



Board Members are the BEST Volunteers!

By David Brock, PCAM

National Volunteer Week, brought to you by Points of Light, the world's largest organization dedicated to volunteer service, is about inspiring, recognizing and encouraging people to seek out imaginative ways to engage in their communities.



In the vast world of volunteers who serve many worthy organizations, there is no greater volunteer, in my opinion, than the homeowner association board member who serves as a volunteer for their community. Association board members are not like the volunteers at the hospital, museum, church or the local school, who faithfully show up and serve. HOA board volunteers serve out of necessity, since few are willing to serve, and address difficult and potentially contentious issues that involve their neighbors.

Why do I believe association board members are special?

I LOVE MY CONDO BOARD
Orange Grove Gardens
Pasadena, California

Because they live in the community in which they serve and many association board members make themselves available at a moment's notice to handle issues and problems in their community. Board members may be required

Board Members are the BEST Volunteers!: continued on page 4.

HOA Homefront - Don't Be Caught Napping - Your Rights At Risk!

By Kelly G. Richardson, Esq.

Some well-intentioned ideas can boomerang and hurt those who are intended to be helped. Such is the new Civil Code 4041, created by last year's SB918.

Section 4041 appears intended to protect homeowners by requiring annual reminders to keep their mailing addresses current with their associations. It requires each owner to annually notify the HOA of the address(es) and any secondary address for HOA notices, the name of the owner's legal representative or holder of a power of attorney or someone who can be contacted if the owner is on an "extended absence" from the home, and whether the home is owner occupied or rented. At least thirty days before the Annual Budget Report is sent out each year, the HOA must solicit this information. If the owner does not respond, the HOA must use the home's address as the address for notices.

The greatest trap for unwary homeowners is that last requirement of 4041(c) - the requirement that the HOA, if it receives no update from an owner, must use the property address as the official address for the residence. This would mean that future notices need not be sent to the owner's off-site address, with potentially disastrous consequences to the off-site owner. **The property could be fined or foreclosed without the owner knowing of the problem, because the tenant never forwarded notices to the landlord.**

Owners who rent their units or who are often away for extended periods of time must be very careful about their annual updates to the HOA. Owners who for many years had a written notification on file with the HOA listing their secondary address can no longer rely on that one-time notification. Notifications must now be given by owners each year, or notifications from the HOA will start going to the wrong address.



Another question is whether this statute effectively negates Civil 4040(a)(2), which allows a member to file a written statement with the HOA consenting that future notifications may be delivered by e-mail. Would 4041(c) mean that owners now need to also annually update that information? The safe bet is that owners should do so, to make sure they continue to receive electronic notices instead of postal mail.

Civil 4040(b) allows owners to designate in writing a secondary address for the HOA to send Annual Budget Reports, Annual Policy Statements, and notices relating to assessment delinquencies. Owners who have in the past designated a secondary address to their HOA should beware the impact of Civil 4041(c) and make sure they respond each year.

Another question unanswered regarding the new statute is how long HOAs must wait until they change the notification address after owners fail to update their information. Is it two weeks, thirty days, or sixty?

HOA Homefront - Don't Be Caught Napping: continued on page 2.

Without any clear guidance on this issue, and given the potentially severe consequences, associations and managers may find themselves sending multiple copies of notices – one to comply with 4041(c) and another to the last known other address on file.

The extra record keeping update work and extra mailing cost required by this statute may result in associations being charged more by their management.

Hopefully in coming months the Legislature will fix this law, but until then, off-site owners should be careful to annually and promptly provide their off-site addresses.

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THE PRESIDENT of THE BOARD!

Every organization must have effective and strong leadership in order to function. Without question, common interest developments that have a strong and cohesive board of directors in place are more successful, stable and healthy.

The nature of homeowner association leadership is based on a board of directors that are elected by its members. Unfortunately, too many boards of HOA's are comprised of members who do not want the job, leaving the burden of responsibility to one or sometimes two board members.

