



BOARD MEMBER ROLES SUMMARY!

By Dave Brock, PCAM

Homeowner association boards that operate in effective and healthy ways for the benefit of their associations operate with every board member playing a distinct and active role relating to a specific area of responsibility. Each board member should be the point person on their given area of responsibility, so that there is no potential of confusion communicated to third parties, such as the management company or other association vendors.



Generally, those positions are President, Vice-President, Treasurer, Secretary, and Director-at-Large. These are the typical board positions for a five-member board that is most common. Some by-laws provide for a three-member board, in which case some roles have to combine into one.

The President

- Facilitates the process of each board finding their specific role on the board.
- Allows the other board members to fulfill their role.
- Sets time/place for meetings
- Chairs the board meetings and annual meeting.
- Prepares the board meeting agenda
- Has the same voting power as any other board member

The President is often the voice of the association or board to third parties, such as the management company. In those cases, the President should always seek to

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“WHY WOULD I WANT TO SERVE ON THE BOARD?” Or “YOU’RE OUT OF EXCUSES”

A very common point of frustration for board members is that *no one else will serve on the board*. Sadly, the situation doesn’t seem to ever improve. If owners are asked, **the excuses** to not serve have a similar theme:

1. *“I am too busy with work and my personal life... I do not have time.”*
2. *“I have seen the board in action, and I do not respect how they operate - I wouldn’t be able to give the amount of time that I think the board puts in.”*
3. *“The meetings are too long, and people just fight.”*
4. *“I would not be able to attend board meetings because I travel frequently.”*
5. *“I would rather not get involved with my neighbors on anything. I would never want to confront my neighbors.”*
6. *“I do not have any knowledge or experience in serving on a board.”*

Just about every long-term serving board member has heard most, if not all, of these excuses. Consequently, they keep serving, year after year. With every passing year, the long-term board members feel more hopeless and weary. It seems that nothing will change and the only way off the board is to sell and move. This situation is more common than you may realize and you are not alone.

Is there a solution? The answer is “YES”, but it will involve some changes- some that are easy, some that are more challenging. But, this situation can turn around, but it will necessitate some changes in your community.

It is important to realize that there is a disconnection between what the board does and what the owners perceive the role of the board to be. Most often, the board operates in a vacuum where the owners have no knowledge or understanding of what the board does. Owners rarely attend board or annual meetings and likely do not read the minutes. Communicating with owners is important, whether that is written, verbal or social, but this is rarely done.

While owners can attend board meetings, few actually do, when they do, they should be welcomed as they may be your future board members.

It is easy for associations to adopt a “us vs. them” scenario in their community. The lack of owner involvement justifiably frustrates long serving board members and they can easily forget that they are there to “serve” the membership and the community.

The board being available and approachable, at least at the meetings, is best. Board members are volunteers, and aren’t expected to “be on duty” 24-7, despite the desires of the owners. The major exception has to do with **true** maintenance emergencies, which is typically a plumbing or water-intrusion issue.

As a board member, you may need to clearly establish how board

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ADVICE FROM AN HOA PRESIDENT

By Strefan Fauble

I have three bits of advice: “Diversify the Board,” “Run a tight meeting,” and “Be far-sighted.” Left at that, the advice is scrawny. Let me put some meat on the bones:

Diversify the Board

Running an HOA requires the skills of a lawyer, a manager, an accountant, an interior designer, someone with knowledge of the history of your HOA, and someone with enough mechanical knowledge to know how to solve the physical problems of your building. I am not suggesting Board members act as your HOA’s attorney or plumber; for liability and other reasons, they should not. However, those skills are essential to identify and anticipate problems and have a sense of how to proceed. Solicit owners who have those skills, not several owners who over-represent one skill. A word of caution, however: Solicit owners with the right temperament. Someone who cannot calmly accept being out-voted, should not be on the board.

Run a Tight Meeting

All of those who volunteer for the Board are indeed just volunteers. Use their time judiciously by publishing advanced agendas, sticking to the agendas, and keeping their time commitments to a minimum. The President (or whoever runs the meeting) should ensure that all and only the facts and considerations relevant to the issue on the table are addressed and that the Board arrives at a decision that squarely resolves the issue. Unanimity is great, but not required; Board members need to understand that. Through these efforts, Board members will know that the HOA values their time and expertise, and they will be more willing to share it.

