

HOMEOWNER ASSOCIATION LEADERSHIP TRAINING

A GUIDE for the PRESIDENT

Approximately 40% of California residents live in community associations. The leadership of every Homeowner Association (HOA) is comprised of volunteer Board members who in many cases neither desire or understand their role as Board member. Almost every Association struggles with finding owners who are willing to serve on the Board. However, Board members are responsible for millions of dollars of real estate and must make decisions that impact the value of real estate as well as the community life of the residents.

It is important that Board members fully understand how to handle their responsibility, but most importantly that the President understands how to lead the board. This is important not only for the purposes of legal responsibilities as a board member, but also so that realities of board burn-out and dysfunction does not occur. Excessive board turnover and association conflict can be avoided so that Board members can actually come to a place where serving on the board is not a dreaded and undesirable position.

As a Professional Community Association Manager (PCAM) since 1990, and also in my capacity as a Partner at Beven & Brock Property Management, Inc. which manages several hundred Homeowner Associations I have seen a few great Presidents who have led their communities well. However, sadly, there are too many Presidents who have struggled in the position of President, and leave the Board with the community and themselves feeling frustrated.

The purpose of this document is to provide specific support to the President of the HOA Board in understanding how to fulfill this role effectively and lead the Association successfully. The role of President is the most important position on the Board and in the Association, and it mandates a certain set of responsibilities that must not be taken lightly. If the role of President is carried out as outlined here, the Association and the Board will be less likely to experience the difficulties that many HOA's experience of dysfunction and conflict. Most importantly as President when you lead in the ways discussed here your Board members may find that they actually enjoy serving on the Board and will want to continue on as Board members for a longer period of time.

What the role of President does not entail!

It is important first to address what the role of the President actually is, and is not.

- The President is NOT the manager of the association unless the Association has not hired a management company.
- The President is NOT the single point of authority or primary decision maker in the community.
- The President has no power that is greater than that of any other Board member.
- The President (or any Board member) is not expected or required to resolve issues or problems without outside input and help. Similarly, no Board member is expected or required to provide “professional” help to the Association.

What the role of President does entail!

- The President is the leader of the Board.
- The President is the facilitator or the Chair of Board meetings and interaction between board members.
- The President is most commonly the spokesperson for the Board.
- The President can be the liaison with the Management Company, or they can appoint another Board member.
- The President is responsible for delegating the workload among the Board members.
- The President chairs the meetings of the membership.

Fiduciary Duties of the Board

Board members of an HOA are required to wear two hats that, at times, may be in conflict with each other. Non-board members likely have a different perspective than Board members have. The role of a Board member requires that they make decisions that are the best for the Association as a whole, and not for any individual owner, or group of owners. Board members owe a fiduciary duty to association members. A fiduciary is required to be extremely loyal and must not put their personal interests before the Association.

A common situation where this conflict exists is in the budget process. It is very easy to approach the budget discussion as to what they desire their assessments to be, as opposed to what the assessments should be for meeting the needs of the Association, both now and in the future. Presidents must be fully cognizant of this conflict both in themselves as well as the other Board members and it may be necessary to continually remind board members of this duty. So as to avoid embarrassment, it may be best for the President to address this issue privately with any Board member who doesn't remember this duty.

A Board that makes decisions that are arrived at from their individual perspective will likely ultimately damage the Association. Owners who cannot think about what is best for the Association first should not serve on the board.

The Board Role

So what is the Board's role exactly?

The primary function of the Board is to maintain, protect and enhance the assets of the Association. The board is responsible to govern the community in a way that is business-minded and legally compliant. The Board is responsible for setting policy and overseeing the vendors that are hired to fulfill their function. The Association is a business and must be operated as such.

The best functioning Boards operate with a full slate of Board members who each have a specific set of tasks that they are responsible for.

The President should help identify Board members abilities and desires, and assign tasks accordingly. The President should be able to expect each of the Board members to complete their role and report at each meeting as appropriate. The Board must operate as a team, and not permit inactive or apathetic members, otherwise more of the work will have to be carried by the other members.

HOA Boards typically consist of three or five members. In a three member board, the roles should consist of President, Secretary and Treasurer. The President or a homeowner may have to assume the tasks indicated here under Vice-President or Member-at-Large if they are considered important in your community.

In a five member board, the following delegation of tasks works well.

