

**Directors' Handbook**

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**SAMPLE**

### ***You are an author of this handbook***

This is a living document. So that we can build upon what we've learned rather than keep reinventing the wheel, as a Board member you are encouraged to write-in additions and changes as you learn new lessons. Periodically, please give a copy of your suggested changes to the Secretary or other designated editor for consideration of integrating into an updated version of this document. Text for this handbook is in a computer file so it is easily changed.

### ***You are responsible for maintaining your Director's binder***

While serving on the Board, please place final versions of policies and important resolutions into the *Policies* section after they are passed to ensure they become part of our permanent record and observed by future Boards. Please, *do not* file other documents of a transient nature into the binder, such as minutes, agendas or manager's reports. Our Secretary keeps sets of those records.

### ***Please return it when you leave the Board***

Please keep your Director's binder in good order and return it to the President or Secretary when you retire from the Board for use by a future Board member.

### ***Why it's important that you read this***

As with any business, there are many disciplines involved in running a homeowners association, including project management, accounting, construction, horticulture and law. Various skills are needed—skills in planning, problem-solving, facilitating, organizing, delegating and motivating, diplomacy, human resources, negotiating and many others. Therefore, this *Homeowners' Handbook* is not intended to be a comprehensive, *everything you need to know*-source for successfully managing an association. What it *does* do is provide a cursory, practical orientation for Board members of a community association and a framework for applying required disciplines and skills. An objective in its design was to keep it relatively brief to better ensure its chances of *being read*. However, having access to those many, in-depth reference works now available is important. Many good references have been written for specific aspects of community association management. You can obtain such materials from organizations such as Community Associations Institute (CAI) in Alexandria, Virginia, <http://www.caionline.org>, or from homeowner association support organizations in your area. A tabbed section is included in this Director's Binder for such material, entitled *CID/HOA Industry*.

### ***Conflicts in authority***

The contents of this document are subordinate to the DCC&R's (Declaration of Covenants, Conditions & Restrictions), Bylaws and other governing documents of YOUR ASSOCIATION HERE! Homeowners Association and codes and ordinances of the City of Charlotte and laws of the State of North Carolina. Any inconsistencies between this document and those authorities defer to the latter.

***Important notice of reliance***

This handbook and these materials are intended to provide benefits of experience of current and former Board and committee members of YOUR ASSOCIATION HERE!, and other organizations, as lay participants in community association management. No contributor has acted in a legal, accounting, or other professional capacity in providing material. Such professionals should be consulted in the normal course of operating our association and we were advised to do so before publishing this handbook.

***Acknowledgments***

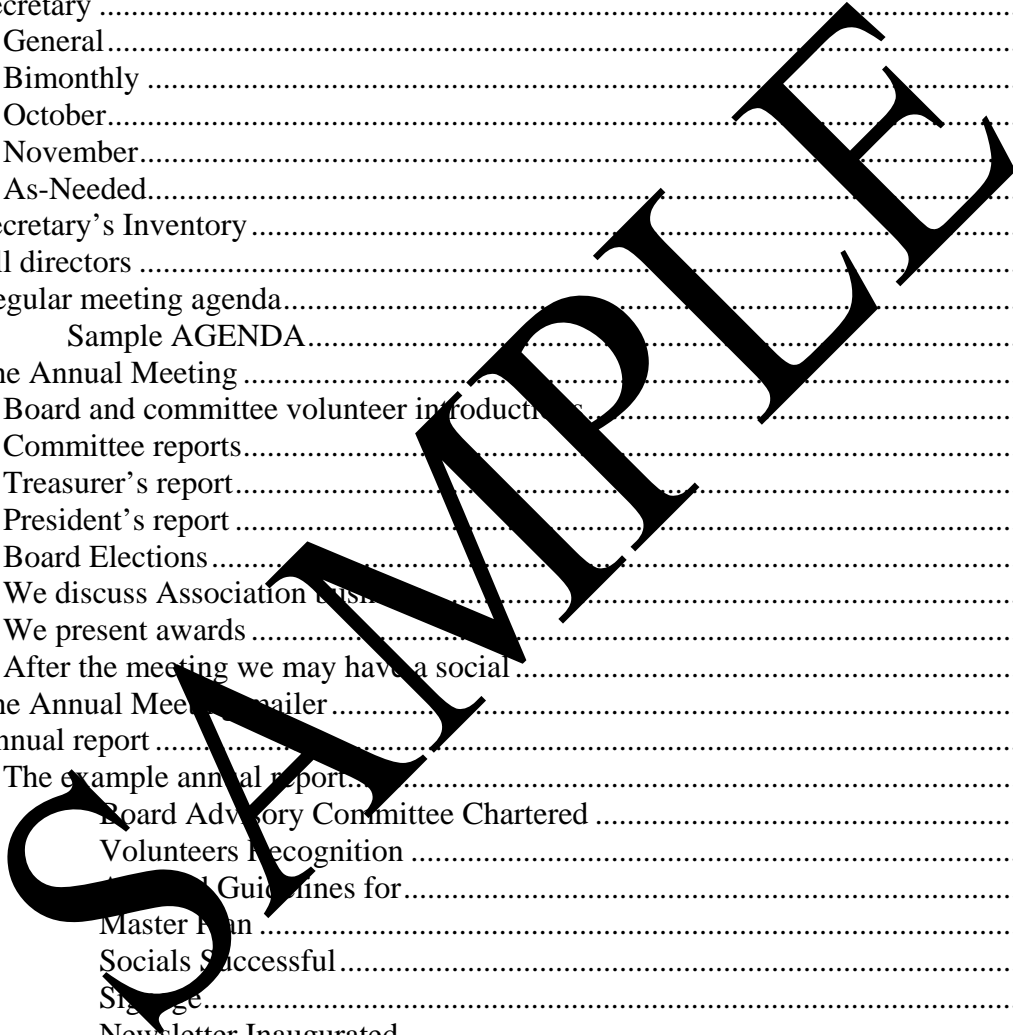
This document was the product of countless hours of meetings, research, writing and review by people with many years of experience in common interest management, including some of your neighbors.

