

# Homeowner Association Regulation of Holiday Decorations

## In the Dirt: A Real Estate Legal Update

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Tis the season to be jolly! Homeowner Associations (HOA's) usually have some control over regulating holiday decorations but the line between what homeowners consider gorgeous or garish can be as thin as twice-used wrapping paper. HOA's are faced with a tricky question: how can decorative displays be regulated without taking the "festive" out of "festival?"

If looking to enforce existing restrictions or adopt new ones, an HOA board will be limited to the provisions of its governing documents and other legal considerations. An HOA may consider restrictions commonly in force by other HOAs or how its existing restrictions might apply to cover this regulation.

For example, aesthetic or nuisance guidelines set out in existing covenants might cover holiday decorations. An HOA is on strongest ground in regulating these displays when it closely follows the text of its governing documents and when they are uniformly and consistently applied.

In addition to following its own documents, a guiding light in adopting new regulations of displays is whether the new regulation promotes decorations that are in harmony with other homes in the subdivision, often a guideline for such regulations.

Some specific considerations are:

- **Time and date.** A good rule of thumb for date limitations is from Thanksgiving to the first Saturday in February, which sets a "window" for decorative displays. Such restrictions should be careful not to exclude particular religious holidays or run afoul of the Fair Housing Act. If displays are allowed only two weeks before Christmas, for example, Hannukah displays will sometimes miss that window. Be sure that any reference points use the earliest and latest holiday dates so as not to create exclusion.

Time restrictions should be in keeping with neighborhood sensibility. Permitting light or sound in displays during certain evening hours or prohibiting light or sound in displays during certain overnight hours would be reasonable restrictions.

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- **Nuisance/Safety.** Governing documents often have blanket restrictions on homeowners creating a nuisance or hazards, which may be existing restrictions that allow the HOA to restrict holiday displays that fall outside of the norm. Bright lights and loud music or noises are commonly thought of as nuisances, but they might also create hazards. That highly orchestrated Manheim Steamroller light show might only be fun for *that* homeowner and the people watching online, not the next door neighbor.
- **Fairness and communication.** An HOA would be well-served to consider adopting restrictions that may be applied fairly, reasonably, and uniformly. Proud homeowners are an asset to any neighborhood. In the spirit of the season, any HOA should view the holiday season's decorative displays as an opportunity to positively communicate with and fairly treat owners in its subdivision. Setting clear rules that proactively set the limits and clearly communicate those limits, preemptively ensures that compliance is a gift that keeps on giving all year around.

If you or your HOA have any questions about your governing documents as they apply to holiday decorations, it is a good idea to obtain the advice of an attorney, ensuring that your neighborhood continues to have peace, goodwill and light through the holiday season.