



NEWS AND VIEWS

for Homeowners Associations

DAVID BROCK, PCAM



DOES BOARD SERVICE HAVE TO BE SO DIFFICULT?

The position of volunteer HOA Board member is likely one of the least desired volunteer positions in the world. The most common concern expressed by current Board members is that “no one will serve”.

There are a variety of reasons why finding Board members to serve is so difficult, but one reason may be that the perception of the board members job appears to be too much work.

Indeed, some Board members take on more duties than they should. This is certainly true for self-managed associations where Board members must do everything, since there is no management company to carry the bulk...

(continued on page 2)

INSURANCE: ESSENTIAL TO FIND THE RIGHT AGENT!

Insurance is one of the most important issues for every Association Board to address. Without a doubt, insurance is likely the most expensive item in the budget and it carries the greatest potential liability for Associations if not addressed properly. Insurance requirements for HOA's are unique, and just choosing your personal auto insurance agent may NOT be a good strategy. It is absolutely essential that the insurance agent be highly experienced and knowledgeable in the area of homeowner association insurance. Obviously, this would mean that the agent, who is a part of your team of professionals, is fully aware of the legal requirements, and the governing documents of your association.

An example of a problem that can occur by not using an experienced agent is not matching the policy with the C.C. & R. requirements in terms of insuring the interior of your units. Some documents dictate full coverage for interior units while some require coverage that restores the units to the original construction. Insuring incorrectly, either way, can be problematic.

Another common mistake is not providing “building code and ordinance coverage”. Over time building codes change, and if your building was destroyed, you would need to comply with the new building codes. Your insurance policy must provide for this, or the building code updates will not be covered.

Another example is a failure to provide for boiler and machinery coverage. This would include coverage for elevators, sump pumps, pool equipment and boilers in the case of a claim. It is possible that your policy will not fully rebuild the structure if inaccurate building values are utilized. It is important that the agent provide the board with an accurate replacement cost for the buildings. Also, the law requires that associations carry two million of liability insurance for 100 or fewer units, and three million for greater than 100 units. There are agents who write HOA policies and are not aware of this legal requirement.

That said, a good HOA insurance agent should do all of the following for you:

- Review coverage to make certain the Master Policy meets the current civil code and governing document requirements.
- Stay in contact with the property manager and the Board prior to renewal.
- Offer advice on any new items that may affect the Association such as changes to the policies that are offered by the company.
- Follow up on required payments to make sure there is no lapse in coverage.
- Upon renewal, send a statement of coverage on the current policy to the Homeowners Association as well as a copy of the declarations page to the management company.

(continued on page 2)

Does Board Service Have To Be So Difficult?, continued..

... of the workload. However even for managed associations, there are some board members who still take on too much responsibility and give the impression that the job involves a great deal of time and effort.

It is important that Board members know what they must do to perform their role as Board members, and what they can delegate, or better, know what they are not required to handle at all.

Boards have limited authority and are required to act as fiduciaries. The duties typically include the power to manage or delegate management, hire and fire employees or vendors, and adopt and enforce rules and regulations and the governing documents. Boards also approve contracts, levy and collect assessments, pay expenses incurred by the association, prepare and adopt budgets, repair and maintain the common areas, insure the association, call membership meetings, appoint committees, and initiate or defend against lawsuits. All of these items can and should be addressed in the context of a Board meeting, and with the help of appropriate professionals as needed.

Some Board members believe that they must personally do these tasks

and are not able to call on professionals to help. They may have noble intentions to save the association money; however, they end up increasing their own liability and securing job security for a job they really don't want.

Some Board members add to their job by how they choose to handle what they perceive to be their job. In a valiant effort to be communicative and open with owners, it is easy for a board member to get involved in protracted and increasingly angry communication with owners via email when the law does not require such involvement. Email can be a source for unrestrained and hostile emails that cause more damage to relationships in the community than good.

Boards should realize that as volunteers they should keep their involvement to a clearly defined minimum level, and realize that it is too easy to get drawn into issues that should only be handled in a Board meeting. Unless there is a rare emergency, the business of the Association happens at meetings where a majority of the Board is present.