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# Directors' Orientation

## Welcome to our Board of Directors

You are about to have a remarkable experience—with opportunities to affect your community in important ways and substantially influence the quality of life in YOUR ASSOCIATION HERE!. And you will learn many new things about managing a business, bookkeeping and financial statements, construction, painting, roofing, plumbing, lighting, horticulture, diplomacy, negotiating, dispute resolution, publicity, organizing, delegating, motivating, problem solving, facilitating, regulations, bits of administrative law, case law and statutes relating to common interest developments, local ordinances and how they affect our neighborhood, working with City of Charlotte officials and, perhaps, other neighborhood associations, business tracking, planning and management techniques and a host of other areas. It'll be an adventure you will never forget. If you have never before served in *public life*, after a term on our Board you will view government at every level in a new way. (You may even see politicians in a new light!)

Experiencing the *adventure* with other Board members will evolve relationships with them not unlike that of a family. You will share the mix of successes and conflicts, personal and collective victories and defeats in dealing with a spectrum of issues—some challenging, some trivial and quite humorous. In the end, the best memories will be with you, as will new acquaintances and friendships you will treasure as long as you live at YOUR ASSOCIATION HERE!.

## Getting started

Shortly after becoming a Board member you received this Director's Binder containing these sections:

- **Directors' Handbook**—This contains a *Directors' Orientation* (what you *must* know reading—information that every director *must* know) and *Directors' Topics* (discussions of important topics you likely will deal with as a director).
- **Residents' Handbook**—containing information every YOUR ASSOCIATION HERE! resident should know. We distribute a copy of this document to every resident, both homeowners and renters.
- **Periodic Activities Calendar**—important deadlines and schedules for recurring activities.
- **Policies**—important policies and resolutions that determine how we deal with certain issues. While serving on our Board, when an important new policy or resolution is created, don't forget to place a copy of it into this section for future reference by you and those who will serve on our Board after you who will use this binder.

- **Articles of Incorporation and Bylaws**—documenting our recognition by the State of North Carolina as a non-profit organization and describing requirements for our meetings, notices and procedures.
- **DCC&R's (Covenants, Conditions & Restrictions)**—our most comprehensive governing document, describing the relationship between our association and our members, our Association's rights and owners' rights, administration, membership, property and voting rights, maintenance and assessments, duties and powers, use restrictions, architectural controls, protection, and other important provisions.
- **NC Planned Community Act (Chapter 47F)** This statute gives specific authorities and rights to our association, and is meant to be used together with the DCC&R's, but if in the event of conflict between the two documents, this document will supersede.

There are several things you should do, as a minimum, to prepare yourself to serve on our Board of Directors:

- **Read this short Director's Orientation** at least all pages with the words *MUST READ* at the bottom. Then scan the remainder. It isn't very long—only a very small part of the Director's Binding Documents that you have come before you have tried to distill the essential information into this orientation section.
- **Review our Residents' Handbook**. This will
  - Help you to understand what a homeowners association is.
  - Provide answers to the kinds of questions you're likely to be asked as a director—information you should know.
  - Explain the Architectural Review process, one you will be dealing with often as a director.
- **Become familiar with our Bylaws and DCC&R's**. It may not be realistic to expect Directors to be intimate with every page of these documents, but at least you should scan them to get a sense of content and learn to reference them easily. As a director, you are responsible to see they are followed.

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### *Our mission*

YOUR ASSOCIATION HERE! Homeowners Association is a business, recognized by the State of North Carolina as a non-profit Corporation. As with any business, we have a stated mission. *Our mission is to preserve, protect and enhance our investment.*

The value of our investment—the most significant component of which is our *property values*—is determined and impacted by many internal and external factors. We can manage most of the internal factors and can even influence many of the external ones.

### *Managing internal factors*

We spend most of our time managing the internal factors: our assets and living environment.

## ***Managing our assets***

Our assets include physical assets like streets, curbs, sidewalks, exterior lighting, trees and landscaping and other physical assets. Assets also include operating and reserve funds in bank savings and checking accounts and in Certificates of Deposit (CD's). To help us to *keep score* in managing our assets, we use a budget. We develop our budget beginning in August, and approve and mail it to homeowners in September. In preparing the budget, we estimate next year's expenses. We also estimate remaining life for our physical assets and update our projections of their eventual replacement costs. This helps us to decide how much money we should set aside for that year as reserves for future repair and replacement. Once we've estimated next year's expenses and contributions to reserves, we can calculate dues.

At each Board meeting, we make decisions affecting maintenance of physical assets such as painting, sealing, cleaning, and landscape maintenance. We also decide about funds transfers and CD investments and terms. To help us to stay on track, we review our financial condition; we look at our latest income statement, which describes our income and expenses, and our balance sheet, which describes the state of our assets and liabilities. Our treasurer reports on our condition described in those financial documents relative to our budget.

## ***Managing our living environment***

At meetings we also manage issues relating to our living environment, such as rules, architectural controls, and social events.

We create and enforce rules to protect members' interests and rights to quiet enjoyment of their properties. Respect for and protection of each others' rights is necessary to maintain the pleasantness of our environment, very important in how we perceive the value of our properties.

We have a class of rules relating to architectural control that protect us from the impact that uncontrolled exterior changes could have on our property values. Our Architectural Review Committee oversees the process by which homeowners wishing to construct improvements apply to that committee for approval. The Board may be involved should it be asked to grant a variance (exception) for an application that has been rejected by the committee, or considering an amendment to our architectural standards.

Occasional social events, such as a summer picnic, holiday social, provide a number of dividends. Homeowners tend to feel more responsible to neighbors they have met and know personally. This may mean fewer conflicts and more cooperation—neighbor-to-neighbor and neighbor-to-association.

Knowing each other also helps us to be aware of good candidates to tap for future Boards, committees and special projects.

## ***Managing external factors***

Common interests may also include issues related to the community outside of our development. Examples may include participation in City hearings or working with the City on nearby street, traffic, transportation, school or crime issues.

As a Board member, please keep your eyes and ears open for issues outside of our development that may affect our property values and alert other Board members so that we can consider participation. Occasionally, we even ally ourselves with one or more neighboring homeowners associations to combine our numbers and amplify our influence with the City or other authority.

### ***The environment***

As a member of our Board of Directors you will operate in a complex and interesting environment with business, legal and social aspects.

### ***The business environment***

Let's face it—many Board and Committee members aren't experienced business managers. Sometimes there is a tendency for new Board and Committee members to manage our collective affairs as they manage their personal affairs. But the variety and complexity and nature of issues are different and the liability environment and fiduciary responsibilities require a different approach.