Be Far-Sighted

1. Establish and clarify procedures and key rules when the stakes are low.

What features, if any, besides improvement to a unit is interior, is an individual owner responsible for? What changes to an individual interest are subject to Board approval? What are the procedures and standards for that approval? Who is responsible for what kinds of damage, and under what circumstances? These and other

questions about fundamental matters are not better left to a later day—because the later day will be when a dispute has arisen and the stakes, and, thus, each owner’s self-interest are high. Make sure in advance of a dispute that the rules in your association’s governing documents address these issues, that the Board agrees about the interpretation of the rules, and that the members have been given proper notice of the rules and the Board’s interpretation of them.

2. Ask lots of “what ifs.”

Will the rules in your governing documents actually work when you need them to? Find out by asking lots of “what ifs.” A real-life example: While reworking our CC&R’s, our Board realized that at least one “combined” unit in our building might someday be physically split and come under separate ownership, though no one expected that to happen. We asked lots of “what ifs” and realized that, if the unit split, then many provisions in the governing documents would become serious problems. The assessment percentages would no longer add up to 100%, the entitlement to certain parking spaces and basement lockers would become uncertain, and so on. If the Board did nothing and the unit split, the Board would have to address these issues at the worst possible time, namely when there would be two owners with competing interests. The Board therefore created contingency provisions designed to address fairly everything that would be affected if the units split, with the then-unitary owner not objecting. About a year later—surprise!—the unit split. Everything went smoothly, like following a cookbook recipe. Your association is unlikely to face this same situation, but it is a useful example, I hope, of how to anticipate problems.

3. Responsibility should follow knowledge and power.

Make the party who can easily identify or deal with a problem responsible for addressing it. A real-life example: Several of the units in our building have balconies with wrought iron. The balconies are exclusive-use common areas for their adjacent units. Shy of looking up at the building through a telescope, no one but the adjacent owners can assess the condition of their balconies’ wrought

iron. The Davis-Stirling Act’s default rule, which says that the HOA is responsible for repairs of exclusive use common areas, does not make sense in this situation. When revising our CC&R’s, our Board made maintenance, repair, and, if necessary, replacement of a balcony is wrought iron the responsibility of the adjacent owner. This is to avoid an owner’s ignoring the growing rust on his balcony and then expecting the HOA to foot the bill for the resulting damage. Similarly, our Board revised our governing documents to provide that if the HOA’s sprinklers are causing on-going water damage to an owner’s unit, the HOA is not responsible unless and until the owner puts the Board on notice, since the owner is in the best position to see what is happening. The owner should not be able to sit back while the HOA’s sprinkler slowly rots the owner’s windows and then expect the Board to pay to replace them.

4. Make sure your rules are enforceable.

When you amend your governing documents, including creating or amending operating rules, make sure you follow all of the requirements in the Davis-Stirling Act. (If you have not done so, do it now.) Otherwise, an owner could assert, correctly, that the rules are unenforceable. That will occur, of course, precisely when you are desperate to enforce the rules.

5. Think twice before you send that email!

Finally, resist the impulse to send that snarky email, even if the recipient deserves it. Think about whether the email could create other problems or liability. In particular, consider whether the email could be interpreted to suggest that the Board is making a decision based on animus or other illegitimate grounds. Imagine a neutral third party—a judge, say—unfamiliar with the background of the dispute, and ask yourself what that judge would think of the email. If you would not be totally comfortable with the email being labelled “Exhibit A” in a lawsuit before the judge, don’t send it.

Strefan Fauble serves as President of a 14 unit historic association in Pasadena. He is the recipient of one of the 2015 Great HOA Presidents awards. ❖

HOW TO AVOID A REALLY BAD DAY!

By John Bottala, Western Rooter

Unfortunately, plumbing problems occur on their own schedule. Not only are they unpredictable but they can occur when least convenient, such as during the middle of the night, on holidays and weekends. The unpredictable nature of plumbing emergencies can also make them more expensive to resolve, since the probability of interior damage to flooring, walls and personal property is high.