Strong leadership qualities are absolutely essential for the President. Amazingly, there are HOA boards who don't have a leader. The President of the association is clearly the most important position of the board, and the leadership ability of the President will largely determine how successful the Association operates. Much like the conductor of an orchestra, the job of President is to unite the performers and get things accomplished.

It is important to note, that as important the job of President is, the President does not have any more authority or power than that of any other board member. The President cannot individually determine anything, and the President has only one vote.

Let's examine the unique role of the President and then we will look at the skills and qualities required to be an effective President.

1) The President must focus on the big picture, which includes understanding the needs and goals of the Association, and keeping the board on track to address them at meetings.

2) Schedules meetings and determines the Agenda for all meetings of the Association.

3) Chairs the board meeting, keeping the discussion on subject, and not allowing tangents to develop. The primary goal of every meeting is to make decisions after reviewing all relevant material and a focused period of discussion. The President should work to make sure all members receive and review material regarding the decisions to be made, prior to the meeting.

4) The President manages the board, not the association, unless there is no management company. The job of the President is to delegate to each board member areas of responsibility, ideally, consistent with their strengths and abilities. In managing the board, the President should make sure that the board is comprised of active and committed board members with each board member having a job to do. The President must be sure that all board members are functioning in their assigned position while being careful to not do their work or the work of any of your paid vendors.

5) The President, or any board member, is not expected to be an expert or offer technical expertise that they may have. Reliance on experts outside of the association is important to maintain legal protections for volunteer board members.

6) The board President is the official spokesperson for the Association and represents the board and Association to third parties, usually vendors, unless this is delegated to another board member. It is very important that only one member be the contact with management and other vendors, so that the board always speaks with one voice.

7) The President should be the first to recognize when outside help is needed, such as legal or other technical advice.

8) One important issue is the recruitment of new board members to serve. The President should always be thinking about recruiting board members and encouraging the other board members to do the same.

The President of an Association should not be new to the board. It is always best to be trained for this position, and the best training comes from serving in another position on the board first. Board service on another HOA board or the board of a non-profit is helpful. A first year board member who immediately becomes President is usually not best for the association.

The best board presidents generally come from a career in law, or management. A business background is very helpful, since the Association should be run like a business entity.

The qualities of a good President include being organized, an ability to see the big picture as well as the ability to create a team spirit. Good Presidents don't get involved in the minutiae but delegate those to other board members, or a committee. In addition, excellent communication skills, both written and verbal, are important.

In closing, the position of association President is not for everyone and if there are no natural leaders in your association, there is training available. Leadership skills can be acquired. Hopefully in your association the President is the leader that inspires confidence and earns the respect and trust of your owners.

Rules about Rules!

The creation of “Rules and Regulations” is an important, necessary and potentially challenging function for the HOA Board of Directors. It is important that board members understand both the legal and practical issues involved in establishing and amending their rules.

The creation of strong and enforceable rules is necessary since the language in many association governing documents is often vague. An example of some language that can be found in governing documents is: “no noxious, illegal, offensive activities

shall be carried on in any Living Unit, or in any part of the Project, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of

each the Owners of Living Units”. The issues that many associations face, such as parking, pets, pool usage, noise and architectural modifications need to be clarified in a far more specific manner in order to be enforceable.

There is basic disagreement about the necessity of rules. Some board members feel that having an abundance of rules is best, and some feel that no rules, or very few, is the better way to go. The problem is that once you realize you need a rule it’s too late. It can be challenging to develop a rule under these circumstances because the rule may be created so narrowly that it only fits the current situation. Rules take at least 45 days to create so it is best to foresee as best you can the need for certain rules.

The very act of making and enforcing rules can be contentious, so it is important that the board become familiar with the process of creating rules for their association to avoid problems with enforcement later. The primary goal is to create rules that are both reasonable, enforceable and not contradict the governing documents. The law

requires that enforceable rules are those that are in writing, and are within the board’s authority and are reasonable.

