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July 2023

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Restoring Civility to Your Community!

By Matt D. Ober, Esq., CCAL;
Richardson Ober



An increasing number of homes are being built in community associations. Currently, there are 358,000 community associations in the US, and that is expected to increase to 363,000 during 2023. Community associations are home to over 74 million Americans.

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 and dialogue which causes constructive conversation on the important issues facing the association to

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Traversing California's Wildfire Insurance Crisis – An Update

By AJ Scott, CPCU, CIRMS | Cline Agency Insurance Brokers



One year ago, we looked at navigating California's wildfire insurance crisis by first understanding the factors at play, then responding with informed shopping strategies,

membership education, and focused outreach to legislators and the California Department of Insurance. So, where do we find ourselves now? Have we made any headway? Can we see any evidence that there is an end to this tunnel, even if we can't make out the light?

While progress has been incremental, we have started to see returns on our state-level advocacy efforts, and new innovations in the marketplace may signal more developments on the horizon. At the same time, we continue to grapple with frustrating timelines and an imposing but critical need to understand the complex coverage offerings being presented.

Strides at the State Level

CAI-CLAC (California's Legislative Action Committee of the Community Associations Institute) has worked diligently to raise awareness of the unsustainable insurance landscape faced by wildfire-exposed community associations in our state. After two years of actively educating the California Department of Insurance (CDI), state lawmakers, and the California FAIR Plan (CFP), the fruits of these labors include:

- A course correction from focusing solely on the personal (homeowner's) insurance realm, in recognition of the fact that community associations

(and the homeowners therein) must purchase commercial insurance,

- Increased acknowledgement of community associations and their interests in CDI press releases and bulletins, and
- Noticeably more attention paid by legislators to the insurance discussions held during the 2023 Advocacy Week sessions, including requests for follow-up meetings.



Insurance Engagement

On April 27, the last day of our 2023 Advocacy Week, California Insurance Commissioner Ricardo Lara joined our Closing Session to assure us that our voices on behalf of California community associations are indeed being heard. He referenced the CDI's efforts in enacting the new "Safer from Wildfires" regulation and in negotiating the upcoming increase in the commercial limits offered by the California FAIR Plan (CFP): later this year, the CFP will increase their maximum commercial coverage from \$8.4 million to \$20 million per location, greatly expanding the number of associations who

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will qualify for the program. This said, boards of eligible associations should familiarize themselves with the limitations of CFP's coverage and secure recommended supplementary coverage in order to satisfy governing document and lender requirements. Additional updates to the CFP are also being discussed.

Commissioner Lara was careful



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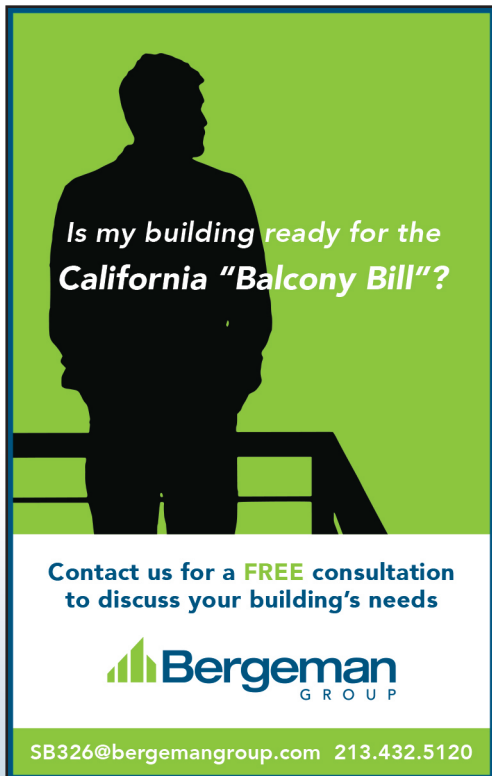
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to point out that the Department's work is ongoing. We remain in need of more flexibility and capacity in the commercial market, especially for larger associations, and he stated his concern over the likelihood that many associations are deferring maintenance in their communities because the requisite funds for those projects are being spent on mounting insurance premiums. Ultimately, he encouraged board members to contact his office if they are having trouble securing insurance, as the Department continues to track these challenges statewide.