As a business we are expected to apply accepted business practices and to comply with accepted standards and practices of the common interest community association management field. Trying to ensure that we have at least one or two members with business management skills on our Board of Directors can help greatly.

### ***The legal environment***

As you have probably already learned, our Board is not simply a group of neighbors getting together to make decisions about their neighborhood as neighbors sometimes do in a social context. A homeowners association is, fundamentally, a legal construct; ultimately, almost everything we do as a Board is driven by or affected to some degree by our Bylaws, DCC&R's, rules, policies, North Carolina statutes, case law or recognized standards and practices of the common interest community association management industry.

Inherent in our roles as Board members are the problems of reconciling the familiar social context of friendships with neighbors, with the less familiar requirements of our duties as Board members to apply rules, standards and prescribed procedures that affect our neighbors. Some methods we use to do this are described below under *The Social Environment*.

When we become Board members, we become fiduciaries of our corporation with many of the same responsibilities described in North Carolina Corporations Code as for Board members of for-profit corporations. This means that we are obligated to uphold our DCC&R's and bylaws and rules and architectural controls—or incur liabilities if we do not. If we've been too casual about adherence or enforcement, we may find ourselves on the losing end of a lawsuit—barred from enforcement through estoppel. And if we lose enforcement remedies we are charged with protecting, we could be sued for that too. If the Board and/or members feel that a rule or a particular provision of our Bylaws or DCC&R's is unfair, not in our members' interest and not otherwise justified or required by our lenders or city or the law, we can change it. Both our Bylaws and DCC&R's have

provisions for amendment. But we do not have the option of non-enforcement, or of arbitrary or capricious enforcement.

Being fiduciaries also means we must remain focused on serving the interests of all homeowners, divorcing ourselves from our own personal interests.

Failure to meet any of these obligations may get us into trouble. Lawsuits are not uncommon in homeowners associations, particularly if poorly run or neglected. We do carry liability insurance for board members but a suit may impact premiums and be quite costly in other ways, and there are exclusions in our policy.

When in doubt about your obligations as a Board member, consult our DCC&R's or Bylaws or other appropriate documents, or consult with other Board members.

Occasionally, there may be uncertainty about the treatment of a significant issue, in which case the President, or other person authorized by the President or Board, should consult with our attorney. Normally, following the meeting with the attorney, the member or members who attended should produce and distribute a report of the conference to Board members. (For conferences relating to some unusually sensitive issues, our attorney may advise against us keeping a written record of such a conference, inasmuch as records not in possession of our attorney can be subject to subpoena and can be misinterpreted to the detriment of the Association.)

The Board should ensure it has money budgeted for such conferences. It may be listed in the budget as *Legal Services* or simply as *Professional Services*.

## ***The social environment***

### ***The mini-government dilemma***

As discussed above, some homeowners may imagine the Board to be simply neighbors meeting somewhat formally to resolve problems and deal with common issues, arriving at a consensus of what seems fair in our customary democratic style. This concept suggests that the Board has a great deal more discretion in the decisions it makes than it actually has. Unfortunately, this misconception sometimes results in misunderstandings between Boards and homeowners. Homeowners may easily imagine that the Board did things (like enforce rules) that it didn't have to, or that it was remiss in not doing things they thought it should have. The reality is that our governing documents and State laws have placed a very large number of restrictions upon us. We must observe regulations governing meeting notices and how and when we can meet. They also regulate many other things. Our Bylaws hold us to strict procedures for a variety of contingencies and our DCC&R's and standards of administrative enforcement hold us to strict rules enforcement. Meeting our obligations of procedure and enforcement can seemingly bring us into conflict with what we normally feel is appropriate social protocol for neighbors. For example, enforcing rules compliance by neighbors and friends can be extremely awkward. We have these means of dealing with this:

- fairness
- education
- participation

## Fairness

Board members must always remain sensitive to issues of fairness—in a legal sense, political sense and social sense. *Legally*, what we do must be defensible. It should be consistent with the law. It must be reasonable and not unnecessarily restrictive. Enforcement must be able to withstand the test of being uniform, which is, being applicable to any or all members under the same circumstances. HOA attorneys recommend that associations have *written and published* rules, standards and policies to strengthen their positions. That is one reason why we have produced the binder you are reading, which includes our rules and standards (in our Residents' Handbook) and our Rules Creation and Enforcement procedures (later in this Directors' binder).

Also, laws continue to evolve and it is quite possible for our governing documents to be superseded by them. Therefore, we should have an attorney review our rules, rules creation and modification policies and our enforcement procedure (see Rules Creation and Enforcement later in this binder) to ensure they comply with North Carolina state laws.

*Politically*, enforcement procedures should be drafted and administered in consideration of the need to maintain a healthy Board/homeowner relationship. The perception is that collectively we carry a big stick. Waiving it unnecessarily can aggravate, alienate and hurt the important Board/homeowner relationship. Remember, *from time to time the Board will need to call upon our members for support*—perhaps for support in a lawsuit or for passing an important amendment or for resisting a challenge, or simply to solicit participation on committees or the Board. When that time comes, the relationship will be extremely important to us. Our homeowners had to prove a track record of responsibility in order to purchase their homes. They are intelligent, rational people, who occasionally may step over a line, whether by not paying attention to what our rules are or by being careless or, perhaps, testing limits a little. Most quickly cooperate with a gentle, informative reminder. We are well equipped to deal with the exceptions so we can be secure in a gentle initial approach. *Socially*, as Board members we should create procedures and policies that we, personally, can accept as being fair—as shaping the kind of environment in which we would choose to live as individuals while remaining true to our collective obligations.