What are the tasks or roles that each Board member should be responsible for:

1. The Vice-President supports the President as needed. The Vice-President can oversee a specific area of need for the community, such as: landscaping, parking, rules, welcoming of new residents, community building events, social events or special projects.
2. The Secretary is responsible for taking minutes at meetings, working with the President on the Agenda, and creating and posting notices for meetings.
3. The Treasurer oversees the financial aspects of the association by working with the Association manager or accounting staff on issues such as: reviewing the monthly

financial statements, explaining and clarifying financial issues to the Board and having an understanding of the reserve study, and the status of the Reserve Fund.

4. The Member-at-Large board member can function in much the same way as the Vice-President handling the items mentioned above.

The President should learn how to delegate the tasks to the right person, and once delegated, not attempt to overstep the Board member that has been assigned the task.

If there are vacancies on the Board, the Board can appoint someone to serve until the next election.

Communication

Communication within the HOA can take on a variety of formats. This includes communication between Board members, Board members and owners, and between the Board and outside vendors.

The only proper legal method of conducting official business is at a meeting of the Board. The issue of Meetings will be addressed separately later on. This section will address the other forms of communication.

E-mail is often utilized by Board members, but by law cannot be used as a means of conducting business. There are a few rare exceptions. Email can be used for:

- Emergencies: E-mail may be used as a method of conducting an emergency meeting if all members of the board, individually or collectively, consent in writing to that action.
- Non-Business. A majority of directors may send and receive emails between themselves if it does not involve board business. Following are examples of allowable email exchanges:
 - setting dates, location and times for meetings,
 - distributing information for meetings,
 - requesting that items be placed on the agenda, and
 - informational emails (informing directors)

We believe that volunteer directors should not have to work more than absolutely necessary. Excessive discussions by email require Board members to be always “on-duty”, and thinking about association issues. Wouldn’t it be better to have a more organized and efficient discussion once at a Board meeting, as opposed to a constant on-going discussion?

Another reason as to why it is important to refrain from email discussions has to do with the fact that homeowners have the right to see and hear the board discuss matters that will affect them. With private discussions between board members via email, the owners are excluded.

We would recommend that you discuss with your Association manager the timing and method of preferred communication, and that your board would elect to have information and updates at one time, per month, just prior to board meetings.

Communication via email with vendors and Board members is certainly acceptable and preferable. However, it is best that only one board member act as the liaison with the vendor to avoid confusion. Ideally, the Association Manager fulfills this role.

Meetings

The best advice on this issue is to have regular meetings. Many board members believe that having fewer meetings is better. However, if you do less by email through the month, and if you can be organized and efficient in how your meetings are conducted as explained here, you will spend less time on Association business overall.

The governing documents of your association may specify a certain number of meetings that you should have, whether monthly or quarterly. But if not, in order for a Board to function effectively it is recommended that you have ten to twelve meetings a year. A board may elect to not meet in one month of the summer, and during the month of December. If the Association is smaller (under 20 units), and there is very little going on most of the time, meeting quarterly may be adequate providing the By-laws allow this.

It is best to set a specific day of the month for your meetings, such as the third Wednesday, as an example. There are several reasons why this makes sense. The Board members can set other regularly scheduled events around this meeting, thus increasing the likelihood that all members can be present. It creates more work for the leader to keep moving the meeting around. As the President, you should insist that the Board members need to be present and prepared for meetings. It is not fair to the board members who do show up to allow for many absences by your Board members.

Board meetings are the best opportunity for owners to raise issues of concern or address currently pending items. Board members should not have to be address Association issues between meetings, while they are enjoying time at the pool, or getting their mail. Board members may have to be firm about setting boundaries regarding this.

Finally, it is important to have a set day to meet, so that your Association Manager can provide the material the Board members need to make decisions ahead of that time. If the meeting time is unpredictable, the manager may not be able to have sufficient time to provide you a monthly report, which usually forms the basis for the Agenda and decisions that need to be made.

Since Board meetings are the primary vehicle for discussion and decisions, the President must be very intentional about how meetings are conducted. Planning and educating your Board members on what is expected of them is critically important.

