

Homeowners' Associations Could Face Liability for Bear Attacks

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[Gary M. Kaleita](#)

It is sometimes said that law is what separates humans from wild animals. While humans have been developing laws since the Code of Hammurabi, they have also been developing land, so much so that both commercial and residential projects increasingly encroach into wild animal habitats. Since 1990, the Florida Fish and Wildlife Conservation Commission (“FWC”) has received over 50,000 telephone calls reporting black bear sightings significant enough to prompt concerns. Since 2013, there have been several instances of bears attacking humans in Florida. As human populations grow and natural habitats shrink, it is increasingly likely that bears may injure people and/or damage their property.

Ordinary Care -

Generally, an owner of land does not have an obligation to warn others about the dangers of animals in their natural habitat, or protect others from wild animal attacks. Yet the law is well settled that an owner or occupier of land must exercise ordinary care in the management of their property, and the breach of this duty gives rise to a cause of action for negligence. While an owner's duty to exercise ordinary care is not expected to prevent all injury, an owner is expected to use reasonable care to discover dangerous conditions on their land and to protect permitted entrants from those conditions. Although the interpretation of this duty varies from court to court, prudent owners should regard every visitor (whether a guest or contractor) as a potential party deserving such protection. Indeed, a Georgia court case indicated that, when a visitor was injured running away from a snake in overgrown grass, negligence could be found if the owner should have foreseen that there were snakes in the area on account of the overgrown grass.

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