## Education

Every Board encounters at least one resident who became very upset with Board members about a Board decision or notice to abide by a rule, imagining that his or her rights are being violated. The individual's wrath may be expressed at a meeting or in a threatening letter, perhaps one written by an attorney. It can be frustrating trying to deal constructively with homeowners who are not responsible enough to educate themselves about their rights and obligations before or since purchasing their homes and who believe the Association has neither the duty or

the right to do what they are doing. Yes, the association does have considerable powers to make decisions and to enforce and compel with legal action. But usually much time, money and grief can be spared by dealing patiently with irate homeowners, listening to their arguments and diplomatically reconciling their arguments with the realities of a homeowners association. Assuming the Board has done its homework and is absolutely secure in its decision or in requesting a homeowner to do something, a homeowner will usually be irate only as long as he or she has misconceptions about the association's or his or her own rights and obligations. We can educate our members about rights and obligations with emphasis on the *why's* rather than simply on the *what's*. By helping our members to understand that our Bylaws and DCC&R's are tools to balance individual and collective interests—that help us and protect us, rather than unnecessarily burden, restrict and control us—we can often gain their cooperation.

We can educate through

- Our newsletter.
- Our Website.
- Our Residents' Handbook.
- Notices and letters.
- How we relate to homeowners at meetings.
- Our committees.
- Neighbor-to-neighbor conversations.

Our newsletter is our principle means for this. It is the face of our association—the only face many members will see. This important communication tool is discussed more completely under *Newsletter Committee* in the Committees section.

## Participation

Getting members to participate means getting them to attend meetings, to volunteer for projects, to join a committee or run for the Board. Homeowner participation has many benefits:

- By becoming involved and being recognized and reinforced for that participation, a homeowner will feel more a part of the association. Seeing first-hand how and why our association operates as it does makes misunderstandings less likely.
- Often, a homeowner attending a meeting will have a valuable suggestion or important information that helps us to solve a problem.
- Attending homeowners can be a good source of volunteers for special projects or adhoc committees. The more volunteers, the less the burden upon everyone.
- By participating and learning more about how we operate, a homeowner becomes better prepared to assume a future role on our Board or a committee.
- Helps the homeowner see the issues from the board's point of view.

- The more who participate, the more members we get to know and the better handle we'll have on future Board and committee candidates when we need to tap someone.

As a Board member, and even after our term is over, it is important to keep promoting participation by our neighbors. Encourage those who haven't yet volunteered. Support those currently serving. And show your appreciation as volunteers retire. Recognition and Thanks are the only currencies we have. Ensure plenty is paid. Traditionally, at our Annual Meeting we have presented a modest award, perhaps a plaque or framed certificate of appreciation, to retiring Board or committee members and to volunteers with notable contributions. Such tangible reminders memorialize individuals' contributions (upon which we greatly depend) and may encourage future participation as well.

## *Learning the Board*

### **Preparing to serve on the Board**

Although makeup of our Board and committees may change somewhat after every year's November election, our association's business is ongoing. Projects are in various stages of progress. New Board members should be prepared to take up business initiated by previous participants and departing Board members must plan for continuity when they themselves leave.

For one to be a productive Board member from the outset, one should

- Attend *at least a few* Board meetings *before* being seated to become oriented to the issues being dealt with and how we operate.
- Review the Board minutes for the previous year.
- Attend at least a couple of neighborhood walk-throughs. (Ask the President about the schedule of walk-throughs.) You will learn more about the physical plant that you will be responsible for managing.

## *Board meetings*

### **Prepare**

Before you come to a meeting, review any information you've received since the previous meeting. You should be ready to approve minutes of previous meetings and to vote on pending issues. And if you have important questions that must be answered before you vote on an issue, try to get them answered before the meeting. If you have a topic you would like to discuss at the meeting, contact the President to have it placed onto the agenda. If your topic is important, distribute a proposal or other written analysis to other board members at least a few days prior to the meeting to give them an opportunity to review it. Also bring answers, updates, decisions or other requested information relating to open topics from previous meetings.

Such preparation helps to keep meetings shorter and more productive.

## Attend!

Once you're on the Board, please try to attend all Board meetings. Occasionally you may have to miss one but missing Board meetings does handicap us, limits your effectiveness, and may preclude a quorum and, thus, nullify a Board meeting. It isn't fair to other Board members or to the membership at large.

## At the meeting

Try to keep to the agenda. Waiting until the meeting to introduce new topics may slow the meeting significantly—consuming valuable time in getting questions answered and in examining of issues that should have been studied before the meeting. This isn't to say that a new topic should *never* be introduced. But do try to have all *significant* issues put onto the agenda and written proposals distributed to members about a week before a meeting. Otherwise, don't be surprised either to have discussion on your topic tabled or otherwise not be acted upon at that meeting. We do manage to keep a healthy sense of humor while conducting business meetings. But you should remember *this is a business meeting* of directors, quite different from a social get-together. Working with neighbors in a social, non-business setting, most of us have a tendency to make whatever compromises are necessary to satisfy all participants and ensure that no one's feelings are hurt. Often, the matter being considered is of minimal importance and tolerant of compromise; even if the decision isn't optimum, there is no real harm done. However, when considering important issues, we should remember that we are in a business setting with obligations as fiduciaries to protect the investments and serve the best interests of our members. Sometimes a bad idea is a *bad* idea. Don't second a motion you think is not in the best interest of our members just because the proponent is your friend. If you think a proposal concerning an important issue is bad, don't automatically integrate it into a decision simply to incorporate everyone's ideas and ensure no one's feelings are hurt. First, ensure you understand what is being proposed. Then, in your most diplomatic and constructive way, explain why you disagree and why another idea may be better. If you feel compromise will be too detrimental, call for a vote. That is what voting is for. After the meeting is over, consider having a few friendly words for anyone with whom your position appeared to be in conflict—to assure that person that your disagreements were purely on a business level. And if you feel that someone intended something personally against you in the *heat of the debate*, ensure you talk about your concerns with that person. Particularly for those relatively inexperienced in serving on a Board and not yet able to discriminate advocacy for a business position from personal attack, failing to resolve conflicts and misunderstandings can translate into serious damage to our ability to conduct business objectively. Communicate, communicate, and communicate. It is okay to be an animated advocate and meetings may have some lively debate, but such discussion is most productive when you

- **Know what you are talking about.** If you don't, then educate yourself about the issue being discussed or listen to someone who does know.
- **Are a responsible advocate.** In fairness to other Board members, try to be conscious of the coherency of your arguments relative to theirs.

Understand that, having a vote on our Board means being *responsible* for your vote. That means each of us must be willing to have our proposal or position scrutinized for soundness by other Board members and those we were elected to represent—without taking it personally.

