

BAD FACTS = BAD LAW

SOMETIMES vis-a-vis SETTLEMENT

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The bane of a lawyer's existence is the saying that bad facts equal bad law. In a case recently settled, a lawsuit was commenced against a condominium board and unit owner when a resident was attacked by a level 3 sex offender who was also a paranoid schizophrenic.



In this case, a unit owner purchased a unit located next door to a unit occupied by level three sex offender who was renting the premises from his brother. The association had taken some actions regarding this matter by mailing a letter to every resident alerting them to the presence of the sex offender and by holding a community meeting with public safety officials. Notwithstanding these measures, the association was not permitted to remove itself from this case by summary judgment when the court indicated that issues specific to duty and to provide security were issues of fact. The case was ultimately mediated and a \$3M settlement was reached just prior to commencement of the trial.

The obvious problem raised by the circumstances of this case is how far is the court willing to impose a duty to warn and provide security to property owners in the future and in a reported decision. Although this case was resolved through mediation it certainly leaves open the door for other issues concerning the potential for future claims against the association.