The good news is that associations can take steps to remove the "surprise" element of some plumbing emergencies. There are proactive steps an association can take to avoid plumbing emergencies as it pertains to sewer drain clogs. This requires the commitment of the board to responsibly budget for regular drain cleaning service at least once a year, or more frequently. It is easier to remember to budget for tree trimming annually because we see the trees every day and appreciate them. But sewer pipes are a bit different. We do not appreciate the drain lines until one is clogged. The good news is that there are ways to limit the emergency calls, and proactively keep your sewer lines healthy. Just like your personal health, it's important to keep your heart's arteries clear so that you don't have a sudden heart attack.

There are a few options to clearing



a sewer drain, specifically traditional roto-rooter and hydro-jetting. The traditional roto-rooter approach utilizes a machine with cable and sharp blades to cut roots, and other debris in the sewer line. The hydro-jetting process is more intense and utilizes trailer-mounted equipment that uses up to 4,000 PSI and pushes 13-20 gallons per-minute through the sewer line. The bottom line is that

hydro-jetting uses a larger machine to effectively cut roots and blast out grease and debris. The roto-rooter approach by comparison is far less effective. The cost of the roto-rooter approach as opposed to the hydro-jetting approach is about one-third to one-half. However, the effectiveness is much greater since the power utilized with hydro-jetting will most effectively blasts the grease, sludge and kitchen waste debris through the pipe completely. By contrast, the roto-rooter approach is like poking a temporary hole thru jello. You may get the line flowing but the grease will come back quickly. Hydro-jetting technology has improved over the past few years that they now make tips and nozzles to effectively target what you are trying to clean, whether it is roots, grease or other debris.

Older sewer pipes, such as cast iron, are more common in HOA's and they are more problematic than ABS plumbing which is common with newer construction. It is common for plumbers to find inappropriate items in the drain, such as grease, baby wipes, and excessive food waste. All of these items should not be in a cast iron sewer pipe as the grease and acidity from food waste can actually eat away at the sewer pipe over time. In addition, most people are not aware that soda or bacon grease should never be run down the drain. Grease actually hardens over time as it sits in the drain. The garbage disposal should never be used as a trash can.

When bidding for this service you should always insist that the company remove all sewer line caps and utilize the hydro-jetting method. After the hydro-jetting is performed, it is advisable to require that the company washes down the driveway or surrounding area where the sewer line is to insure everything is cleaned.

Regular hydro-jetting maintenance can cut down on frequent backups, remove grease and debris in the sewer line to help the pipe last longer and avoid unforeseen and expensive emergency calls. Also, root damage to

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Mutiny in the HOA!

By Dave Brock, PCAM

Almost 230 years ago, an infamous mutiny occurred on the *HMS Bounty* in the South Pacific. The acting lieutenant and some of the crew members seized control of the ship from their captain, Lieutenant William Bligh, and set him and eighteen crew adrift. The *Bounty* had left England in 1787 on a mission to collect and transport breadfruit plants from Tahiti to the West Indies. A five-month layover in Tahiti, during which many of the men lived ashore and formed relationships with native Polynesians, proved harmful to the discipline of the ships crew. Relations between Bligh and his crew deteriorated after he began handing out increasingly harsh punishments, criticism and abuse, with one crew member named Christian being a target.

After three weeks back at sea, Christian and others forced Bligh and eighteen others from the ship. Bligh reached England in April of 1790, whereupon the Admiralty dispatched *HMS Pandora* to apprehend the mutineers. Fourteen were captured in Tahiti and imprisoned on board the *Pandora*. After turning back toward England, the *Pandora* ran aground on the Great Barrier Reef, with the loss of 31 crew and 4 prisoners from the *Bounty*. The 10 surviving detainees reached England in June of 1792 and were court martialed; 4 were acquitted, 3 were pardoned, and 3 were hanged.*

While this occurred more than two centuries ago, elements of the story sound familiar with what happens today in homeowner associations.

What are the primary causes that bring about "mutiny in the HOA"? What can be done to avoid this terrible situation occurring in your association?

