

Homeowner asks if HOA can respond with countersuit



Barbara Holland

By Barbara Holland [RJRealEstate.Vegas](#)

February 4, 2025 - 8:48 am



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Q: I find your column so useful.

I want to sue my homeowners association. But I read the HOA management company can sue me for up to \$10,000 for filing a frivolous

lawsuit. Trust me, the issue is not frivolous to me!

Can you tell me if this is true and that the Nevada Revised Statutes supports it?

Thanks for all you do!

A: You did not give me more information about the issues. There is no specific law that I am aware of that would automatically trigger a lawsuit against you by your association in response to your lawsuit.

Obviously, the association has the right to defend itself, and if they prevail in court against you, they could ask the judge to be awarded their legal fees.

Q: Hello, I enjoy reading your column each week.

I live in a community of around 700 homes; different areas were developed at different times over the years, resulting in three distinct subdivisions. The first subdivision pays what is being called the “master” assessment. A second subdivision pays the “master,” plus an additional amount for a lift station that serves them. The third pays the “master,” plus an additional amount for a community pool, clubhouse and front landscape maintenance. There is a single HOA and board.

The different communities sometimes have different and competing priorities, and how those are addressed tend to be greatly influenced by where the board members live and this causes conflict.

There are some elements common to all subdivisions. Entry/exit gates, roving security, roadways, things like that.

It seems to me breaking up the HOA so that each subdivision is responsible for its own governance would be an idea worth considering.

So, my question is, would that be possible and what would it take?

A: Not an easy process. You would need to review the covenants, conditions and restrictions of both the master and the subdivision as to the possible separation of these associations. In addition, you would list which common area expenses are shared by the associations and whether these expenses can be separated. Can any of the utilities be separated per association? The legal expenses would need to be determined as well as any costs from the local government.

The most difficult challenge is obtaining the necessary vote by the membership as well as the lending institutions as the separations would result in a material change which would include the lenders.

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