Board members have no power individually, but only as a majority of the board. A Board

member speaking outside of a meeting can be a dangerous thing. Emails when received from an owner about previous or future Board business should receive a response that thanks them for their email and that it will be shared with the full Board at the next meeting, after which the Board may respond.

Finally, while on the subject of communication, Board members, who are acting in their capacity as Board members, should never personally confront an owner outside of a board meeting on an issue unless it is an emergency. Rather, a neighbor with a complaint against another neighbor should deal with the issue directly, and not involve a Board member. This normally applies to loud noises or music. Board members are NOT on-site managers.

In closing, the job of the Board members may actually be easier and more enjoyable than you thought. If some of these ideas are followed, your residents will hopefully learn to be more respectful of your service for the community and learn to respect your time as a volunteer Board member.

INSURANCE, continued..

- Attend meetings as requested. This is recommended to be done once a year.
- Prepare information packages to send to the unit owners with a general description of coverage mailed at the Agent's expense.

The cost of the insurance premium presented to you should not be the only factor in determining whether it is a good policy to purchase. It is important to know what you are buying. If you are inclined to purchase the lowest cost policy, you should make sure you have the right agent and that they have done their job.

STEVEN G. SEGAL INSURANCE AGENCY, INC.

Over 33 years of experience specializing in:
 Condominium Associations • Planned Unit Developments
 Hard to Place Associations • Earthquake Coverage
 High Rise Condominiums • Workers Compensation

Toll Free 800-345-8866 • Toll Free Fax 800-262-0973
 Email: SSegal@farmersagent.com
 www.farmersagent.com/ssegal • License #0E24660

This Newsletter is circulated for general informational purposes as a public service and promotion by the Beven & Brock Property Management Company. The contents are the opinions of the firm, or the authors, and not intended to constitute legal advice, and should not be relied upon for that purpose. If you have a legal issue related to a subject of this newsletter, you should consult the California Civil Code and your attorney. The paid advertising in this newsletter is provided as a courtesy to our readers and does not constitute any endorsement by Beven & Brock. The advertisers provide their services to HOA's and some may have provided services to Beven & Brock's HOA clients in the past.

INSPECTOR OF ELECTIONS: WHAT DO THEY DO?

By Doug Gooch, *Informative Elections*

Many associations have come to understand that election inspectors are required for their association elections; however there is still some misunderstanding about the role of the election inspector. Most people think that the job just involves counting ballots. But wait, there is much more to the job.

The primary goal of the Inspector of Elections (IOE) is to insure that your election is conducted based on your "election rules", CC&Rs and By-Laws. Although most associations have current "election rules" as required, the IOE still has to refer back to the By-Laws and CC&Rs. Many associations are using their original By-Laws and CC&Rs that were drafted long before the civil code 1363.03 of the Davis Stirling Act, which became law in 2006.

While there are a variety of rules that have been drafted, some of which may not be legally compliant, the job of the inspector is to make sure that the rules are followed explicitly. Since the legal requirement of having an election inspector is relatively new the election process may seem confusing. Therefore the IOE should send out a letter with the nomination form explaining the process. Even though it states in the letter and on

the nomination form to make sure someone is willing to run for office before nominating them, many people nominate other owners without their knowledge. It is the responsibility of the IOE to check with anyone who did not nominate themselves to make sure they are willing to serve on the Board if elected. This is important for several reasons and if not done problems may result. One problem is that the nominated person may be unhappy to see their name on the ballot, but more importantly, votes that could have gone to a willing candidate went to someone who did not want their name on the ballot. This could cause a different result in the election and could even cause the election to be challenged and a new election to be held. By verifying with the nominee before producing the ballots, a lot of headaches are avoided.

In the case of a special assessment ballot, it is important that the IOE explain the proposed special assessment, stating the purpose and the payment options. Explaining that this is a one-time assessment, and what is required for additional assessments causes the homeowner to understand what he is voting for or against.