Most situations in HOA's that cause serious owner unrest involve money. This can be played out a number of ways: 1) increasing assessments after many years of no increases, 2) the need for a special assessment, or 3) board imposition of a "emergency" special assessment.

There are other cases that may provoke the "ire" of owners, but they are somewhat rare. These cases may involve the board adopting (extreme) rules that impact many owners, such

as parking. Fortunately, it is possible for boards and owners to make some simple changes as to how business is conducted so that even the financially caused problems to become rare. What are they?

First, as a board realize that these issues are potentially very contentious issues. If you are facing one of these issues, it will be necessary to approach them very carefully.



Photo Credit: By Robert Dodd (artist and engraver); B.B. Evans, (publisher) [Public domain], via Wikimedia Commons.

The issues involved are complex as owners play a role in the development of the problem as well. **Apathy** is a significant problem in many associations. Owners who simply don't care, may suddenly find some good reasons to care. There are things owners can do so that they are NOT surprised if this happens in their association.

Whatever the cause is, there are usually always preventative steps that both board members and owners can do to avoid *mutiny* in their association. Those preventative steps are: legal compliance and effective owner communication.

When it comes to major financial issues that will impact owners, either with a special assessment or increased assessments, there are some legally mandated tools that boards should utilize.

The first is the *reserve study*, which must be done, or reviewed every year. The reserve study provides an understanding of the predictable capital repairs that will require the expenditure of reserve funds. While the law requires the study, it doesn't require that the association fund the recommendations. Many associations

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plumbing lines is a factor if you have a lot of trees nearby. Roots can be cut out a few different ways. A traditional cable and blades will get the job done if you have roots in your sewer line. The technician may have to work the root infested area longer than normal, however, a traditional blade, cable and roto-rooter machine can effectively clear the sewer. A hydro jet can effectively cut roots very fast and efficiently. It will take less time than a cable and blade and it is a little more expensive. It is essential that the

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choose NOT to fully fund their reserves, preferring instead to not increase assessments or limit them to moderate levels. This practice, over time, will create the necessity of a special assessment.

The best strategy is to strive to fund your reserve study according to the recommendations, particularly if you have a major repair looming within the next five years.

Secondly, there is always the potential of incurring significant costs with non-reserve items. These are items that cannot be anticipated by a "reserve study preparer". Some examples of this may be major plumbing issues or major collection issues. Preparing for a contingency may be a good decision, however most associations create their budget with little to spare.

Owner communication and education is critical. It is better to do this when the problem is in its early stages, rather than when tempers are flaring because the financial need has become critical.

The second aspect of avoiding mutiny involves effective communication to the owners. This is a two-fold issue: 1) the board finds the most effective ways to communicate, and 2) owners participate by reading and understanding what is provided to them and, by attending meetings to make their concerns heard by the board.

First, to address the board or HOA side of this. The board should not simply rely on sending out minutes and assume that owners are fully up to speed. Communication occurs

company has the right equipment to cut roots with their hydro-jetting machine.

The important points to remember is to schedule regular drain maintenance, and work with a licensed and insured vendor who can help guide you as to the proper method of cleaning your drain lines. *Proactive drain maintenance work* will save you money in the end. Do not neglect it.

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in a number of ways. The annual budget distribution is one legally required method, but again, may not be the most effective way to communicate important issues. The board should consider other methods to communicate, including the posted agendas, and other means, such as correspondence, newsletters, and town halls.

Owners have a duty to stay informed as well. The best ways to do this is by attending by both board and annual meetings. Also, reading the minutes and the annual budget report is important. Asking questions is important as well, since some of the material provided may not be immediately clear to owners who are not familiar with these issues.

Both board members and owners need to have the understanding that you are all in this *ship* together and realize that it is inevitable that the buildings will deteriorate and increasing maintenance costs are to be expected. Even with regular maintenance, building components will need replacement eventually. Funding now for that eventuality will preempt the need for most special assessments.

The board and members of the association do not have to act like *Christian*, nor *Captain Bligh*. This story doesn't have to be lived out today at your association. But if you want, check out the many movie versions that have been created of the story of *Mutiny on the HMS Bounty*, they are likely available on Netflix.

Information on the HMS Bounty provided by Wikipedia, edited by author. ❖



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speak for the majority of the board, not just his or her own thoughts on an issue.

