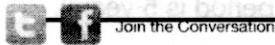
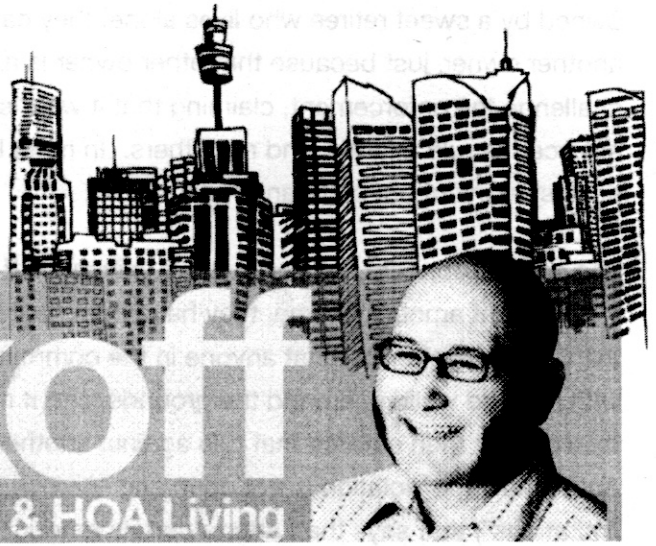


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ENFORCING COVENANTS, RULES AND REGULATIONS IN CONDOS AND HOAS—THE CONCEPTS OF WAIVER AND SELECTIVE ENFORCEMENT

posted on [april 30, 2011](#) by [ryan poliakoff](#)



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I wanted to talk a bit this week about two concepts that are pretty universal throughout the country—those of waiver and selective enforcement of [covenants](#) and rules. I am going to concentrate a bit on the way Florida handles these issues, but readers from everywhere should find the concepts similar.

Every shared ownership community (a condo, co-op or HOA) has covenants and rules that must be followed by the unit owners and residents—this is part and parcel of living in an SOC. Those rules are either found in the declaration of condominium, the declaration of covenants, conditions and restrictions, or in the [rules and regulations](#) promulgated by the board.

The issue that arises in every community, however, is do those rules need to be applied to everyone, equally? [Board members](#) are understandably reluctant to enforce a relatively minor rule against a neighbor who is otherwise perfect when it comes to other important aspects of community living (such as paying their fair share of the maintenance and contributing to the neighborhood). And if the rules aren't applied equally, what happens to them?

This is where the concepts of waiver and selective enforcement come into play, and you will usually find them in your state statutes or in the case law that has been developed by the courts. Selective enforcement means that you cannot selectively enforce a rule against one resident and ignore the same violation by another resident, or the enforcement is invalid. That is, if your board has ignored a beautiful parrot that is