In drafting rules, consider writing them in a way that explains the need for the rule. Avoid beginning a rule with the words “Don’t” or “Never”. As the first sentence of the Rules, try to begin with a statement such as: “The Happy Camper Homeowners Association values a high quality of life that includes mutual respect between the residents as well as an increasing sense of value in our community. We believe that property values are



best maintained when owners understand how best to use the shared common areas and how personal choices may affect our neighbors who live in close proximity to each other.” Rules are a form of education and

should encourage good behavior and not send the message that they just enlisted in boot camp.

The process involved in the adoption of rules is the same regardless of whether you are adopting a set of rules for the first time, or amending existing rules. The first step involves the board writing a draft set of rules to discuss as potential rules at an open meeting. As is required, the rules proposal must be announced on the Agenda and posted in the common area prior to the meeting. It is not possible to have a board member propose a rule spontaneously at a board meeting, unless it has been placed on the Agenda prior to the meeting. Once properly announced on the agenda, the board should deliberate the potential rules.

Once the board has drafted the proposed rule(s), the board must then provide a written notice of the rule(s) to the owners by first class mail. The notice must include the text of the proposed rule and a description of its purpose and effect. This must be done thirty days before the board can officially vote to adopt the new rule(s). At

the conclusion of the 30 day notice period, the board can then meet to officially adopt the rules in an open meeting. At this meeting, owners who have opinions about the rules may speak to the board during the Open Forum portion of the meeting. The board members

Rules about Rules!: continued on page 4.

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Rules about Rules!: continued from page 3.

should listen carefully so that the comments can be discussed after the Open Forum. Owners who take the time to attend a board meeting and speak to a rule change may have valid points that the board should consider. If the board determines a change in the rule is necessary after listening to the owners, the amended rules need to be redistributed to the owners for another 30 day review period. After the thirty days are over, the board can then approve the rules.

The final step is for the approved Rules must be distributed to all owners within 15 days of adoption. This step, as well as the prior step of notifying owners should be done by First Class mail. Additionally, the Rules are required to be sent to all owners each as a part of the newly required "Annual Policy Statement". The board should follow all of these steps in this process which will help to support the board in the enforcement process in the future. If done correctly, it strengthens the board's ability to enforce the rules. The owners have one last say in this process. If 5% or more of the membership object to the rule change, they may demand a membership meeting to vote upon reversal of the rule(s).

The board may approve an "emergency rule" and by-pass this process if a rule is necessary to avoid imminent threat to health, safety or to avoid substantial

economic loss. Such a rule can only be in effect for up to 120 days, and may not be renewed.

One final important aspect of rules development is the "fine policy" which must be included in your rules in order for them to be enforceable. Without a fine policy, the rules are void. Owners should know what the penalty is for each violation. Similar to the rules themselves, the fines should be reasonable and "fit the crime". Excessive charges for minor infractions will likely not be held to be valid by a court if challenged. Many associations adopt an escalating penalty system which is appropriate. It is a good idea to provide for an initial warning, with no penalty. Thereafter, the fine for the 2nd offense may be \$25.00, \$50.00 for the third offense, and \$100.00 for subsequent violations. The goal is to encourage compliance, not to increase revenue for the Association.

Rules are usually necessary for most every association, but they should never cause the community to become a place of suspicion and hostility but rather an environment where a strong sense of community is created. The process of developing rules is a balancing act of creating a strong and healthy community while at the same time keeping owners in check who think they purchased a single family home and have complete freedom to do as they wish.

Board Members are the BEST Volunteers!: continued from page 1.

to serve at inconvenient times of the day and sometimes in the midst of highly charged circumstances.

Yes, I really believe HOA board volunteers are truly amazing and valuable. For 43 years, National Volunteer Week has been celebrated in April and this year April 23-29, 2017, has been declared as National Volunteer Week. This week is about inspiring, recognizing and encouraging people to seek out imaginative ways to engage in their communities. It's about demonstrating that by working together, we have the fortitude to meet our challenges and accomplish our goals.

National Volunteer Week is a

time to celebrate people doing extraordinary things through service. Established in 1974, National Volunteer Week focuses national attention on the impact and the power of volunteerism and service as an integral aspect of our civic leadership.