The President may NOT unilaterally speak for the board, but is most often the “voice” of the board.

Qualities that would be helpful for the President: manager, leader, able to delegate, speaks well, organizer.

The Vice-President

Assumes the duties of the President as needed when the President is unavailable. Available for special tasks as needed, such as architectural issues, internal dispute resolution, community building efforts, or landscaping.

Serve as the *maintenance liaison*. A maintenance liaison would coordinate with the management company representative on issues that may require board interaction between meetings. This person could speak for the board on maintenance issues between meetings. This may mean that this board member would need to poll board members on a particular decision that cannot wait until a meeting can occur.

Qualities that would be helpful

for the Vice- President: same as the President, also a willingness to learn and grow into the role of President, leader, able to delegate, speaks well, and is organized.

The Secretary

- Records the minutes of all meetings, prepares them for approval by the Board, and arranges for distribution to the owners and the Association Manager.
- Prepares the Notice of the meeting and Agenda and posts it on the property, so that owners are aware of the meeting and have an opportunity to attend.
- Maintains a record of all previous minutes in a “Minutes” book
- Qualities that would be helpful for the Secretary: comfortable on a computer and word programs, able to prepare notices and minutes for distribution. Short hand is not required.
- The Treasurer
- Primarily responsible for the financial affairs of the association.
- Receives and reviews weekly payables, signs checks and mails to vendors.
- Receive the reconciliation’s and copy of reserve statements as they are processed.
- Responsible to safely invest

the reserve funds according to the direction of the board, and transfer to the operating account funds as they are needed for reserve projects.

- Reviews monthly financial reports
- They are the link between the board and the management company on financial issues
- Coordinates transfers into and out of the reserve account.
- Need to be aware of and understand the reserve study.

Qualities that would be helpful for the Treasurer: able to read and understand basic financial concepts. It is possible to be overqualified for this role for some people who have been involved professional in high level accounting positions as a CFO or controller. Association finances are basic and involve a great deal of common sense. A person who can balance his or her own checkbook is likely able to learn what is necessary.

The Member-at-Large

Special projects, subject to the direction of the President. The member-at-large may serve as the maintenance liaison or chair a committee of the association. ❖

members will be available. Don’t be too generous, but don’t avoid it altogether.

Secondly, the points raised by the “owners” at the beginning of this article must be considered. Let’s take them one by one.

First, the excuse, “I am too busy with work and my personal life.... I don’t have time.”

Response: How much time should board service actually take? If you work with a management company and reliable vendors, board service should take 60 to 90 minutes per meeting, four to ten times a year. In addition, there may be another 60 minutes of time necessary and spread out over the course of a month. Lengthy meetings take a toll on current board members and send the wrong message to prospective owners. The additional time could be reviewing material for the board

meeting and for the one board member reviewing payable items, which should take 10 minutes a week.

Second, the excuse, “I have seen the board in action, and I don’t respect how they operate.... The meetings are too long and people just fight.”

Response: Sadly, this is often an honest assessment of how things appear to owners. Ideally, meetings should be well organized, stay on task and be conducted with disciplined timing so that it is accomplished in less than 90 minutes. Many articles have appeared in this newsletter on this very subject. The President (or Chair) must make sure that any items for discussion and decision are on the Agenda and background materials are provided to all board members a few days prior to the meeting. All board members MUST read the material provided prior to the meeting, so that time is not wasted in getting up to speed.

There should be minimal discussion and then a vote. If this can’t be done, then the issue may have to be on a future agenda.

The President (or Chair) should always maintain decorum in the meeting, and consider adopting a Board Code of Conduct to provide for civil discourse, free of interruptions and inflammatory speech.

Third, the excuse, “I wouldn’t be able to attend board meetings because I travel frequently.”

Response: This one is pretty easy. The law allows for some of the board to be at another location and call in by phone. The only requirements are that at least one board member must be on-site, or in a location where owners can join. All participants must be able to hear everyone else. The only challenge that may arise is dealing with different time zones, but with some creative thinking this can be

IN CELEBRATION OF HOA VOLUNTEERS!