New Options and Timing Issues

As mentioned above, the FAIR Plan's expansion to \$20 million in available commercial limits will open that program to many communities who were previously excluded from that option. Other market developments of note include products excluding the peril of wildfire and parametric wildfire insurance offerings.

All three of these are accompanied by unique concerns, so for boards who are considering any of these new options, the importance of diligent vetting cannot be overstated. This brings us to a quandary - how can a board invest the time to sufficiently educate themselves about their coverage options when they often aren't receiving their renewal terms more than ten days prior to their renewal (and sometimes much less!)?

No one can deny this is an agonizing conundrum in the current marketplace. Given that the demand for commercial property insurance on wildfire-exposed locations has so far outpaced the supply, underwriters are simultaneously overworked and under immense pressure to secure the best pricing for the limited capacity that they have. Additionally, they may be required to secure specific approval from their reinsurance provider(s), to ensure the company will not be overextended in the event of a catastrophic loss - that process takes time, and those approvals are highly perishable! As a result, the underwriters are unwilling (or forbidden) to leave their terms "on the table" for more than a few days at a time. When compiling a layered program of multiple policies, this dynamic is compounded by having multiple underwriters involved. This

is why so many boards are receiving final terms mere days before their renewal date, and of course this greatly complicates their ability to thoroughly and critically examine those terms.

Understanding the time constraints, here are some suggestions for boards approaching this renewal vetting process:

- If possible, appoint an insurance committee who is willing and able to mobilize the week before the Association's renewal date to spearhead the review process and report back to the board.
- Whatever you do, and however painful it may be, do not make your decision solely on price. This is easier said than done, especially with the abominable numbers many associations have been seeing these last several years, but a savings procured at the expense of coverage must be carefully weighed by the board, to determine if the tradeoff is worth it.
- CRITICAL: Be sure to understand the limitations of what you are purchasing and how it differs from what the Association has historically maintained. However short the fuse may be, prioritize having this conversation with your agent.
- Ask your agent (and perhaps your legal counsel) about potential conflicts with your governing documents and lender requirements.
- Inquire as to whether any personal insurance is available which might supplement limitations in the Association's coverage, and educate the owners about this as soon as possible, if applicable.

Though we still find ourselves in this realm of painful transition, we can glean some hope from the progress that has been made and the shifts that we are starting to see in the marketplace. Substantial work remains to be done, but the number of people invested in finding solutions continues to grow. If you have yet to sign up for updates and calls to action at caiclac.com, please consider doing so and joining your voice to ours.

AJ Scott, CPCU, CIRMS is with the Cline Agency and she can be reached at aj@clineagency.com ❖

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

cease and nobody wins.

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

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

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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>

[org/HomeownerLeaders/CivilityPledge/Pages/default.aspx](https://www.caionline.org/HomeownerLeaders/CivilityPledge/Pages/default.aspx). We would encourage your association to adopt this pledge in your community.

Mr. Ober can be reached at matt@roattorneys.com ❖

Legislative Update - Mid Year 2023

By Brian D. Moreno, Esq., CCAL
Brian D. Moreno Law Corporation APC

The Davis-Stirling Common Interest Act continues to be amended by the California Legislature. For good or for bad, laws affecting community association have evolved in a number of different areas such as association meetings, elections, HOA assessments, etc. Oftentimes, new laws that are passed impose additional burdens on associations. This year, however, there are two (2) pending bills, which - if passed - could benefit community associations allowing them to function more efficiently.

