meet the physical, social or emotional needs of the older person including, but not limited to, failure to provide food, water, clothing, medications, shelter, and assistance with the activities of daily living or help with personal hygiene. Neglect also includes failure to pay the bills, manage the elder person's money, cheat, dupe, scam, or manipulate the elder out of their money.

Sexual Abuse:

Inappropriate touching, photographing the person in suggestive poses, forcing the person to look at pornography, forcing sexual contact with a third party, rape, sodomy, coerced nudity, or any unwanted sexualized behavior.

Financial Exploitation:

Can range from misuse of an elder's funds to embezzlement, fraud, taking money under false pretenses, forgery, forced property transfers, purchasing expensive items with the older person's money without the older person's knowledge or permission, or denying the older person access to his or her own funds or home, improper use of legal guardianship arrangements, powers of attorney, or conservatorship, a variety of scams perpetrated by sales people for health-related services, mortgage companies, financial managers, Homeowner Associations, property management and collection companies.

What is Elder Abuse in HOA Syndrome?

The aforementioned—*HOA Syndrome* signs and symptoms—culminate into the key areas of elder abuse. For the elder the net effect is the same: abuse creates potentially dangerous situations leading to chronic physical or psychiatric health problems. The root of these problems comes from the constant harassment on the part of the HOA, management, and collection companies. Fear is the paramount outcome as a result of the harassment and financial exploitation. The idea that what happens at home is “private” can be a major factor in keeping an older person locked in this abusive HOA situation. Those outside the family who observe or suspect abuse or neglect may fail to intervene because they believe “it's not their problem” or “I've got my own problems”. Shame, embarrassment and confusion often make it difficult for the older person to reveal the abuse.

What is at the Root of Elder Abuse and HOA Syndrome?

Like many other schemes, money is the driving force. In the mid 1950's communities banded together to live under the unity of “The Community Neighborhood”. To accomplish this some neighborhoods decided to create a self-managing entity that would eventually be referred to as the Homeowner's Association. In time the associations decided to hire outside, for profit, management companies to oversee their community. Soon the management companies learned that there were huge profits to be captured if they fined the very homeowners who hired them to oversee their own well-being. These management companies turned to collection companies who escalated the HOA fines to five, ten, twenty times the original amount, giving rise to tremendous profits. It did not take long for them to realize that the easiest prey were the weak and the elderly.

How the Elder Abuse Scam Works?

Homeowners volunteer to be on the board of directors for the HOA. I refer to these individuals as Capos (See my article on HOA Syndrome, 2010). Walking or driving through their communities they look for a weed, a trash can, a brown spot in the lawn, a burned out light, a dying or untrimmed tree, etc., something that will generate a letter to the homeowner informing the homeowner that they will be punished in the form of fines.

Soon the HOAs recognize that the person living in the home is elderly. Unable to respond quickly enough to resolve the documented infraction or attend the monthly HOA “court” to defend themselves the elderly become easy prey for what is coming. Tired, weary and sick, these elderly individuals take their warning letter and place it on a mounting stack of papers in the hope that the matter will resolve itself. As the elderly try to get through the next moment of their aging life the damning letter is forgotten. Now the HOA hits them hard and fast.

First comes the fine. Next another fine and another and another. The fines are moved to a collection company who place more and more fines on the elderly, overwhelming them with excessive debt on an already strained income. Now comes the big profit move. The collection companies place a lien on the property. With the lien on the property they can foreclose on the house, evict the elderly owner, list and sell the property and walk away with enormous profits at the expense of the elderly homeowner.

Many of these people no longer have family and must fend for themselves. Exhausting what little income they have they are forced out of the neighborhood in the name of the very profitable money making scheme. The new buyer, unaware of what they are getting into, purchases the HOA neighborhood property and the cycle starts again. What makes this scheme extraordinary is the product that produces the income can be tapped again and again with little or no expense to the management and collection companies. Their primary work force, the HOA board of directors—the Capos, work for free, feeding the management and collection companies with a never ending stream of income.

What was once a offensive weed has now become terminal cancer. The stress for even those who are healthy is overwhelming. Some are put on the street. Others have their saving accounts attached and confiscated, and others—though undocumented at this time—die under the burden of the stress and strain. But there’s more...

In probate, the new owners, usually family members, are left with the grieving process not knowing the cause of the death of their loved ones. Ultimately, most put the property on the market for sale. Now comes the shock of shocks: their inheritance is chipped away by more fines and penalties. Virtually powerless and frustrated those who inherit the property pay off the lien which has now moved to twenty times its original amount. Attorneys and title companies are

virtually powerless to undo the damage informing their probate clients to, “Pay it. Just move on with your lives.”

If you have any doubt about the profitability of Capos, Masters (the property management companies) and collection companies here is a little fact for you: at the end of the year a 50 billion dollar industry that produces no tangible product has their annual holiday and bonus party on the backs of the elderly who simply did not know what was happening to them. HOA communities have no greater value than non-HOA communities. Rather, the HOA communities may be responsible for the decline in property values and/or inability to sell the home. New buyers are becoming more aware of HOAs and are staying out of these neighborhoods. Today HOAs are becoming the urban ghettos complete with Capo bullies, management Master gangs and relentless collection company machines.