- **Participate in the spirit of cooperation.** Ultimately, we're all on the same side. The object is to come out on top collectively, not individually.
- **Listen.** Each Board member has areas of focus and specialty and can provide insightful contributions. However, we can't all be experts in everything and, hopefully, some strengths will complement others. Listen to the ideas of others carefully. With the President as facilitator, we should be able to weave the best ideas together for some spectacular results.

### Support each other

Supporting, encouraging and commending each other for work well done helps us to sustain our energy and productivity.

As you take your turn on the Board, you'll soon learn how important the support of Board members can be, especially when facing external challenges. From time to time, a Board member may be the subject of an unreasonable verbal attack by a frustrated, under-informed homeowner. We each volunteer our time to do the best job we can. Although we must always remain open for legitimate criticism, it is not our duty to accept abuse. A polite correction of a misstated fact, by someone other than the victim, has a welcome credibility and effectiveness to quiet an unfair assault. Don't be afraid to speak up in support of other Board members in such instances. You may be in a position to appreciate such support someday yourself. Support and encourage other Board and committee members when facing other challenges and tasks. A task can seem less burdensome when one feels others are participating and being supportive. Commend other Board members for jobs well done. A deserved commendation is easy to give and yet can be so effective in sustaining the energy level and prolonging a volunteer's service upon which we depend so much. *Look for those opportunities to congratulate and to thank.*

### Electing officers

Board officers will be elected by the Board at the first Board meeting following the Annual Meeting and elections. However, it is a good idea to consider having officer elections any time there has been a significant change to the Board's makeup, as when directors come and go. To illustrate why this may be desirable, consider a situation where the Treasurer's position has just been vacated. Perhaps Board members feel that the person serving as secretary would make the best new Treasurer. If that is so, it would make more sense to elect that person as Treasurer, rather than to choose another director simply because he or she wasn't yet an officer. And, with the former Secretary now being the Treasurer, someone else may be elected as Secretary, which may result in yet another vacancy, and so on. Though perhaps not appropriate in all cases, whenever there has been a significant change, the Board should consider opening all officers' positions for reelection in order to optimize Board member roles.

Some large organizations traditionally elect the Vice President as President. This may work in those organizations where members serve for a number of years, are well known and are expected to *progress through ranks*. However, such a tradition does not necessarily work well for a homeowners association Board, the constitution of which changes frequently. There should be no expectation of automatic progression. It is in our members' best interests that we try to elect those best-equipped for the respective offices, regardless of previous status.

## *Our Management Assets*

### **Our written management tools**

In the course of managing our affairs, Board and Committee members face many tasks and challenges. To deal with them, we've been fortunate to have talented, experienced Board members expend tremendous amounts of time in constructing management tools intended to address those challenges for the long term. A few past examples include the designing of reserve projections, crafting and implementing this manual, Creating our Bylaws and DCC&R's amendments, publishing our newsletter, creating our Residents' Handbook and Master Plan, and preparing committee charters. These examples, and others such as this Directors' Handbook, represent the equivalent of tens of thousands of dollars of consulting and labor. Most people manage their personal affairs without such written tools. They simply rely on memory—their *built-in* guidelines. They are not used to consulting someone else's database. Therefore, there is a tendency for some new Board members, when confronting a problem for the first time, to proceed with conjuring a new solution in the context of their own experiences, even though the same problem may have been encountered and solved before by much more experienced and knowledgeable people who spent much more time and created a much better solution.

Although not readily, most of us don't think of it in these terms, quality solution products created by Board members and others as well as the experience of former Board members, and long-time residents are *assets*. Discarding or ignoring them would be to mismanage them. A for-profit corporation's Board of Directors normally wouldn't casually discard an asset in which it had invested tens of thousands of dollars. We are also a business and *we have a duty to maintain these assets* just as we have a duty to preserve our more tangible ones. Maintaining these assets means using them, periodically reevaluating them and revising them if necessary. Use our written management tools:

- **Directors' Handbook**—This is the document you are reading. It is a distillation of the *must-know* information for Board members.
- **Periodic Events Calendar**—This is a list that helps to ensure we don't forget activities that should happen on a regular basis, such as beginning our annual budget preparation or appointing our Nominating Committee. The Periodic Events Calendar is located in its own section of this Directors' Binder. If you think of any such activity that isn't yet on the Periodic Events Calendar, write it in.

- **Residents' Handbook**—This is our primary orientation tool for all members about their Association. It includes an orientation, general information about who to call for what, answers to frequently asked questions, rules, architectural standards and other useful information.
- **Newsletter & Website**—These are the primary tools for communicating regularly with membership. For many, this is the *face* of our association. It includes notices, announcements, contact telephone numbers and articles to educate our members about our association and how it works. (See the charter for the Newsletter Committee and the Website Committee.)
- **Written policies**—Written policies allow us to establish and uniformly apply the standards and manner in which we regulate our affairs. Having *written and published* policies helps to ensure consistency, fairness and make our actions more legally defensible.
- **Committee Handbook and Charters**—Located within this Directors' Binder, committee charters define and describe the purpose of each committee. *Every* significant committee should have a charter. A charter may also suggest activities; this can be very helpful when a new committee is formed and to orient new committee members who may find example activities helpful.
- **Reserves Funding Analysis**—Our Reserves Funding Analysis helps us to track remaining life for our common assets physical components, giving us visibility into future funding requirements and helping us to properly allocate to reserves accounts when preparing our annual budget.
- **Preventive Maintenance Plan**—This is a plan, prepared and overseen by our Landscape Committee, for maintaining our common physical assets. This may include preparing an inventory of the major physical components and development of checklists describing maintenance tasks and required attention frequencies, to be used by our maintenance contractors. Periodically we may engage outside professionals to study our physical assets and to assist in the development of such a plan.
- **Various forms and letter templates**—These include the set of Architectural Review Committee forms, *Courtesy Reminder* and *Vehicle Violation* notices, the *Request to correct condition*, and various letter and notice templates. Most all of these are available in computer files for easy modification and maintenance. Examples of some of these appear under *Directors' Topics* toward the back of this section. Although the content of a form or letter template may not *appear* to be particularly important, many were very carefully crafted to include information that we learned was necessary. Some include very subtle, yet important language or information that protects us legally. If you change a letter or form, keep this in mind.

### *Our experience resources*

We also have a wealth of experience in our former Board and committee members. This, also, is an asset that we shouldn't waste.