Virtual Meetings (AB 648)

When the COVID-19 global pandemic began, community associations looked for ways to conduct meetings without the risks associated with in-person interaction. Associations began participating in virtual meetings and utilized applicable laws that allowed for such meetings. Virtual meetings quickly became the preferred forum for association meetings for a number of reasons, including the fact that the participants could avoid travel time; associations experienced higher levels of participation; open forum could be more easily managed; and boards of directors could take advantage of the various features available on platforms such as Zoom. The list goes on and on. SB 391 (chaptered and enacted as Civil Code section 5450) was recently passed allowing associations to conduct virtual meetings without a physical location so long as a state of emergency existed.

Now that the states of emergency have been lifted, associations are forced to provide a physical location for association meetings that are conducted. Given this, AB 648 is being proposed to authorize board and member meetings (except for meetings at which ballots are counted and tabulated), to be conducted

entirely virtually without needing to designate a physical location. Given the overwhelming support for virtual meetings amount industry professionals and directors/owners, this proposed bill - if passed - would provide a mechanism for associations to conduct meetings that could be entirely virtual.



Reduced Quorum (AB 1458)

One of the most common problems for community associations is the inability to hold annual meetings and elections due to the lack of participation among owners. Voter apathy is a real problem for most associations. At present, associations have the following options:

1. Amend the governing documents to reduce or eliminate the quorum threshold. The problem with this option is that amendments are relatively expensive for associations and the amendment would require membership approval, which is the source of the problem to begin with.
2. Petition the court for a reduced quorum. The problem with this option is the legal expenses associated with the court petition and subsequent petitions may need to be filed for future meetings.
3. Not proceed with the election and allow the current board members to continue as such. The problem with this option is associations may need to go without an election for years, which does not promote democracy in the community.

Given the foregoing, AB 1458 is being proposed. AB 1458 proposes that in the absence of a quorum, an association could adjourn a

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Painting Advice From Three Experts

By David Brock, PCAM



The painting of an exterior of a single-family dwelling is fairly significant in terms of cost, preparation, material selection, and challenges for the residents living there.

Now, think about the work involved in an HOA getting painted. Daunting! Yet a new paint job on a building or structure as large as an HOA is a whole different story from a home -- it's like a *whole new wardrobe* as opposed to a *new suit*.

These three painting contractor experts know how important this process is for a homeowner's association and are offering recommendations worth your consideration.

For this article we have asked three painting experts to answer a few questions. In this article, we will use the last name for each contractor and their email contact information is at the end of the article:

- Bob **Mauser** of CertaPro Painters
- Nicole **Feuerhelm** of Select Painting and
- Greg **Lewis** of Ferris Painting

What are the top 3-5 recommendations would you make to associations considering painting?

- Mauser: To make your bidding process easier, enlist the help of a paint manufacturer such as Sherwin-Williams, Dunn Edwards or Vista to create a paint specification. All contractors will then use that specification to create "apples to apples" quotes.
- Mauser: Before contacting a paint manufacturer for a specification or a painting contractor for a quote, consult with your property manager or a construction consultant regarding what painting substrates need to be on the scope of work for your project.
- Mauser: While painting contractors like us *love* to paint everything, consider painting the substrates on alternating paint cycles. Paint lasts longer on some materials longer than

others, so not everything has to be painted at the same time. Metal should be painted every 2 to 3 years, wood every 7 to 8 years and paint on stucco can last 10 to 12 years.

- Mauser: If it's been so long that everything does need painting, do not try to save a few dollars by stretching the project out over several years as it will cost you more in the long run. Significant production efficiencies exist when multiple substrates are painted during the same mobilization.
- Feuerhelm: Choose a licensed contractor who specializes in the type of painting you need to have done.
- Feuerhelm: Check with the Contractors State License Board if any claims have ever been filed against the contractor.
- Feuerhelm: Is the license a C-33 Painting and Decorating license? It must be!
- Feuerhelm: Who is the license issued to and when was it issued? Too many changes is a red flag.
- Lewis: Establish a cycle of painting all wood and metal every 5-6 years and stucco every 10-12 years.
- Lewis: When ready to paint, ask your manager to contact a paint manufacturer so they can prepare specifications for the contractors to bid on, and then follow-up during the painting process. This will ensure you get a quality paint job that should last a long time.
- Lewis: With your reserve study numbers, make sure you have the funds to complete the project.

