



### Restoring *Civility* to Your Community!

An increasing number of homes are being built in community associations, as it is estimated that 66% of all new homes constructed in 2020 will be a part of a community association. Further, an estimated 2,500 to 3,000 new community associations will be created in 2020. Currently, 73.5 million people, or 26% of the U.S. population are living in a community association nationally.

In addition to the changing demographics, the culture has become increasingly contentious which is reflected in communications and meetings. Community association relationships can easily become volatile and emotional as a growing number of people in community associations are resistant to being governed by volunteer leaders whom they elected to represent them.

**Civility**, by definition, is a *formal politeness and courtesy in one's behavior and speech*. The lack of civil discourse (civility) is rampant, and the negative effects of this fact play out in property values, and quality of life, including enjoyment of homes. Sadly, personal attacks shut down conversation, dialogue which causes constructive conversation on the important issues facing the association to cease and nobody wins.

In order to help facilitate a solution, the Community Associations Institute College of Community Association Lawyers

*"Restoring Civility to Your Community": continued on page 3.*

### In Appreciation of HOA Board Volunteers! ... with a few suggestions to the BIG QUESTION of Every Board

*National Volunteer Week*, designated this year for April 19th-25th, 2020, is an annual celebration observed in the U.S. and many other countries, as a week to promote and show appreciation for volunteerism and volunteering.

In my biased view, HOA Board members are *the best volunteers* of any volunteer out there as they live in the very community they serve. Thank you to all HOA Board members who work diligently to serve their community, without pay, and little appreciation. Let it be stated here, YOU ARE APPRECIATED!

Many owners find reasons to NOT serve on the Board, but the few who do agree to serve are to be commended for doing it. The excuses (or reasons) given by the owners who don't serve are sometimes valid, but often miss the point that service on an HOA Board must be done by fellow owners, and to choose to NOT SERVE places an unfair burden on the owners that do agree to serve.

#### **Why do owners say "yes" to serving on the Board?**

1. To protect their investment.
2. To understand how decisions are made.
3. To get to know their neighbors.
4. Because no one else will serve.
5. Because they have an objective for the association that they believe can best be met by agreeing to serve.

Board members do get tired and

burn out. The best practice for HOA leadership is a gradual migration of owners coming on and going off the board. Abrupt changes--either with Board members resigning between annual elections or in mass when the election occurs--causes chaos in the community. Continuity of Board members is critical.

Strangely, owners who do not serve or neglect the opportunity to vote, are putting their trust in people whom they don't know and yet will represent them and their interests in the association.

The big question that every Board member wants to know is this -- "*How do you get owners to serve on the Board?*"

One challenge that exists in HOA's is that the Boards role is perceived as authoritarian, and sometimes tyrannical. This perception may be due to the fact that the most interaction the Board has with owners is in establishing and enforcing rules, increasing the assessments, or proposing a special assessment. How can Boards overcome this negative perception? While it is true that the Board is in charge of the association, being perceived as authoritarian does not convey the whole picture of what a Community Association Board is all about.

#### **How can the Board change this perception?**

1. Develop a strategy to get to know your owners so that it is communicated that "The

*"In Appreciation of HOA Board Volunteers": continued on page 4.*

# PAINTING: Ways to Cut Corners on Your Next Paint Job The Right Ways vs. The Wrong Ways

By Greg Lewis, President of Ferris Painting, Inc.

There are many ways a painting contractor can cut corners when you contract with them to paint your property and many of these are the right ways to cut corners.

## The Right Ways

1. Have the job materials delivered. This creates efficiency so the entire crew is spending their time on your property instead of sitting in traffic somewhere. Your project will be completed faster this way.

2. The city of Pasadena and most surrounding cities in the area allow construction to start at 7am, so start at 7am! Starting early means less time the crew has to spend sitting in traffic driving to the job. Less time in traffic means, a happier crew and a happier crew will do a better job!

3. Use better quality paints. Top-level paints have better resins that expand and contract with heat and cold. Lower quality paints are more brittle and while they can be ok for stucco, they are not great for wood. In addition, these better quality paints do cost a bit more, but the labor to apply the paint does not change regardless if its low quality, mid quality or high quality paint.

4. Get your residents on board by clearing their plants and decorative items off their patios and balconies. If your contractor has to spend time moving items from patios and balconies, he is not painting and your job takes longer. In addition, there is always a chance that items may be broken in the process of moving. Then when they are able to work, these items can create a trip hazard since a painter can have with him: paint buckets, drop cloths, stepladders, extension ladders, power washer hoses, spray hoses, etc. Painting a building requires cooperation from both parties and when residents do their part to help the crew, the crew can move through the job quicker and residents can then have their peace and quiet back much sooner and of course put their items back

out sooner.