By Dave Brock, PCAM

I have long proclaimed HOA board members as the greatest volunteers; to volunteer your time to your neighbors who largely do not appreciate your efforts is highly commendable. I applaud you and thank you for your time and commitment. My appreciation of you is timely, since National Volunteer Week is April 15-22 this year.

Service on an HOA board is not terribly complicated, and there are no standard requirements of experience, other than the duty to serve the interests of the entire community and comply with the legal requirements. What is complicated is the fact that a HOA board member has to suspend their personal interests and desires and think about the interests of the association as a whole.

Board service for some board members is very challenging. The greatest threat to board effectiveness is apathy and a lack of understanding

as to the board members dual role issue; that serving the interests of the association may conflict with their own personal preferences.

Why *apathy*? It is easy for some board members to become apathetic and skip meetings, or not fully engage when they do attend, and defer issues to one or two board members. This creates a greater burden on a minority of the board members to do the heavy lifting. This is certainly not ideal.

In addition to the benefits to your community, scientific studies have shown that individuals who volunteer enjoy psychological and physical benefits, including increased satisfaction; improved sense of belonging, lower blood pressure, increased protection from Alzheimer's, and decreased mortality.

One of the best ways to experience fulfillment in your role as a board member is to *adopt* goals as a board. Having goals as a board will provide

the board with a sense of purpose and hopefully accomplishment. What are some reasonable goals that may be appropriate?

Create community and build a sense of a neighborhood.

Here are a few and you can create your own too:

1. Create community and build a sense of a neighborhood.
2. Streamline decisions using policy governance.
3. Improve relationships with the service partners: service vendors and management
4. Enhance the appearance of the property.
5. Provide for responsible funding for future capital repairs.
6. Clean up or refresh a portion of the common area. See the common area as you would your own home.

*In Celebration of HOA Volunteers!
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resolved.

Fourth, the excuse, "I would rather not get involved with my neighbors on anything. I would never want to confront my neighbors."

This is a good point, and many owners would rather take a back seat than deal with issues that may involve conflict in the community. Fortunately, no member of the board can act independently so when decisions are made that are difficult, it is the decision of the whole board, not just one. Difficult decisions should always be discussed in open meetings with posted agendas and community input, unless precluded by law.

Remembering that your role is to make the best decisions for the benefit of the community takes the sting out of one, or a few owners being inconvenienced by a decision that doesn't suit them.

A management company can help to buffer the communication process between the board and owners as well.

Finally, the excuse, "I don't

have any knowledge or experience in serving on a board, and I really don't want to get up to speed."

Many, if not all, of the decisions that a board faces only require common sense, and an open mind to consider all the options. Any issues that require "expert" advice can be made with the use of appropriate experts. Even if "wrong" decisions are made, but you consulted with an expert in the process, then there is no liability on board members for having made the wrong decision. Also, there are educational opportunities available for board members who wish to become more knowledgeable.

Finally, addressing the "excuses" can only come after you meet your fellow owners. How does this happen? It is always best to meet your neighbors in a relaxed way, perhaps at a social event or just walking around the property. A social gathering - once or twice a year - which is purely social is the best way to meet owners. The purpose of an event like this should just be to get to know your neighbors, without any discussion of HOA business.

The hopeless and apathetic

environment of HOA board service can change. But it will take a little more effort, and it will pay off with rotating board members who contribute fresh insights for the community. ❖


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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 Pasadena.

Upcoming events:

May 8, 2018: 6:30 to 9:30 PM. Basic Board Education Course.

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 Ober, PC, and is co-sponsored with the Community Associations Institute. Seating is limited, and reservations may be made by emailing: BoardTraining@bevenandbrock.com. Priority is given to current Beven & Brock managed associations due to space limitations.

*In Celebration of HOA Volunteers!:
continued from page 7.*

Finally, it is *unlikely* that the owners you represent are going to find ways to appreciate you on April 15. Don't expect flowers or chocolates to be left on your doorstep. But here is what you can do. In your meeting minutes during April, recognize the achievements of

your board over the past year, and consider implementing goals for the next year. Maybe, some of the owners will read the minutes, and follow up with a "Thank You" to you. I hope so. **THANK YOU** for your service to your community. ❖



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