If an association is considering changing the color scheme, what advice would you give?

- Mauser: First, work with the paint manufacturers during the specification process to develop some color placement options for you. The color selection should take into account the architectural style of the property as well as the colors in the surrounding gardens and neighborhood,

plus the color of the roofing material if visible.

- Mauser: Understand the financial implications of changing the color scheme by asking your painting contractors to bid the job two ways: 1. As if the colors will remain as-is, and 2. The cost of painting the building per the selected new color specification. Significant color changes may require full prime coats and/or additional finish coats of paint compared to staying with an existing color scheme, adding more labor and materials to the project.
- Feuerhelm: Changing colors on the exterior or the interior of common areas can sometimes cause huge problems. We recommend that the board have computerized color renderings or color boards done by paint a manufacturer that does this service for free.

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Choose 2 or 3 of the choices and have your contractor apply samples on the substrates for final approval.

- Lewis: Before starting the process, have a well defined process of how colors will be chosen. a) Will all the owners vote, or b) will it just be a smaller paint committee, or c) only board members?
- All the paint manufacturers offer photographic renderings of how your HOA would look with different color options. This is a free service, provided you use their paint for your project.

Would you recommend painting only the sun-exposed sides of the building more frequently to provide for a longer-lasting finish?

- Mauser: This can be an effective approach to maintaining a property, but some substrates in the shady areas may need painting at the same time as the sun exposed sides. Here is an example painting cadence to illustrate:
 - Year One: Paint the complete building, all substrates included.
 - Year Three: Paint all metal substrates
 - Year Five: Paint all substrates on sun-exposed sides (usually east, south and west): stucco, wood, metal
 - Year Seven or Eight: Paint all metal substrates
 - Year Ten: Complete building repaint
- Feuerhelm: The association can save some money by only painting the most exposed sides of the building(s).
- Feuerhelm: Wood trim and wood siding will require more frequent painting than stucco and composite siding, therefore we recommend having the wood and metal substrates painted every five years and stucco and composite areas every ten years.
- Lewis: We don't usually recommend doing this because: a) depending on the orientation of your buildings and where the sun hits the building at different times of the year, there won't be that much that's not affected by the sun. b) As boards change, it will

be difficult to remember which sides were painted when. If funds are a concern, we could recommend painting the trim only and then 5-6 years later, paint everything completely.

What can associations do to increase the lifespan of their paint?

- Mauser: Light pressure washing can help keep the paint looking cleaner, but intense pressure washing can actually shorten the life of the paint job. Water, like extreme sun, is the enemy of paint. In fact, finding ways for water not to come in contact with your painted surfaces really helps lengthen the life of your paint job. Such actions include:
 - Mauser: Installing gutters and making sure those gutters stay cleaned out to prevent clogged downspouts from causing water overflow from running down the walls.
 - Mauser: Ensuring your roof drip edge flashing is properly installed to kick water away from fascia boards.
 - Mauser: Do not use spray irrigation near exterior building walls. Consider installing drip feed irrigation for flower beds that sit right next to the building.
 - Mauser: Install protective metal caps on pieces of exposed horizontal wood surfaces such as corbels, rafters that protrude from the eaves, patio covers and trellises.
 - Mauser: Invest in your paint job by making sure the contractor has included enough labor for proper preparation. If all contractors are following the paint manufacturer's paint specifications, the same amount of primer and paint will be applied by any of the contractors selected. The price differences between contractors working off the same specification typically comes down to how much time has been allotted for preparation. Paint will fail faster on poorly prepared surfaces.
 - Mauser: Use the right primers and paints for the right substrates. No single paint is perfect for every surface.
 - Feuerhelm: Pressure washing and touch up as needed will

"Painting Advice From Three Experts": continued on page 7.