5. On many buildings, it is actually better to apply two finish coats of paint instead of one prime coat followed by one finish coat. Applying two finish coats means the crew does not need to spend time cleaning primer out of the sprayer (and it is a lot tougher to clean out primer than paint). It is a fallacy that you need to prime every job. There are some exceptions to this rule (like changing from existing oil base paint to new water base paint) but normally, when you are repainting your building, the surface has already been sealed with a prime coat. When you rub your hand on your building and you do not see what looks like chalk on your hand, you are a prime candidate for two finish coats of paint. Why are two finish coats of paint better you ask?...because paint resists UV sunlight and primer doesn't, so two coats of paint gives you two layers of protection from the sun while one prime coat with one finish coat only gives you one layer of protection.

## The Wrong Ways

1. Patch as little wood as possible. If your contractor finds rotten wood, you should replace it instead of patching it. Yes, it will cost more initially but it can last 20-30 years. Patching wood is a temporary Band-Aid that may only last a couple years until the patch fails and falls out. When the patch fails, you will probably then decide to replace the wood. Then you will need to re-paint it and now it will be at a higher cost. Therefore, you did not save anything and it actually ended up costing you more money.

2. When painting in the heat, your contractor sometimes needs to add a small amount of water to the paint bucket, and paint manufacturers recommend this as well. You want to add some water so the paint doesn't dry too quickly however you don't want to add too much water because then the correct thickness of the paint will

not be achieved and your paint job won't last as long. That information is printed on the paint can, so read it!

3. Because insurance rates like Worker's Comp, General Liability and Auto keep increasing, a new trend has been emerging. Some painting contractors have been sub-contracting out parts or all of the work they have agreed to perform for you. Make no mistake, painting contractors are not allowed to sub-contract out any part of your agreement with them. They sometimes hire independent contractors to perform the work to your property because it saves them from paying these high insurance costs. The problem for you as the owner is that you are now liable for any injury or damage. Unless you want to take on this added liability and potential cost, make sure the crew members working on your property are actual W-2 employees of the company. Ask your contractor to state this in writing and double check by asking the crew when they arrive.

4. Another problematic trend is the emergence of general contractors (GC's) bidding on painting projects. Per the State of California, the only time a GC is allowed to contract for a painting project with you is when your project requires the following:

a: Carpentry (Wood Replacement). Plus two other unrelated trades like...

b: Painting

c: Any other unrelated trade

*"Painting: Ways to Cut Corners on Your Next Paint Job": continued on page 3.*

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*"Painting: Ways to Cut Corners on Your Next Paint Job": continued from page 2.*

like plumbing, electrical, roofing, etc.

And if those three requirements exist, the only trade that a general contractor can perform is the carpentry. He cannot have his

employees perform painting or any other trade, unless he also holds a specialty license like a C-33 for painting or the required license for any other trade. A GC must sub-contract out to another licensed contractor for any of the other trades

that need to be performed. A GC is the only one that can sub-contract any work that he is not allowed to perform.

By choosing to cut corners in these four ways could potentially cost you a lot of money. ❖

*"Restoring Civility to Your Community": continued from page 1.*

has been working to bring forward a solution that is long overdue. Their work has resulted in a "Civility Pledge" that common-interest-developments are being encouraged to adopt in their community. By adopting the *Civility Pledge's* guiding principles, community association Boards and managers will lead their communities through conversations about difficult and complex issues while harmonizing resident's feedback. The hoped-for results would be decisions that are informed and well balanced for the community.

Essentially, it is important for everyone in the community, whether they are owners, board members, or vendors, to learn how to discuss issues where there is disagreement, and to do so respectfully (key word -respectfully). The President of the Board, or if not, any Board member can and should provide the example of how this is done. Of course, in a community association,

it is not realistic to expect that there will be unanimity on every issue. Disagreement is a part of life and engaging in healthy dialogue is critical. The Board has the ability, in fact, the mandate to inform owners and fellow Board members what kind of behavior is not acceptable. Specifically, personal attacks or derogatory comments about another person should never be allowed. When this occurs at a meeting, a Board member, can and should step in and shut it down immediately.