### *Our committee resources*

With our 148 homes, YOUR ASSOCIATION HERE! has much talent we can draw upon for special projects and committees. As Board members, we should be alert for such talent and not be afraid to knock on doors to tap this resource.

Appointing volunteers onto committees isn't enough and won't, by itself, accomplish tasks or solve problems effectively. As with any business enterprise, talent must be *managed* if we expect to exploit it and especially to keep it. Managing committees includes

- providing committees with a written charter that gives clear purpose, direction and authority.
- ensuring each committee has the resources it needs to accomplish its charter.
- appointing a Board member liaison for each committee to ensure good Board/committee communications. (In the absence of such an appointment, the fifth director should fulfill this function.)
- providing visibility of committee activities through the newsletter and the committee's presentation at our Annual Meeting. Thanking committee members publicly through the newsletter and through our awards program at our Annual Meeting.

Helping volunteers serve successfully on committees benefits all of us by their direct contributions, their education about how YOUR ASSOCIATION HERE! operates and by making them better prepared as possible future Board members.

A more complete discussion on getting and keeping committee volunteers, as well as committee charters, is located in the Committees handbook section of this Directors' Binder.

### *Use these assets!*

Every Board member should know that we already have this wealth of management assets—written tools as well as our bank of experienced people. Use them. The President has the primary responsibility to be familiar with what and where they are. Most written assets are found here in the Directors' binders. Most are in computer files, convenient for periodic updating and republishing. Every Board member should be aware there are probably people present at any Board meeting with experience that can be applied toward almost any issue.

When a problem is discussed, inquire publicly of an existing practice or solution method or background or history. Usually someone will be able to offer information or insight that can be applied toward resolution of the problem.

*Let's build upon what we have rather than keep reinventing the wheel—to keep YOUR ASSOCIATION HERE! moving forward rather than in circles. Let's make constructive use of our written management tools and experience resources.*

# Directors' Topics

## Introduction

In the previous orientation section, you read an overview of our responsibilities as Board members.

In this section you will learn about some of the *specific* ways that we, as a Board, manage YOUR ASSOCIATION HERE!. This section is our way of passing on to succeeding Boards the actual *how-to* information—the nuts n' bolts methods we've developed and refined over the years. Some topics discussed include

- Duties of officers and directors
- Regular meeting agenda
- Activities Tracking Report
- Annual meeting
- Annual report
- Rules enforcement
- Our Association Manager
- We can add additional topics to this section as we learn new lessons.

## Directors' Duties

This is one distribution of duties that has worked well with some other associations. Duties may be distributed differently from what is indicated below and we may change them from time to time.

## President

### General

Someone must be responsible to see that it all works. That's the President. The President sets the course and, more than any other individual, determines the success of the Association. Duties of the President include:

- Appoint committees as needed and ensure each has a charter, objectives and the resources to meet them. Coordinate people and resources. Encourage the volunteers and monitor their progress toward their objectives.
- Anticipate and plan for upcoming issues and activities.
- Monitor Association activities and ensure follow-up to completion.
- Identify problem areas and coordinate resources and processes for solution.
- Identify ways to improve our condition—to make things better than they were before.
- Promote the association within the neighborhood. Make residents feel good in being part of and participating in it.

- Enhance the image of the association outside of the neighborhood—to the city, real estate professionals and others.
- Be a team builder. The quality of the team determines our success—at problem solving, maintaining and improving our condition and the quality of life here. Keep new blood flowing. Encourage people with exceptional talents to run for the Board and participate on committees. And when it comes time to appoint committee members or get Board candidates, do whatever is necessary to get those exceptional people to say “Yes.”  
*Providing the best possible Board candidates before an election is one of the most important activities you will participate in.*
- Identify future leaders. One of them is a future president. Work with them; include them in some of your activities so they can see how it works and how things are done.
- Set an example for the kind of leadership you want for the future of YOUR ASSOCIATION HERE!. Performance of future presidents will be influenced by your example.
- Foster a team spirit. Individuals working together, supporting each other, depending upon each other, encouraging and commending each other build constructive momentum—anything can be done and any obstacle overcome.
- Recognize performance. Ultimate committees and Boards don't *do things*. Individuals do. *Recognition and Thanks are our only currencies. Ensure plenty is paid.*

### Monthly

Facilitate meetings. Board meetings are pivotal; this is where our course is set and most activity is initiated. The tenor of your leadership is apparent here. For many who attend, how you run the meetings is an indication of the quality of your leadership in all association activities.

These are some things you can do to keep meetings moving and productive:

Meetings are more productive and streamlined when you have prepared an agenda that includes specific topics—not just “Call to Order, Old Business, New Business,” etc. (An example agenda is included in this Directors' Binder under Directors' Topics.) Prepare an agenda before each meeting, drawing from previous agenda items, the Activities Tracking Report, Periodic Events Calendar, issues that have arisen since the last meeting, projects-in-progress, items that others have requested be placed onto the agenda, and so on. It is usually handy to keep a working list you add to between meetings as other items occur to you.

- Identify those topics that may require special study or inordinate periods of time—those that would be better considered by a committee or at a separate meeting—and delegate or schedule that meeting if appropriate.
- When placing an item onto the agenda, compile material that can be provided to Board members days before the meeting that may help them to prepare for dealing with the item quickly at the meeting.

- When placing a problem item onto the agenda, also try to develop a proposal for its solution. Encourage other Board members to do likewise when broaching problems. Even if the proposal isn't accepted, having a document to seed discussion will provide an important head start. Some of the and finer issues will have already been addressed and you'll be closer to a solution. Waiting until you're at the meeting and then hurriedly attempting to craft a solution, policy, rule or letter on the spot often leads to a poor product and an unnecessarily long meeting.
- Be somewhat familiar with rules of procedure we have adopted for meetings. Occasionally, it may be necessary to invoke a rule to resolve a procedural question or to help you maintain control of a meeting.

Maintain the Periodic Events Calendar. (An example calendar is located in this handbook under Directors' Topics.) Bring events upcoming on the calendar to the attention of the Board as necessary.

Review the newsletter before publishing. From time to time, the newsletter may contain references to (sometimes legally) sensitive issues. Since it is the communication arm of the Board, we are responsible for its contents; the President should review it to ensure that it treats those issues carefully. Alternatively, the President may appoint someone else to do this.