Beven & Brock would like to take this week to honor many, many HOA board volunteers who give faithfully and tirelessly to serve their community for no pay, and very little recognition and appreciation.

Without the service of the HOA Board member, the community would be not be the same. Thank you for your tremendous and invaluable service to your community.

10 Ways to Improve Property Values (Part 1)

By Robert M. Nordlund, PE, RS
Association Reserves, Inc.

It's hard to dispute the adage, "In property, three things matter: location, location, and location." A community association board can't usually do much about a property's location, but it can and should do many things to enhance the value of its owners' homes.

Too many boards waste too much time on urgent, ultimately petty matters like disputes about people, pets, and parking. This is unfortunate; for most homeowners, housing is their largest single asset. A board that acts to maximize home value makes a large and lasting difference to its members' wealth.



What are the most important things that an association board can do to enhance property values? Based on 30 years of experience in the industry, here's my Top 10 list:

1. Budget accurately & honestly

A realistic, balanced budget is the foundation of a board's ability to boost home values. Associations need an operating budget that reflects the cost of running the association and maintaining common areas day-to-day, and a reserve budget that offsets long-term maintenance costs.

Operating budgets show income and expense, including everything from salaries to light bulbs, estimated based on month-to-month experience. Most boards find operating budgets relatively easy to understand.

Reserve budgets are a bit more esoteric. They project the future cost of the repair, replacement and refurbishment of association common areas. Reserve budgeting begins with an estimate of costs expected to occur every 2, 5, 10, 20, or even 30 years. Then those costs must be translated into an annual figure that reflects the yearly, ongoing deterioration of the common areas. That yearly figure is the amount that should be transferred out of the operating account into the reserve fund.

Because reserve budgeting is complicated and requires many

judgment calls, many boards rely on the results of a formal Reserve Study prepared by an independent, CAI credentialed Reserve Specialist™.

2. Maximize curb appeal

Curb appeal is the impression that a property creates, as viewed from the street. Imperfections that insiders learn to ignore appear as glaring flaws to a potential buyer seeing them for the first time. Here's a mental checklist I use when I visit an association property for the first time:

- Clean, attractively landscaped grounds. Trash is picked up, grass is freshly mowed, and hedges freshly trimmed.
- Attractive, helpful signage. Signs look good and say clearly what a first-time visitor needs to know.
- A functioning entry gate, well-lit entryways and walkways, and an inviting lobby. You only get one chance to make a first impression!
- A sparkling clean pool. The dream of "carefree living" is an attraction of shared-community ownership. Your most visible play space will reinforce this dream or else refute it.
- Clean carpets and properly maintained asphalt. Walking surfaces create a sense of attractiveness—or its opposite—for everyone who passes.
- Up-to-date paint jobs & colors. Styles change. If you don't update the colors, rooms and hallways soon look like your parents' common areas.

The easiest way to stay on top of such items is through regular inspections and work-order tracking. Neglect these, and your curb appeal will suffer.

3. Avoid deferred maintenance

Deferred maintenance is the practice of postponing repairs in order to create a false appearance of financial solvency. Repair, replacement, and refurbishment all need to happen sooner or later. When they are postponed, the cost is almost always greater. Indicators

*10 Ways to Improve Property Values:
continued on page 6.*

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of deferred maintenance include letters missing from an entry sign, plastic tarps covering a roof, faded pool furniture with broken straps, or a leaning mailbox.

Boards are often tempted to underfund reserves. This approach may be popular in the short run, but it is nothing but a way to kick the can down to the unfortunate set of homeowners who will have to pick up an even more expensive tab in the future. With a realistic reserve contribution, major projects can get done when needed. Keeping common areas free of visible (and not-so-visible) defects creates a positive impression on real estate agents and prospective buyers.

4. Avoid special assessments

Inadequate reserve budgeting leads to special assessments, most of which can be avoided. Often all it takes to eliminate them altogether is a few more dollars in monthly reserve contributions from each homeowner. An association that imposes frequent and unsettling special assessments soon gets a bad reputation among local real estate agents, who warn potential buyers, who then hesitate to make good offers. A special assessment that has not been disclosed to a new buyer can sometimes even result in a lawsuit.