Successful meetings occur when the following occurs:

1. Preparation - As the President, insist that the material for Board members to make informed decisions is in the Board members hands at least four days prior to the meeting. This may mean that you will have to establish deadlines with your vendors who submit items for the meeting by a certain deadline. Again, having a regular set meeting time is helpful.
2. Insist that your Board members actually read the material prior to the meeting. The meeting itself is not the time to get up to speed on the issues, unless of course you enjoy long meetings.
3. Proper handling of the Open Forum time - this is addressed in the next section.
4. As the Chairman, be vigilant to stay on the Agenda and not allow the discussion to move to other topics. Make a note to raise those issues later for a future meeting agenda, if warranted. Always focus the discussion toward a decision.
5. Use Robert's Rules of Meeting, at least to have motions made, and seconded, prior to discussion and voting.
6. Minutes must be taken, but should not be overdone. (See section below on Minutes).
7. Set a reasonable time for both the Open Forum portion and the Board discussion of issues. If an issue cannot be addressed in a set time frame, it likely means that you don't have sufficient information yet, or Board members are not yet up to speed.

Open Forum

The "Open Meeting Act," provides association members with the right to speak at open meetings of the board. This is commonly referred to as the "Open Forum" portion of the meeting. The only time members have a right to participate in meetings is during the "Open Forum" portion of an open meeting.

It is strongly recommended that Boards create reasonable rules regarding how long they will permit an owner to speak. A three minute time frame is customary. There is no limit on the number of topics owners may address during Open Forum however the time limit applies regardless.

Members can ask questions but Board members are limited in how they can answer them. Board members may briefly respond to statements made or questions posed by a person speaking at a meeting. However, unless the Board is directly asked a question, the Board members are strongly encouraged to NOT respond to comments raised in the Open Forum time, other than to thank the owner for their input. It can occur where owners feel the need to verbally attack the Board. It is best, although difficult, to not respond defensively or in anger. Do your best to keep the meeting at a professional, and business-like manner.

It is important to realize that all owners may have something valuable to say and their comments should not be rejected solely based on their reputation in the community.

Owners may want to discuss issues with the Board such as their delinquent account that may already be in collection. The Board should never attempt to subvert a process that is already in motion. There will be complications if the Board promises something that cannot be done.

Members have a right to observe the conduct of the board's business but they do not have a right to participate in the meeting after the Open Forum period is over. Once the Open Forum period is over, remind owners, if necessary, that they cannot speak during the remainder of the meeting. If you allow this, the meeting will last far longer than necessary. The Open Forum is often held at the beginning of a meeting, but some Boards choose to hold it at the end of the meeting.

Discussion and Decisions

A primary purpose of the Board is to make the best possible decisions for the entire community. The decision making process is the primary function of the Board meeting. In order to do this effectively, the Board must learn the art of healthy deliberation and discussion. The President plays a major role in this process.

The President must pay close attention that one board member (including the President) does not dominate the discussion. The quiet or shy board member should also have an opportunity to express their opinion.

Another key rule is that every board member approaches every issue with an open mind. It is far too common for Board members to come to this process with their mind already made up.

The best decisions are those that are made by a group that has healthy disagreement and discussion. This process also includes input from outside experts as well as your constituency, the owners. Once the Board makes an informed decision, then that is the position of the Association on that issue. It is wrong for a Board member to attempt to oppose the decision outside of the Board meeting to owners, or to attempt to overturn the decision by speaking to owners about it which creates conflict within the association.

Minutes

As a rule, minutes should record what was done at a meeting, not what was said. Following is a list of essential information that should be found in every set of minutes:

1. Name of the Association.
2. Type of meeting: regular, special, emergency, executive session
3. Date, time and location of meeting.
4. Attendees: directors who were present and who was absent, along with their titles (President, Treasurer, etc.). The minutes should also list guests who were invited to speak to the board, such as the association's CPA, contractors bidding on projects, the association's attorney, etc. Members who attended the board meeting should not be listed.
5. Approval of minutes: Prior meeting minutes should be read and approved.
6. Treasurer's report: A verbal report is sufficient.
7. Committee Reports, if any. The full report can be attached to the minutes.
8. Guest Speakers: "The name and subject of a guest speaker can be given, but no effort should be made to summarize his remarks.
9. Motions and how directors voted. The motion should include the rationale for the board's action. Also include any emergency actions taken between meetings by unanimous written consent with the written approval by each Board member attached.
10. Executive session: General description of matters discussed in Executive Session.
11. Date of the next meeting.
12. Adjournment: note the time the meeting was adjourned.