Below is a month-by-month description of activities usually requiring particular attention by the President.

### November

Review Architecture Review Committee membership and participation level. Appoint new members as necessary to maintain to the maximum prescribed in Article 7 of the DCC&R.

### June

Appoint a nominating committee to nominate as many qualified Board candidates as there will be openings. (See the Nominating Committee charter.)

Review the Treasurer's duty calendar and ensure activities are on track for planning next year's budget.

### July

Review the Treasurer's duty calendar and ensure activities are on track for planning next year's budget. The budget is due next month.

### August

The budget cycle is about to begin in preparation of next year's budget. If there is no active or standing Budget Committee, appoint one to be in place when the budget cycle begins. Refer to the Periodic Events Calendar for the schedule of budgeting activities and place those activities onto the agenda as appropriate.

Plan our November Annual Meeting. (See "Annual Meeting" in the Directors' Topics section of this binder.) This meeting may be the only type of association

meeting that some of our members will ever attend and it is very important that it be successful. Ensure that the Board approves the budget. It must be mailed out by the 15th of this month if a dues increase is required.

### **October**

Coordinate final preparations for the November Annual Meeting. (See "The Annual Meeting" in the Directors' Topics section of this binder for details.)

Ensure nominees have been contacted about making a brief statement of introduction at the Annual Meeting. (Limit to one minute.)

Ensure any awards will be ready.

Ensure the Social Committee is planning the after-meeting social. (See Social Committee charter.)

Ensure each committee chairperson has been contacted to see if he or she wishes to present a committee report at the Annual Meeting.

Appoint ballot counters. For an association of 148 homes, 1 pair of ballot counters should be enough (a reader and a tally marker for each pair). Remind them to bring pencils and calculators.

Prepare your President's Report to deliver at the meeting.

### **November**

Prepare and distribute to Board and management the new roster of Board members and officers, including addresses and phone numbers.

Appoint new committee members as necessary. Re-appoint committee-Board liaisons.

Work with the Secretary to prepare and distribute a new committee roster to Board members and management.

Work with the Secretary to prepare and distribute to all residents a new "Residents' Handbook Supplement Page(s)." This contains an updated list of Board and committee contacts, phone numbers, and any addendum and errata to our Residents' Handbook.

Review this periodic events calendar and revise if necessary.

### **As Needed**

Represent the association when working with outside parties, such as contractors, the city and our attorney.

Appoint standing and ad-hoc committees as necessary. Draft volunteers onto those committees or for special projects. From time to time it also may be necessary for the President to remove volunteers from committee positions.

There will be occasion where a resident complains about another resident, usually alleging some nuisance or rules violation. An informal, private visit with each party will often reveal a solution without having to take the matter to the Board for official consideration; the latter can result in more unpleasantness, expend considerable time, and risk Board liabilities and undesirable precedents.

Therefore, it can be advantageous for the President, or someone he or she

designates with a sensitivity and talent in resolving interpersonal differences, to tactfully handle minor conflicts in this way.

### ***President's Inventory***

The following items should be transferred from an outgoing President to an incoming one:

- Records: The President will probably compile a large number of documents while in office, including correspondence, financial statements, reports, etc. To work effectively, he or she must have these records at hand, thus, many of these won't be transferred to the Secretary while issues they relate to are still active. When a new President takes over, some of the outgoing President's active records may be transferred to the new President and the inactive records transferred to the Secretary for archiving.
- Key to irrigation control box.

### ***Vice President***

The Vice President runs meetings in the absence of the President.

The Vice President should be prepared to assume the duties of the President should the President be unable or unavailable.

As a Board member, the Vice President should not expect to volunteer for other tasks and projects as they come up. Distributing the load among all Board members and other volunteers helps to keep tasks manageable for everyone.

### ***Treasurer***

Oversees the financial affairs of the Association:

#### **General**

Once or twice each month examine each vendor's invoice and make out a check for payment. In reviewing each invoice:

- Verify that the check amount is the same as the invoice amount, or reconcile any difference.
- Verify that the invoice amount is in line with what we agreed upon or expected from the vendor, or reconcile any difference.
- Verify the check amount is being posted to the correct account, for example, if we are paying to replace an outdoor light, ensure it is being posted to our Lighting Repairs account rather than to an account like Office Supplies.
- Verify that we haven't been double-billed and that a check hasn't already been paid.
- Provide financial control by reviewing monthly statements and cash journal for correct allocation to accounts, double billings, and other discrepancies.

- Provide analysis of trends in expense and reserve accounts activity and keep an eye on budget versus actual.
- Initiate and ensure completion of annual budgeting process.
- Review audit report.
- Provide visibility of our financial affairs through newsletter articles and reports at Board meetings and the Annual Meeting in November.

As a Board member, the Treasurer should also expect to volunteer for some other tasks and projects as they come up. Distributing the load among all Board members and other volunteers helps to keep tasks manageable for everyone.

### Monthly

Ensure copies of paid bills, financial statements, audits, and other important financial documents are filed in the Treasurer's records and that the files remain up-to-date.

Review current statements and cash journals for discrepancies.

Review all homeowner accounts and send collection letters as appropriate.

Report on these affairs at regular meetings.

### May

Alert committee chairpersons to submit budget requests for the next fiscal year.

The budget cycle is about to begin in preparation of next year's budget. If there is no active or standing Budget Committee, the president should appoint one to be in place when the budget cycle begins.

### June

Schedule and preside over a Budget Committee meeting to review last year's budget, project expenses and make recommendations. (See charter for the Budget Committee.)

Review our reserves requirements in preparation for the budgeting process. We are obligated to review our reserves requirements annually.

### July

Oversee development of the budget for the coming fiscal year. It is due next

### August

Finalize the budget for Board approval. It must be mailed by the 15th of this month if there is a required dues increase.

## Treasurer's Inventory

The Treasurer is responsible for maintaining a complete set of Association financial records. If you become our Treasurer, please coordinate with the outgoing Treasurer to transfer to you one or more boxes of records, which include:

- Our budget

- Financial statements
- Disbursements journals
- Copies of vendors' invoices
- Copies of CD and other bank statements
- Other records relevant to our finances.
- P.O. Box Key
- Irrigation Key

Monthly, you will receive statements and invoices. File them in the appropriate folders. Annually, or as they fill up, start new folders. Please keep them neat and organized for the next Treasurer!