A strong reserve fund reassures buyers they are joining a well-managed association and encourages them to pay top dollar. Sound budgeting may require higher fees in the short run, but in the long run it raises the value of all the homes.

5. Create a culture of transparency

Homeowners appreciate it when managers and boards conduct association business transparently, making it easy to see what has been done and why. Owners have an interest in protecting the value of their homes, and they deserve to know about association business. Meeting agendas and minutes, budgets and financial reports, and reserve studies all should be open to homeowners. In many states, homeowners and prospective buyers are legally entitled to inspect association records.

Transparency means more than posting minutes to communicate what has already been decided.

Effective leaders also use their websites, newsletters, and bulletin boards to say what will be decided next, so homeowners can contribute to the process.

Perhaps the most important aspect of transparency is the attitude and tone with which association leaders conduct meetings and respond to inquiries. Transparency builds trust, and trust translates into a reputation that attracts good offers when homes go on the market.

6. Build community

Homeowners and board members have a common interest in enhancing their home values. Smart leaders avoid actions that suggest they see themselves primarily as regulators or dispute resolvers. Instead, they invest time, energy, and money in building social networks and connections with and among homeowners. Refreshments at board and association meetings cost very little when compared with their potential to enhance the home values by making your community appealing. Hosting a block party or coordinating group participation in charitable activities benefiting the neighborhood t large are both good ways to create a sense of community

Don't forget to invite your local Realtors to some of your community events, so they can spread the word!

7. Adhere to your association's rules and standards

Nobody likes rules—except, perhaps, when we invoke them against others! Rules are a necessity of life, especially for neighbors who share common space. Rules and architectural standards exist to build up your community, not to punish owners.

Write each rule so it includes, along with the rule itself, the community-building reason why the rule exists:

- “In order to keep our children safe, parents are asked to discourage running on the stairway.”
- “In order to maintain the peaceful quality of our association, pool hours end at 10 pm.”
- “In an effort to protect property values, paint colors need to comply with our approved architectural standards”

Rules exist to protect community, not to provide excuses

to annoy or punish others. To remind homeowners of this, use words like we and our, and avoid legalistic, top-down terms like shall and must when writing rules. Your neighbors will appreciate it—and your home values will appreciate!

8. Employ accredited, credentialed managers

Running a community is complicated and important work that calls for industry-specific training and experience. Effective association managers are unflinchingly civil and prompt when they respond to requests from owners. They manage the association for the benefit of the owners, not themselves. This means they strictly avoid underhanded dealings, such as kickbacks or sweetheart deals with vendors. Accreditation from CAI assures associations that they can expect professionalism from their managers.

Effective managers enhance home values in innumerable ways. By striving for excellence in everything they do, managers increase homeowner satisfaction and encourage pride of ownership. By providing Realtors with prompt and friendly service, they build the association's reputation where it counts.

9. Train board members

Strong associations know that effective boards don't happen by accident, so they encourage members to join CAI, attend CAI board training and subscribe to Common Ground. Taking a few minutes at a board meeting to discuss an article is an excellent investment in board training. Well-trained board members help to focus the full board's attention away from petty squabbles onto critical elements of homeowner value, such as insisting on a disciplined and realistic approach to budgeting. Board-member training shows in effective leadership, community pride, and good financial stewardship of common areas—all of which enhance homeowner value.

10. Team up with knowledgeable business partners

Even the most professional managers, working with the best boards, don't know all they

need to know to navigate all of technicalities that will arise. To guide the association towards a successful future, leaders need a team of specialists, including

an accountant, attorney, banker, insurance agent, and a reserve study professional. In addition to their special skills, professionals who earn CAI's "Educated Business Professional" distinction demonstrate they know how to

help community associations foster excellence and avoid expensive mistakes and conflicts.

Part II of this article will appear in the next newsletter in July 2017.

INSURANCE: WHY A "UNIT OWNER POLICY" IS IMPORTANT!