Many associations experience difficulty in obtaining a quorum. The IOE can help with this problem by providing the unit numbers of those owners who haven't voted yet, so that the Board can attempt to contact these owners to encourage them to vote. This will save the association the costs of having to hold a second election later in order to meet the lowered quorum requirement. The purpose of the IOE is to make sure the election runs smoothly and to make sure that the governing rules of the association are followed. Keeping the Board and/or Property Manager informed as the nomination and ballots arrive relieves stress for the Board and produces a successful election. In addition, the IOE should carry E&O insurance to protect himself and the Board in case any election is challenged.

Yes, the ballots are counted, but also so much more.

Doug Gooch owns and operates Informative Election Services, which is based in Pasadena. Doug can be reached at: informativeelection@yahoo.com

New Notification Requirements on Foreclosures

One of the greatest financial challenges facing homeowner associations involves the collection of delinquent assessments. One of the specific challenges in the past has been in determining the contact information of the foreclosing party (usually the lender) so that the HOA... *(continued on back)*

(800) 956-8745
Vanderbilt II Group
FHA Condo Approval Specialist
vanderbilt2group.com

F & M Plumbing
FMCO Haddad Construction Inc.
 "The One Stop Shop" COMMERCIAL, RESIDENTIAL REPAIRS, REMODELING, NEW CONSTRUCTION Free Estimates And Senior Citizen Discounts Specializing in Gravity Heaters
626-296-1060
 LICENSED | INSURED
 State licensed C-36 license B license

HGI-TheRestPros

TIMOTHY CLINE
INSURANCE AGENCY, INC.
 Specializing in Association Master and Earthquake Policies
www.timothycline.com
 (310) 260-2900 ext. 25
 CA License #0C10844

New Notification Requirements on Foreclosures?, continued...

... can change owner information and begin billing the appropriate party.

Once a foreclosure occurs, the former owner's responsibility to pay continuing assessments stops and the new owner (foreclosing party) must begin paying from the date of the foreclosure sale. Up to this point, it has proven to be very difficult, if not impossible, to determine the status of a foreclosure sale and who the foreclosing party was. Sometimes private investors who have purchased units at foreclosure sales have intentionally delayed recording the deed so as to avoid triggering a bill to pay HOA assessments.

The Community Associations Institute California Legislative Action Committee co-sponsored Assembly Bill 2273 with the Conference of County Bar Associations. That bill was signed into law and became effective on January 1, 2013.

The bill accomplishes two things:

1. It requires foreclosing parties to record a sale within 30 days of the sale;
2. It shortens the time for foreclosing parties to notify association that they are the new owners, provided, the HOA recorded a "Request for Notice" prior to the property receiving a Notice of Default. If recorded, the foreclosing party must notify the HOA within 15 days after the sale. The prior law required such notification after the deed was recorded, which has in the past taken months or years.

In order for notification to take place, an association must complete a "Request for Notice" under Civil Code Section 2924b, which must be recorded prior to the filing of any Notice of Default being filed. Since it is impossible to know what units may have a Notice of Default filed, the Board may choose to file this form on every unit. Fortunately, one form can be filed per association, but it must list the Assessor's Parcel Number for all units on a second page, which is also recorded.

If you are interested in having this filing completed and recorded for your association, you may send an email to HOANewsletter@bevenandbrock.com for information on the costs involved. Reference "Notice of Trustees Sale" in your subject line.

State Farm®
Providing Insurance and Financial Services
Home Office, Bloomington, Illinois 61710



John R Sinner Ins Agcy Inc
John Sinner, Agent
Insurance Lic#: 0589670
Bus: 626-576-1078 Toll Free: 800-516-1078
john.sinner.b8h5@statefarm.com



Painting
Greg Lewis
P. (818) 951-3207
F. (818) 951-5279
www.ferrispainting.com



Garden View, Inc.
High Quality Gardening Services
'Specializing in HOA
Landscape Maintenance'
(626) 303-4043
www.Garden-View.com
email: info@garden-view.com