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SUPREME COURT RULES ON LAMDEN

In a victory for California's community associations, the California Supreme Court has unanimously ruled that California courts should defer to a community association's board of directors' decisions regarding the discharge of the association's maintenance and repair responsibilities.

Lamden v. La Jolla Shores Clubdominium Homeowners Association, 1999 Daily Journal D.A.R. 8073 (1999), dealt with a homeowner's dissatisfaction with her association's decision to spot treat her unit for termites, rather than fumigate. She unsuccessfully sued the association, and then appealed. The Court of Appeal, in an opinion that caused great consternation in the community association industry, reversed the trial court. The association appealed to the California Supreme Court, which unanimously reversed the Court of Appeal.

The Supreme Court's opinion sets forth the standard for a board's repair and maintenance decisions. The Court wrote as follows:

We hold that, where a duly constituted community association board, upon reasonable investigation, in good faith and with regard for the best interests of the community association and its members, exercises discretion within the scope of its authority under relevant statutes, covenants and restrictions to select among means for discharging an obligation to maintain and repair a development's common areas, courts should defer to the board's authority and presumed expertise.

Harle, Janics & Kannen

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*575 Anton Boulevard, Suite 460
Costa Mesa, CA 92626*

*Telephone: (714) 429-0600
Facsimile: (714) 429-0699
e-mail: hjklaw@hjkfirm.com*

Note that, although the test is stated in a single sentence, there are several elements to it. First, the board of directors must be duly constituted (*i.e.*, properly elected and qualified to serve). Second, it must have performed a reasonable investigation. Third, its maintenance and repair decision must be reached in good faith and with regard for the best interests of the association and its members. Finally, it must act within the scope of its authority under relevant statutes and the association's CC&R's when choosing a maintenance and repair methodology.

The Court concluded its opinion with the following paragraph:

Common sense suggests that judicial deference in such cases as this is appropriate, in view of the relative competence, over that of courts, possessed by owners and directors of common interest developments to make the detailed and peculiar economic decisions necessary in the maintenance of those developments. A deferential standard will, by minimizing the likelihood of unproductive litigation over their governing associations' discretionary economic decisions, foster stability, certainty and predictability in the governance and management of common interest developments. Beneficial corollaries include enhancement of the incentives for essential voluntary owner participation in common interest development governance and conservation of scarce judicial resources.

This decision will make it more difficult for an association's members to successfully challenge the board's common area maintenance and repair decisions.

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*575 Anton Boulevard, Suite 460
Costa Mesa, CA 92626*

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Facsimile: (714) 429-0699
e-mail: hjklaw@hjklawfirm.com*