**The "Civility Pledge" is as follows:**

**Our Association is committed to fostering a climate of open discussion and debate, mutual respect, and tolerance between all who live in, work in, and visit our community.**

**We expect** each individual, whether a resident, guest, board or committee member, community association manager, staff member, business partner, or contractor, to be **accountable** for her or his own actions and words.

**We believe all interactions in the community should be civil despite any differences of opinion on a particular issue.** We believe in finding common ground and engaging in civil discussion about community issues important to each of us.

**We vow to respect all points of view and will strive to provide a reasonable opportunity for all to express their views openly—without attacks and antagonizations.** We agree to keep our discussions focused on the business issues at hand, as well as on the ideas and desired outcomes.

**We urge all residents to be engaged and informed.** Get to know your neighbors, your board members, and your community manager. Attend meetings, join a committee, or serve on the board. Understand the community's rules, regulations, and covenants, and the value they add. Ask questions, share your opinions, and vote.

**We also encourage all to review Community Associations Institute's Rights and Responsibilities for Better Communities.** <https://www.caionline.org/HomeownerLeaders/Pages/RightsandResponsibilities.aspx>

The principles laid out in the document can serve as important guideposts for all those involved in our community—residents, guests, board and committee members, community association managers, staff members, business partners, and contractors. [www.caionline.org/RightsandResponsibilities](http://www.caionline.org/RightsandResponsibilities).

**We believe these commitments to civility, as well as engaged and informed residents, are a vital part of our shared goal of being a vibrant, thriving community.** However, these commitments are merely guiding principles. They are not governing documents or legally enforceable and do not give rise to penalties if they are not followed.

In closing, unfortunately, there is *no magic potion* for creating civility in a community, and any solution to grow it will take time to educate the community and obtain acceptance. This will require regular reminders at Board meetings, and in minutes and annual disclosures.

The real work of this is depends on board members, owners, managers and anyone connected with the association. Learning to listen without interruption or the need to defend and argue doesn't come easily and is a *learned behavior*. However, over time the result of practicing civility will result in greater harmony in the community and an enhanced enjoyment of the property that all owners will appreciate, together.

Board members can access the pledge as well as additional information at: <https://www.caionline.org/HomeownerLeaders/CivilityPledge/Pages/default.aspx>. We would encourage your association to adopt this pledge in your community. ❖



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**New Legal Requirement: Effective  
January 1, 2020**

For over ten years, a requirement has existed for common interest developments to have a cover page on the top of the Covenants, Conditions and Restrictions regarding the fact that if any discriminatory language was contained in the document that the language was void. Now, effective January 1, 2020, this language has been amended to include more types of discrimination.

**Government Code §12956.1 now states the following:**

(1) A county recorder, title insurance company, escrow company, real estate broker, real estate agent, or association that provides a copy of a declaration, governing document, or deed to any person shall place a cover page or stamp on the first page of the previously recorded document

or documents stating, in at least 14-point boldface type, the following:

*"If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code."*

*Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status. ❖*

*"In Appreciation of HOA Board Volunteers": continued from page 1.*

Board" is not the terrible dictators of the association. This may include the following:

- a. Welcoming new owners in the community. New owners are usually excited about their new home, and would appreciate being acknowledged by their neighbors.
- b. Hold annual or semi-annual gatherings of residents over food and drinks. There is nothing better to break down walls between people than sharing a meal.

2. Learn how to communicate the positive issues in the community as well as educate the owners on the importance of the decisions that must be made that may be unpopular but are necessary for the good of the whole community. This is particularly true for issues that may become controversial. Don't be afraid to invite input from those with whom you disagree. Just listening to owners

sends a big message.

- a. Being diligent to post meeting agendas that indicate what the Board is discussing.
- b. Welcoming owner input at open Board meetings. The "open forum" portion of the meeting is the best opportunity for this.

3. Operating all meetings in a civil and business-like manner. Disagreement is inevitable, but allowing the disagreement to become personal is never a good idea.

4. Striving to take the "high road" as Board members sets the best example in your community. You can only hope that future Board members will follow your example.

In summary, HOA leadership is NOT a spectator sport. Every owner has a vested interest in the health of the association, whether they are an absentee or on-site owner. Thank you for your leadership and service to your community. May you find new ways to encourage a greater spirit of volunteerism in your association. Thank you again for your service.❖

# Leadership Ideas!

HOA Board leadership can be a challenging and frustrating job for many, however, it doesn't have to be. A board that operates by a set of operating protocols can make the service to your association very efficient and productive and possibly enjoyable.

