

OBJECTIONABLE CONDUCT

MISCONDUCT MEETS CONDO POWER

When a resident's behavior disrupts the community, violates building rules, or even threatens health and safety, the board is inevitably pulled in. While co-op boards have powerful tools, such as terminating a proprietary lease and initiating eviction, condo boards are more limited. Matthew Eiben, counsel at Rosenberg & Estis, offers a checklist specifically for condo boards on what types of meaningful remedies are available. His guidance emphasizes early action, strong governance documents, persistent enforcement and the importance of using every tool available to protect the safety and well-being of the building community.



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✓ BOARD CHECKLIST

1. Review House Rules

- Review your rules regularly — many buildings still rely on rules written 20 to 30 years ago.
- Update them to address today's challenges (e-bikes, noise, smoking, short-term rentals, trash procedures, etc.).
- Make sure your rules

clearly authorize the board to issue notices and fines.

- Create a fines schedule that is effective, but still reasonable under the law.

2. Jump on Bad Behavior Early

- As soon as an issue arises, send a friendly but firm written notice.

Don't wait for problems to resolve themselves — issues tend to grow, not shrink.

- Consistent communication shows the resident you take the matter seriously.
- Courts expect to see that the board tried to resolve issues before seeking legal action.

- Point to the specific rule that's being violated and explain what needs to stop.
- From the first complaint, keep a record of:
 - Incident dates and descriptions.
 - Complaints from neighbors.
 - Notices sent.
 - Photos, videos or other evidence, if available.
- Tracking patterns over time helps support your case if the issue escalates.

3. Use Fines Responsibly

- Issue fines according to your governing documents.
- Make sure they're

reasonable — courts have struck down excessive fees, even when used to stop short-term rentals.

- If a resident doesn't pay their fines, the board may eventually file a common charge lien and pursue foreclosure.

4. Legal Options

A. Breach of Contract Claim

- You can sue based on violations of the declaration, bylaws or house rules.
- Ask the court to order the resident to follow the rules ("specific performance") or to issue a formal declaration in your favor.

B. Preliminary Injunction

- When behavior is ongoing and serious, the board can ask the court for an order immediately stopping the conduct.
- Injunctions are powerful and often push parties toward settlement.

C. Contempt Motions

- If a resident violates

a court order, the board can ask the court to impose:

- Civil contempt (financial penalties).
- Criminal contempt (potential jail time).
- It sometimes takes multiple motions to reach stronger consequences, but persistence pays off.

5. Consider Foreclosure as a Last Resort

- If the resident is also behind on common charges, foreclosure may eventually remove them.
- If a receiver is appointed during the case, the court may require the unit-owner to pay "use and occupancy," which means continuing to pay their maintenance or common charges.
- If they don't pay, they can be ejected before the foreclosure is complete.

6. When Safety Is at Risk, Act Quickly

- In high-risk situations,

such as drug activity, dangerous guests or other threats, boards can seek emergency relief.

- Courts sometimes issue temporary restraining orders that immediately bar a resident (and others) from the unit.
- Judges are particularly responsive when there's a clear health or safety concern.

7. Stay Persistent

- These cases rarely resolve overnight. Some residents ignore notices or even court orders.
- Keep applying steady pressure:
 - Renew motions when needed.
 - Pursue multiple legal strategies at once.
 - Continue documenting incidents.
- Persistence signals that the board will not back down.
- Sometimes the best resolution is motivating the owner to sell, especially when there is significant equity at stake.