Who are the Perpetrators?

The perpetrators fall into three major groups: the HOA board of directors, the management companies and the collection companies.

The board of directors of the HOA are a volunteer group of people whom I refer to as the Capos. The Capos live in the community and police the activities of their neighbors. The Capos contract with a management company who refer to themselves as the “Masters” of the community. The Masters send out the letters of reprimand and fines to the victims—homeowners—whom the Capos have identified, to add money into the HOA associations via fines and penalties. The collection companies are the big winners. They contract with the management companies to collect on the fines. Within minutes after receiving the files from the Masters the collection companies multiply the fines by five; a hundred dollar fine is now five hundred. Many fines accumulate at the rate of a hundred dollars every seven days.

Attempts to resolve the fines are to no avail. In fact, during the period of time from contesting the fine to having a hearing before the Capos, fines can continue to multiply. A weed, brown patch, untrimmed tree is worth thousands of dollars to the Capos, Masters and collection companies. By the time it is over, if it is ever over, the elderly individual has accrued fines at such a rate that they may be unable to afford to live in their homes. Liens and foreclosure are just a few short months away.

Perpetrators:

- ▶ have the delusion that they are justified in taking what they think “rightfully belongs to them for the good of the community”, *and/or*

- ▶ may have negative feelings or thoughts about the older homeowner and believe that they have a sense of “entitlement” to the elder’s property, *and/or*
- ▶ can have negative feelings toward siblings or other family members whom they want to prevent from acquiring, inheriting or gaining control of the elder’s assets, *and/or*
- ▶ seek out vulnerable elderly with the intent of exploiting them by professing to care about the elder’s best interest, *and/or*
- ▶ attempt to gain access to the elder’s property by rendering HOA, management and legal services to the elderly, *and/or*
- ▶ identify the vulnerable elderly by walking and driving through neighborhoods, *and/or*
- ▶ contact recently widowed homeowners through newspaper death announcements, *and/or*
- ▶ remain difficult to contact, becoming aloof and avoident when attempting to make contact with the Capos, Masters and collection companies, *and/or*
- ▶ may overcharge for services or products, use deceptive or unfair business practices and use their positions of trust, respect, authority to gain power and compliance from the elderly homeowner.

Why are the Elderly Attractive Targets for HOAs?

The elderly control over 70% of the nation's wealth, but may not recognize or realize the value of their assets (particularly homes that have appreciated markedly). The elderly are more likely to have disabilities than their constituents causing them to be dependent on the HOA for guidance. As a result the Capos, Masters and collection companies have direct or indirect access to the elder’s home and assets.

These leaders may exercise significant influence over the older person. By studying the department of elderly people, predictable patterns emerge (e.g. because older people are likely to receive monthly checks, abusers can predict when an older person will have money on hand or need to go to the bank). The severely impaired elderly are less likely to take action against their abusers as a result of illness or embarrassment. HOA abusers may assume that frail victims will not survive long enough to follow through on legal interventions or that they will not make

convincing witnesses. As people age, cognitive skills wane, making them less sophisticated about financial matters; technological advances have made managing finances more complicated for some of the elderly.

What Conditions or Factors Increase an Older Person's Risk of being Victimized?

Elders are at higher risk for isolation, loneliness, recent family losses, physical or mental disabilities, absence of documentation about financial arrangements, being forgetful, fearful of life and impending death, confused by implausible explanations given about the elderly person's financial obligation by the Capos, Masters and collection companies. Scam artists have made their way into community living. The elderly are always a prime target for Anti-social Personality scam artists. The elderly person who has been abused is confused and disoriented, they easily acquiesce to the HOA scams.

Is Elder Abuse a Crime?

On the surface *HOA Syndrome* does not look like elder abuse. Seeped in the legal jargon of the CC&Rs, HOA Capos, Masters and collection companies are able to manipulate the system to make it look like the elder is the problem; that the elder must be punished for the horrible, horrific negligence of their property and their community. Remember: a key indicator of elder abuse is the manipulation of the elderly. Make no mistake: elder abuse is a criminal offense punishable through the criminal courts.

The Solution

We are a population of hurt people. As hurt people some, not all, are anti-social personalities who gain great sadistic pleasure in paying the hurt forward (hurt people hurting other people). They live without conscience and they prey on the weak. To date, there has been no exposed solution to this growing social atrocity that causes *Elder HOA Syndrome*. As roving Capos and Masters pillage communities for more and more bounty there has been no respite from the marauders. Elders have become the Capo's, Master's and collection companies' easy target.

In truth, all of these cases are tantamount to personal injury cases: auto accidents, boating accidents, slip and fall accidents, etc. Summarily, I believe that some HOA homeowners have been and continue to be damaged, victimized by the Capos and the Masters. As a result, I believe that the homeowner is entitled to be compensated for those damages. This is no longer a matter of contract law. This is a tort and torts offer relief. Instead of being rear-ended by another diver you have been rear-ended by the HOA and the management companies. Damages, both emotional and physical, are your remedies. You may be entitled to damages and monetary awards may be due to you. Furthermore, you may be entitled to damages for pain and suffering under the law.