## Meetings

1. Board meetings: hold them regularly, no less frequently than quarterly.
2. Annual meeting - start planning 90 days ahead.
3. Have no discussions or decisions by email.
4. Notice and Agenda - must be posted 4 days in advance
5. Transparency - encourage and consider owner input on major issues
6. Executive meetings - should be used only as appropriate.
7. Healthy disagreement is fine, but when the vote occurs, that **IS** the Board's decision.
8. Owner Forum: set reasonable time periods and listen.

## Governance

9. Understand your role as a "director". You are not the on-site manager. You are not a board member 24-7. You are a volunteer with a life outside the association.
10. How you model board service will determine if you will have future board volunteers. If you are overly involved and responsive, no one will ever want to be on the board.
11. Operate with fairness to all owners, regardless of who they are.
12. All board members should have a defined role to spread out the workload.
13. Don't assume you must know everything - take advantage of education for boards.
14. Be reasonable in creating rules and follow the mandated legal process.
15. Realize that there are always "two sides to a story".
16. Understand that this is a business - don't make it personal.

## Maintenance

17. Rely on experts or consultants to avoid liability.
18. Use only licensed and insured vendors.
19. When obtaining bids, communicate to vendors with written specifications
20. Don't allow deferred maintenance
21. Price and quality of work are often mutually exclusive

## Community

22. Create two annual informal social events for neighbors/owners to get to know each other
23. Celebrate successes!

## Financial

24. Review financial statements monthly, especially the budget comparison report
25. Know who hasn't paid and take appropriate action by 60 days.
26. Approve your payables promptly.
27. Fund reserves every year as recommended by the reserve study.


## Disclosures

28. Don't neglect the annual disclosures - they help to protect the association.
29. Reserve study: every year either update or renew your study.

## Insurance

30. Work with an agent that specializes in HOA's.
31. Meet with your agent once a year to make sure you have proper and adequate coverage
32. Obtain worker's compensation insurance
33. Strongly recommend that owners obtain an owner's policy, called the HO-6 policy.

**Question for you - What is important in HOA leadership that you have found that is not on this list?** Let us know at [HOANewsletter@bevenandbrock.com](mailto:HOANewsletter@bevenandbrock.com). ❖



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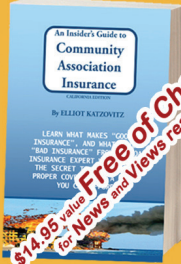


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# Is Your Association Manager Certified? Certification Of Managers: What Is It And Is It Important?

Common-Interest-Developments (CID) have a wide range of choices when it comes to making a decision for hiring a management company. Management companies range from national corporations to sole proprietors working out of a home office.

The differences between management companies are significant and the comparison of companies can be daunting. However, the state of California has provided one excellent means of comparing managers that every board should utilize in seeking to hire or replace a manager and management company.

In 2003, the legislature passed legislation, which became law in the Business and Professions Code in Section 11502. The section specified how someone could be called a "certified common interest development manager". Strangely, while this code section defined what is required of someone who is called a *certified common interest development manager*, the law does not require those who function in this capacity to actually be certified.

Since the inception of the law and annually thereafter, a person who either provides or contemplates, providing the services of a common interest development manager to an association shall disclose to the board of directors of the association the following information:

(a) Whether or not the common interest development manager has met the requirements of Section 11502 so he or she may be called a *certified common interest development manager*.

(b) The name, address, and telephone number of the professional association that certified the common interest development manager, the date the manager was certified, and the status of the certification, and (c) The location of his or her primary office.

The law requires managers to pass an examination that would test knowledge, skills, and aptitude

as outlined in Section 11502. The law further requires managers to complete 30 hours of course work initially. The manager must re-certify every three years, completing another 30 hours of coursework in a number of areas broadly related to common-interest-development management, including a course in ethics. In addition, *letters of reference* are required and at least six months of experience are required prior to becoming a certified manager.

While there is plenty of great criteria for boards to review in making the best decision for your next management company, the issue of certification of management staff is an easy one. As a volunteer board member your inclination should be to work as efficiently as possible. Making the best long-term decisions about vendors is how board members reduce their labor as volunteers, (remember the hourly rate you are earning as a board member). It is so important that you make good decisions in hiring vendors.

For most people their home represents one of their most valuable assets, and for that reason it would make sense to work with a manager who is certified. Working with a certified manager affords the best protection for associations as knowledgeable and certified managers help steer their associations through the maze of regulatory compliance thereby reducing potential liability and making it easier for volunteer directors to meet their fiduciary duties.

