

# Homeowner association could be sued in Trayvon Martin case

MIKE SCHNEIDER, Associated Press -- Monday, April 9, 2012

SANFORD, Fla. (AP) -- If Trayvon Martin's family sues over his death, they might not target George Zimmerman but instead the homeowners association of the neighborhood where the shooting happened and Zimmerman lived.

That's because if Zimmerman's claim that he shot the unarmed 17-year-old in self-defense is upheld by prosecutors, a judge or a jury, Florida's so-called stand your ground law would protect him from a lawsuit. But his clearance or acquittal wouldn't stop Martin's parents from suing The Retreat at Twin Lakes homeowners association -- and its insurance policies and assets would make it a much more lucrative target than Zimmerman, even if he is eventually convicted of a crime.

Plus, lawyers say, Exhibit A would be a newsletter sent by the association to residents in February, the same month as the shooting. It said Zimmerman was the go-to person for residents who had been the victims of a crime.

Under the heading "Neighborhood Watch," the newsletter's message recommended that residents first call police and then "please contact our Captain, George Zimmerman ... so he can be aware and help address the issue with other residents."

That seeming endorsement of Zimmerman exposes the 7-year-old association to possible legal action by Martin's parents, homeowners association attorneys said.

"It's almost like if you give your son the keys to a brand new Corvette when he turns 16" and he gets in an accident, said Roberto Blanch, a South Florida attorney who specializes in homeowners associations. "You may be seen as enabling the occurrence or the loss."

Zimmerman has admitted to fatally shooting Martin during a confrontation Feb. 26 but has said it was in self-defense. Zimmerman spotted Martin from his truck as the teen was returning to the house of his father's fiancée from a convenience store. It was dusk on a rainy evening.

"This guy looks like he is up to no good," Zimmerman told a police dispatcher before the confrontation.

When Zimmerman got out of his truck and started following him, the dispatcher told him, "OK. We don't need you to do that."

Moments later, residents of The Retreat at Twin Lakes heard screaming and at least one gunshot. Police officers arriving at the gated community found Martin shot dead in the chest.

By designating Zimmerman the neighborhood watch captain in the newsletter, the homeowners association "is stuck" if it's sued, said Justin Clark, an attorney based in Longwood, Fla., whose practice includes real estate law.

"So, if you're going to send out a newsletter saying, 'Hey, he is the captain. Whatever he says goes,' You have now basically rented a free police officer for your neighborhood," Clark said. "He certainly took on that role with the homeowners association, and it seems to me that they recognized that."

Don O'Brien, an officer with the Retreat at Twin Lakes homeowners association, said, "No," and closed the door on a reporter who contacted him at his home. No one answered the door at the homes of two other association officers, Jenna Lauer and Cynthia Wibker. All live inside the complex of more than 250 townhomes.

A woman who answered the telephone at the association's management company, Leland Management, said no one would comment. She declined to give her name.

Zimmerman told Sanford police detectives he had lost track of Martin and was returning to his vehicle when Martin attacked him from behind.

Then-Police Chief Bill Lee said detectives were unable to arrest Zimmerman because of Florida's self-defense law, which gives wide leeway to use deadly force and eliminates a person's duty to retreat in the face of danger.

The decision not to arrest Zimmerman has provoked an international outcry, prompting Lee to step down temporarily and the state attorney who normally handles cases out of Sanford to recuse himself. Gov. Rick Scott appointed a special prosecutor to investigate and decide whether to file charges.

Zimmerman had developed a reputation for monitoring the neighborhood. He was well known to local police dispatchers, having made 46 calls to them since 2004, according to department records. Some of those records list the caller familiarly as just "George." The neighborhood had experienced a recent rash of burglaries, and some neighbors welcomed Zimmerman's efforts.

A PowerPoint presentation put out by the Sanford Police Department for neighborhood watch groups, however, makes it clear that Zimmerman's role had limits. The presentation warns volunteers not to try to be police themselves but to "work with the police."

If Zimmerman were to be convicted of a crime, the door would likely be wide open to a lawsuit - Florida courts have held that homeowners associations can be held liable in wrongful-death cases.

A state appellate court in South Florida ruled seven years ago that a Miami homeowners association was partially at fault in the death of a visitor whose estranged husband entered the gated community and killed her.

Who would pay in the event of such a lawsuit would probably be determined by the type of insurance coverage the association has, Clark said. Some policies may be wide enough to cover Zimmerman's actions. If there is no policy or the policy in place is very narrow in its coverage, homeowners likely would have to pay out of their own pockets through higher monthly assessment fees because most associations don't have very deep reserves, he said. He noted that policies typically cover about \$1 million.

"I almost guarantee you there are going to be checks written," Clark said.