I offer to each of you the following gift, with my permission and release of copyright. Send the following, via certified mail to your HOA board, individually and collectively and, to the management company, individually and collectively.

“If you continue on your current path of pathological persecution you do so knowing the damage you are causing; you do so with malice aforethought, personally and collectively perpetrating a significant amount of detriment to me and others. As of the date of this letter you may claim that you did not know what you were doing or the damage it was causing. Now, should you continue, as a post recipient to my letter, I am informing you, collectively and individually, that you do so with knowledge; you do not have the right to claim ‘I didn’t know.’ Your actions are both criminal and civil.”

Now, you have put them on notice. Now you may take action. Here are your Seven Action Steps:

Six Action Steps

1. Keep a record of the problems: document, document, document. Create a log and diary of what you are experiencing in your life as a result of the abuse by the HOA and the management company. Organize and maintain any and all correspondence from the HOA and the management company.
2. Locate an attorney who specializes in elder abuse and/or personal injury. They will use specific laws that are in place to enforce your rights and help you seek damages. If you are the child or a guardian of an elder person take action on their behalf. The case should be taken on contingency: the attorney is not paid until the case is settled. Remember: this argument is new to the legal community. Don’t give up if the first or second attorney you contact does not take your case. In time you will start hearing advertisements on your local television inviting you into law offices all over the country regarding *HOA Syndrome* related to elder abuse.
3. Seek and secure medical attention. Go on record with your doctor regarding your problems and issues. If indicated request a specialist (your general practitioner should be able to refer you to the indicated specialist). Never minimize or rationalize your emotional or physical problems. Remember: your attorney will

assist you in organizing your case file including medical referrals. The types of medical attention you may seek are:

- ▶ General Medical
- ▶ Medical Specialist
- ▶ Pharmaceutical Intervention
- ▶ Complete Laboratory work-up and analysis
- ▶ MRI
- ▶ SPECT
- ▶ PET Scan
- ▶ Psychotherapy
- ▶ Counseling
- ▶ Chiropractic
- ▶ Massage

(Your health care insurance should cover all or most of the cost of your health care including medication. Talk to your attorney about the concept of continuity of treatment.)

4. Seek financial compensation through a jury of your peers. They are on your side. Most jurors, if not all, have had some experiences with HOAs. They know what you are going through and how you feel. They want to have the opportunity to bring the Capos and the Masters to justice.
5. Create HOA support groups. Talk about what is happening to you. Share your stories with others. And, go public whenever possible; news reports, newspaper, radio show, and community flyers.
6. Monitor your HOA so that they do not hurt others in the community. Assist in stopping their inimical deportment.

Help and Assistance through Government Agencies

1. National Center on Elder Abuse (NCEA): 1225 Eye Street, NW, Suite 725, Washington DC 20005 - Phone: (202) 898-2586 and Fax: (202) 898-2583. NCEA is a resource for public and private agencies, professionals, service providers, and individuals interested in elder abuse prevention information, training, technical assistance, and research. www.ncea.aoa.gov
2. Elder care Locator: This service is sponsored by the Administration on Aging (AoA). With the address and ZIP code of the older person being abused, Elder care

Locator can refer you to the appropriate agency in the area to report the suspected abuse at 1-800-677-1116. www.eldercare.gov

3. Area Agency on Aging: Most states have an information and referral line that can be helpful in locating services for victims or potential perpetrators of elder abuse and neglect. Check your local telephone directory.
4. Medicaid Fraud Control Units (MFCU): Each state attorney's general office is required by federal law to have an MFCU that investigates and prosecutes Medicaid provider fraud and patient abuse and neglect in health care programs and home health services that participate in Medicaid.
5. Local Victims Assistance Programs: Each community has a Victims Assistance Program to assist elders with legal aid and intervention against those perpetrating the abuse.
6. Adult Protective Services: In many states, Adult Protective Services is designated to receive and investigate allegations of elder abuse and neglect. Every state has some agency that holds that responsibility. It may be the Area Agency on Aging, the Division of Aging, the Department of Aging, or the Department of Social Services.
7. National Domestic Violence Hotline: The hotline provides support counseling for victims of domestic violence and provides links to 2,500 local support services for abused women. The hotline operates 24 hours a day, every day of the year at 1-800-799-SAFETDD or 1-800-787-3224.

Other Resources to Assist in Learning more about Elder Abuse?

A Citizen's Guide to Preventing and Reporting Elder Abuse

http://ag.ca.gov/bmfea/pdfs/citizens_guide.pdf

Elder Abuse and Neglect: In Search of Solutions

<http://www.apa.org/pi/aging/resources/guides/elder-abuse.aspx>

Frequently Asked Questions

http://www.ncea.aoa.gov/NCEAroot/Main_Site/FAQ/Questions.aspx

What is Elder Abuse?

<http://www.preventelderabuse.org/elderabuse/>

Professor Gary Solomon

Elder Abuse in HOAs

Elder Financial Abuse

<http://www.co.san-bernardino.ca.us/brochures/docs/105.pdf>