A CID manager who makes the investment of time and money to become certified is clearly committed to this industry and has plans to remain in this industry for an extended period. A *certified* association manager separates those who are committed to the industry from those who simply applied for a job and were hired to work at a management company.

The position of association

*"Is Your Association Manager Certified?";  
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"Is Your Association Manager Certified?":  
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manager requires general knowledge as well as a variety of skills. One of the great challenges for HOA managers is burnout. Certification of a manager not only means that they are committed to the industry, but they are also committed to improving their work by ongoing educational opportunities. Managers who are in this industry for the long term are the kind of managers that you want to have working for you, and not someone who has applied for a position because of an economic downturn in a related field.

In summary, here is why it is advantageous to work with a certified manager:

1) **Ethics** - a HOA board should be concerned that their management company/manager has integrity and operates honestly. Both the Community Associations Institute (CAI) and the California Association of Community Managers (CACM) have Codes of Ethics and Standards of Practice. Only Certified managers are bound by these codes. Board members who work with a manager who is

not certified have no recourse to deal with an issue, other than legal action.

2) **Conflicts of interest:** both managers (and board members) can have conflicts of interest. A 2018 law, requires management companies to disclose relationships with affiliated companies that may provide services to your association, where the manager, or management company has an ownership interest. As a board member, you should know when the manager benefits in other ways.

3) **Knowledgeable** - the CID (aka HOA) industry is continually impacted by new laws every year. As a volunteer board member, you should not have to keep up on law changes. You should expect that your manager is doing this for you, and your manager or Management Company can provide you the updates as they occur.

In closing, consider the value of your investment and the value of your time. When looking to hire a manager you must make the strongest decision you can make, and that should be for a Certified Common Interest Development manager. ❖

## Manager Certification: The Annual Disclosure

By David Brock, PCAM

As a matter of disclosure for 2020, all of the Beven & Brock association managers and the principals of the firm are Certified common interest development managers. Each of the following have met the requirements of the Business and Professions code, section 11502.

The following managers are certifications are current and are certified with the CCAM designation by CACM, which is located at 23461 So. Pointe Dr., Suite 200, Laguna Hills, CA 92653. The phone number is (949) 916-2226.

- C. Finley Beven, since 1994, Emeritus
- Vianna Boettcher, since 2006
- Roman Esparza, since 2009
- Juanita Flores, since 2004
- Laura Garbo, since 2003
- Lori Lacher, since 2003
- Sue Threadgill, since 2003.

The following managers are certified with the Community Associations Institute, located at

6402 Arlington Blvd., Suite 500, Falls Church, VA 22042; Phone: (703) 970-9220:

- David Brock, PCAM designation, since 1990.
- \*\*Marilyn Howald, CCAM, CMCA designation through the National Board of Certification, since 1996.
- Laura Aguilar, CMCA, since 2015 and AMS (Association Management Specialist) as of 2016.
- \*\*Paul Cannings, CMCA since 2008, and CCAM since 2003.
- \*\*Tricia Ford, CMCA and CCAM, The Community Association  
 \*\*These managers are certified in both the national and the state organizations.

The law also requires that the location of the manager's primary office be disclosed which is 99 S. Lake, Suite 100, Pasadena, CA. 91101.

If your Association is managed by another firm and you have not received the annual disclosure, you may want to ask for it. ❖



## 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.

### Upcoming events:

#### May 12, 2020: Board Training

Free three-hour training course for current and prospective HOA board members. A course syllabus, informational handouts, and Certificate of Completion are provided. This CAI-sanctioned class is taught by its co-creator Kelly Richardson, Esq. CCAL of Richardson Ober DeNichilo LLP, 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.

**October 2020** Details coming to be announced July 1.

### A RESOURCE AVAILABLE FOR HOA BOARDS!

Beven & Brock is pleased to announce the availability of a new resource for Homeowner Association Boards to find information on topics of interest as needed on demand. Over 135 articles have been taken from prior newsletters and gathered in one place, located at <http://www.bevenandbrock.com/topical-article-library/>. The topics are organized into categories, such as Legal, Meetings, Board, Reserves, Insurance, Community, Elections, Maintenance, Management and other subjects.

This area of the website requires a simple one-time registration, and once that is completed, you can freely access a number of articles on a variety of topics that have appeared in HOA News and Views over the past eight years. This resource will help HOA Board members to become educated in an easy and accessible way. The goal is to help boards make well-informed decisions in a variety of challenges that they may encounter.



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