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- extend the overall life of the painting project.
- Feuerhelm: Choosing lighter and medium tone colors will also extend the life of the paint project.
 - Lewis: Consider the colors as darker colors will fade sooner than lighter colors. All paint fades but using top tier paint can help the paint fade more uniformly and look better longer.
 - Lewis: For stucco, we would recommend a flat sheen. On wood trim, we recommend an eggshell or higher sheen. That small change seems to increase the paint life on those surfaces. Things like doors and railings that get handled should typically get painted with semi-gloss so they wear well from all the handling and clean easily.

Do you have any other thoughts?

- Mauser: In the long run, it is less expensive to perform maintenance painting every few years as opposed to performing a significant restoration painting project every few decades. Think of painting like changing the oil in your car. If you keep to a regular oil change schedule, your car can last for decades. But if you don't change your oil regularly, one day the engine may just stop working. If you don't keep up on your painting, your building won't collapse, but you may find your community will be replacing a lot of the surfaces the paint would have protected. Follow the guidance of your reserve studies to identify the right time to paint.
- Lewis: Routinely check to make sure your sprinklers are not spraying any painted surfaces. Misaligned sprinklers

can cause costly repairs.

- Lewis: Although plants growing on a building may look very nice, it can wreak havoc. Make sure no plants or vines are growing or sitting on any painted surfaces. Plants carry water and that moisture is very bad on ALL painted surfaces and again, can cause damage and costly repairs.
- Lewis: In preparation, have your trees, hedges and all plants trimmed so the paint contractor can safely access the high parts of your building with their ladders. If certain areas cannot be safely accessed with ladders, then scaffolding or perhaps a lift will need to be rented, which will increase the cost of your project.

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membership meeting to a date no less than 5 and no more than 30 days after the adjourned meeting at which time the quorum required for purposes of a membership meeting would be reduced to 20% of the voting members, regardless of the quorum threshold level in the Governing Documents. If passed, AB 1458 could save associations thousands of dollars each year by allowing elections to proceed with less member participation.

CLAC

The California Legislative Action Committee (CLAC) is a committee of Community Associations Institute (CAI), a national not-for-profit educational and resource organization dedicated to fostering vibrant, competent, harmonious

community associations. CLAC consists of homeowners and professionals serving community associations. CAI is the largest organization in America dedicated to the monitoring of legislation, educating elected state lawmakers and protecting the interests of those living in community associations. For membership in CAI, visit <https://cai-glac.org/membership/join-as-homeowner-leader/>. If you prefer, and you are a Beven & Brock client, let us know at HOANewsletter@bevenandbrock.com and we can get you signed up.

In any given year, there are several pieces of legislation introduced that impact California community associations. In addition to authoring AB 1458 and AB 648, CAI-CLAC has engaged heavily with the California Insurance

Commissioner on the insurance crisis and has been working hard behind the scenes to support our communities and homeowners in many different ways.

To maintain its success, CLAC has organized a “Buck-A-Door” campaign that looks for owners living in a community association to donate \$1 per door (or more!) so that CLAC can represent your community’s voice at the Capitol. CLAC seeks to have many more successes in the future with regard to laws affecting community associations. Your donations help advance that goal in an important way. To donate, go to <https://caiclac.com/donate/>. To pay by check, Beven & Brock clients can notify us at HOANewsletter@bevenandbrock.com and we can process a check for you.

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You can always access back issues from 2011 at <https://www.bevenandbrock.com/newsletter-useful-links/>. In addition, you can access a topical library of articles at <https://www.bevenandbrock.com/topical-article-library/>. There is a simple registration form to complete.



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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 types of training for board members.

BOARD TRAINING:

This CAI approved class will be taught by attorney Matthew A.Gardner, a Partner at Richardson Ober and is co-sponsored with the Community Associations Institute. Reservations may be made by emailing: BoardTraining@bevenandbrock.com. Or call us at (626) 795-3282, ext. 889.

UPCOMING DATES:

Nothing scheduled at this time.

A RESOURCE AVAILABLE FOR HOA BOARDS!

Beven & Brock is pleased to announce the availability of a 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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