Beven & Brock's web-site offers a template for taking Minutes which makes the process very simple. Consult with your Association Manager as to how to access this resource.

Vendors

An important aspect of the Board's work is to locate appropriate service providers to meet the needs of the Association. From time to time, it will be necessary or desirable to replace a service provider or vendor. The primary goal should never be to go with the least expensive price. The primary considerations for any vendor selection should be the following issues:

- a) Licensed: most work performed at your property should be completed by a California State licensed contractor.
- b) Insurance: the vendor should provide evidence of General Liability insurance.
- c) Worker's Compensation insurance: if the vendor has employees they should provide evidence of Worker's Compensation insurance. If there are no employees, obtain a written and signed statement to that effect.
- d) References should be obtained.

A management representative will assist the Board in this process. Resist the idea of finding vendors in the yellow pages, the street corner outside Home Depot, or a friend or relative of an owner or Board member.

Management

The management company, if utilized by the Association, is the key vendor for the Association. The management company has the ability and resources to provide many services to Boards such that their job is made much easier. If a management company is utilized, the Board's duties should primarily consist of setting policy and making decisions based on information presented to them by the association manager or consultant. Some Board members do not understand this distinction of roles and will often try to do the work of the manager. This not only creates confusion in the relationship but it makes much more work for both the manager and the Board member. The bottom line is that the Board is not the manager, but needs to provide sufficient direction and empowerment to the manager so that the volunteer Board members have less work to do.

In an effort to streamline operations, the Board should empower the Association Manager to make decisions that are within set guidelines so that the volunteer Board members have less to

do. Examples would include replacing dead landscaping, replacing light bulbs, and handling routine maintenance without having to obtain prior approval from the Board.

Financial Oversight

The Board is advised to adopt financial policies such as those provided here:

1. Project a reasonable budget and distribute to owners as required
2. Stay within your budget, except for emergencies.
3. Act as legally allowed on delinquencies and consistently with all owners
4. Faithfully follow the recommendations of the reserve study
5. Obtain a reserve study as required and utilize the reserve Professional to help with the Annual disclosure requirements each year.
6. The Treasurer should be reviewing the monthly financials, and report to the board on the following: Delinquencies over 30 days, year-to-date expenditures in excess of the budget and the maturity of reserve funds.
7. Never put the associations funds at risk (i.e. reserve investing)

Board and Association Stability

A great challenge faced by many associations is turnover of a complete Board at one time. Board member continuity is essential to maintaining stability for the owners and for your vendors. Since recruiting new board members is always a challenge, it is important to always be thinking about future board members. Some successful ideas in terms of recruitment are:

- 1) Create informal opportunities to connect with owners, usually social events. This helps to break down the barriers that often exist. Owners are more likely to serve if they know someone on the board.
- 2) Meet new owners who have purchased in the Association and encourage them to get involved.
- 3) Create an atmosphere where serving on the Board is a great experience. Owners are more willing to serve on a board that they view as productive and healthy. Having organized and efficient meetings goes a long ways toward giving a great impression to prospective members.

Plan ahead for smooth board transitions. A new Board member should serve on the Board in a position other than President for at least a year before becoming President.

Avoiding Conflict

A major obstacle that many associations face is conflict within the Association. Conflict is the major reason why owners refuse to serve on the Board, and why Board members want to leave the board. It is the reason why “nothing ever gets done”. Conflict plays a role in why some owners choose to sell, and why some people vow to never buy a condo.

Can conflict ever be completely avoided? Likely not. But there are some ideas as to how conflict will be less likely to occur.

- 1) Do as much business in the open as possible. Use Executive Session only as absolutely necessary.
- 2) Think first of the Association’s needs and interests.
- 3) Plan occasional informal gatherings for owners to meet.
- 4) Entertain all ideas while discussing a topic.
- 5) Never undermine the majority Board decision after the decision is made.
- 6) In enforcing rules and policies, act consistently with all owners.

Conclusion

This document is intended to provide some guidance and help to Board Presidents, however, any Board member can learn from this as well. Feel free to pass this on to your Board.

This is an evolving discussion, and future re-writes of this publication will be made over time.

Your input is welcome, and I am always open to listening to, and incorporating other ideas that have proven to be successful.

Feel free to write me at dave@bevenandbrock.com. If you do, please reference the title of this: “*Homeowner Association Leadership Training*”.