John Sinner, State Farm Insurance

Condominium owners will often rely on the Association's master policy to protect them on any potential loss they might have. Unfortunately, owners who do may be disappointed to learn after it's



too late that the HOA Master Policy does not cover quite everything. It is true that the "unit owner policy", also known as a "HO-6" policy is a great value but is often not purchased.

Suppose you are having a party in your own condominium, and one of the guests falls on the stairs inside your unit. The liability resulting from an injury occurring within an individual unit is NOT covered under the Master policy of

the association.

If there is a plumbing leak within the building and damage is caused to your unit interior, and assuming it is a covered loss, the Association Master Policy may pay for this. However, there may be a large deductible on the Master Policy. It is common practice for associations to require the affected owners whose interior was damaged to pay the deductible. If the damage is under the deductible of the Master Policy, you may be responsible to absorb all the costs. This where your individual policy becomes important as coverage will be extended for a covered loss. It would be best if the association has this policy stated in writing. The Unit owner policy will pick up the deductible expense or the resulting damage from the loss.

If your personal effects are damaged from a loss, (i.e. furniture, clothing) they will only be covered by the Unit Owner Policy. There is no coverage under the Master Policy. The individual policy will provide coverage for you to live elsewhere should your unit become

uninhabitable from a covered loss. This is referred to as "loss of use" and is not included in the Master Policy.

Finally, if a loss occurs that exceeds the limits of the Master Policy, there may be a special assessment from the Board to you. The "HO6 Loss Assessments Coverage" will provide protection up to the limits of coverage in your policy. The need for an assessment could also occur in the event of major damage to commonly owned buildings or a liability loss in the common area not fully covered by insurance.

For Board members and owners, it is also important to realize that ALL losses are not covered by insurance. If there is a loss that is due to inadequate maintenance there is no insurance available. It is important to be diligent as a board to repair, replace or maintain at the first indication of a problem so that future losses will be minimized.

Qualities of GREAT PRESIDENTS!

- Decisions - guides the board in making well-reasoned decisions and only at meetings. Asks questions of manager and others and relies on outside professional expertise
- Leads and holds regular meetings that are run smoothly
- Always has the best interest of the Association at hand and doesn't have their own agenda.
- Interacts well with others and defuses arguments rapidly between homeowners. Knows the homeowners in the community.
- Follows the law and good business practices
- Takes tangible steps to improve the value of the property.
- Is organized and thorough
- Makes sure that all board members know and perform their roles while not interfering with their position. Delegates well. Fosters mutual respect on the board
- Communicates with manager who feels like part of team and doesn't micromanage the manager
- Participates in educational classes
- Proactive
- Observant
- Professional

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BEVEN & BROCK NEWS & VIEWS for Homeowner Associations

HOA BOARD MEMBER EDUCATION

Education for volunteer HOA Board members is essential for success as board members. Due to the ever-increasing complex and changing nature of the laws and regulations that impact common-interest-developments staying on top of these changes greatly increases a board's member ability to succeed in their role and operate in confidence.

There are several ways for board members to be educated, and Beven & Brock offers two free ways. The only cost is time in attending these free events, which are offered in East Pasadena. Upcoming events:

May 16, 2017: 6:30 to 9:30 PM Basic Board Education Course

A three hour training course for HOA current and prospective Board members. A course syllabus and Certificate of Completion is provided. This class is taught by Kelly Richardson Esq. of Richardson Harman Ober PC. It is co-sponsored with the Community Associations Institute. Seating is limited, and reservations may be made by emailing: Board Training@bevenandbrock.com. Priority is given to current Beven & Brock managed associations. This course will also be offered on October 3, 2017.

October 5, 2017: 6:30 to 8:30 PM "Tight Budgets, Tough Choices"

This event will feature two highly respected leaders in the HOA industry: Robert Nordlund, PE, RS, and Adrian Adams, Esq. of "Davis Stirling.com". It is a discussion about making tough budget choices when money is tight. Reservations can be made at HOASeminars@bevenandbrock.com.



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