## Secretary

### General

Take notes and produce meeting minutes for meetings.

Be responsible for recording and archiving all important association documents such as rules, policies, resolutions and ballots.

As a Board member, the Secretary should be expected to volunteer for other tasks and projects as they come up. Distributing the load among all Board members and other volunteers helps to keep tasks manageable for everyone.

### Bimonthly

Ensure that copies of each of the following and other important documents are placed into the Secretary's files and that those files are kept up-to-date:

- regular meeting minutes
- resolutions
- policies
- copies of all newsletters. (We should have a copy of every newsletter we've ever published.)
- a copy of every Association mailing, including letters, ballots, etc.
- other important documents
- As each important new resolution and policy is passed and printed in final form, provide copies to Board member and instruct them to place them into the Policies section of this Directors' Binder. This will ensure that important policies will not become lost and forgotten by future Boards.

### October

Assist the President in arranging for the Annual Meeting. (See "The Annual Meeting" in the Directors' Topics section of this binder for details.)

### November

Work with the President to prepare and distribute to Board and management the new roster of Board members and officers, including addresses and phone numbers.

After new committees are appointed, prepare a new roster of committee members and distribute to Board and management. Work with the President to prepare and distribute to all residents a new "Residents' Handbook Supplement Page(s)." This contains an updated list of Board and committee contacts, phone numbers, and any addendum and errata to our Residents' Handbook.

### **As-Needed**

Prepare and help distribute announcements and notices.

Take minutes at meetings.

Prepare, mail and file copies of violation notices

Setup hearings and generate notices as required by the board

### **Secretary's Inventory**

Our Secretary is responsible for maintaining a complete set of Association records. Should you become our Secretary, please coordinate with the outgoing Secretary to transfer to you these items and records:

- Original Articles of Incorporation, Bylaws and Dues & R's.
- Minutes of Board meetings
- All newsletters we have ever published
- Copies of all letters and notices we have ever sent to members
- Copies of some correspondence. This may include letters to individual members, vendors, etc. This may not be a complete file, as much as the President will also have files. Occasionally, a letter may be given to the secretary to file.
- P.O. Box Key
- Irrigation Key

Some of these records, particularly newsletters and notices, are kept as a form of insurance—to establish that we have met legal requirements of notice for certain issues that we may be compelled to prove some day.

Please keep records and files neat and organized for the next Secretary.

### **All directors**

Every Board position is an important one. A Board member not serving as an officer may chair one or more committees and volunteer for special tasks and projects as they come up. Distributing the load among all Board members and other volunteers helps to keep tasks manageable for everyone.

Any director may be asked by the President to serve as a liaison for one of our committees. (See the Committee Handbook section of this binder.) This is a very important function; the success of a committee may depend upon how well you perform it.

As liaison with a committee, you will be its principal contact with the Board. You will be responsible to

- ensure the committee has a copy of its charter.
- ensure it has the resources it needs.
- ensure Board requests for committee action are relayed to the committee and that its requests are brought back to the Board.

- energize and encourage the committee and demonstrate Board support for their activities.
- make the Board and Awards Committee and newsletter editor aware of special contributors deserving acknowledgment in the newsletter and recognition at the Annual Meeting.

### *Regular meeting agenda*

Our regular Board meeting is the core direction-setting activity of our association. It is important that we keep the meeting moving, on track and that we conduct business efficiently. It is also useful to remember that homeowners' impressions of how well we are doing our jobs may be shaped by our efficiency and effectiveness at this meeting. Another reason to make the best use of our time is that, once we've succeeded in getting the best directors we can onto the Board, we owe it to ourselves and to fellow Board members not to waste time.

The President conducts the meeting on a previously mapped course—the agenda. Keeping to the agenda and minimizing introduction of new topics not already on the agenda promotes efficiency and prevents valuable time being wasted in answering questions and examining issues that should have been studied before the meeting.

Included below is an example agenda. Parts of it include

- **Call to order**—Calling the meeting to order at the scheduled time (or as soon as a quorum is present) establishes to everyone that meetings will start on time. Otherwise Board members may feel it is okay to arrive late, and meetings will tend to start later and later.
- **Approval of minutes**—The Secretary should send Minutes to Board members within two weeks following a meeting. We should have read those minutes and sent suggested changes to the Secretary within a week of receiving them. By the time of the next meeting, we should have read the revised minutes returned to us in the Board packet and be ready to approve them with few, if any, changes. We should *not* wait until the meeting to read the minutes for the first time.
- **Open forum**—Including this section reinforces our image as being open and interested in participation by members at our meetings, while strictly limiting such discussion to five minutes, thus protecting meeting continuity.
- **Treasurer's report**—Our treasurer highlights any significant operating expenses and reserves draw, any unusual conditions or trends and the status of our finances, as well as reviewing delinquent accounts for collections recommendations.
- **Other committee reports**—This is where other committees report on their activities. Identify each reporting committee on the agenda by name. We try to give their participants visibility, thank them and validate their contributions.
- **Old business**—Much old business may already have been addressed under other committee reports earlier. Remaining old business items may be discussed at this point.
- **New business**—Some new business items may already have been addressed in earlier reports. Remaining new business items may be discussed at this point.
- **Adjournment**

- **Policy of member participation at Board meetings**—It helps to have our policy explicitly stated for the benefit of attending members, as in the example that follows. This should help prevent misunderstandings and bad feelings about limits on homeowner participation at Board meetings that sometimes may be necessary for an association of 148 homes. For meetings with few attending homeowners, our President may use discretion to allow some homeowners to introduce items not already on the agenda under New Business, with the understanding that the Board should not be expected to make decisions on the same evening that a matter is first introduced. It is a good idea to publish our Board meeting member participation policy in our newsletter from time to time.

SAMPLE

**Sample AGENDA**  
**YOUR ASSOCIATION HERE! Homeowners Association**  
**Regular Meeting of Board of Directors**

[Date] - [Time] PM  
[Address of meeting]

- I. Call to Order
- II. Approval of Minutes
- III. Open Forum (for visiting members with a brief item of 5 mins. or less. Other items should be submitted for inclusion onto the meeting agenda by one week prior to a meeting.)
- IV. Treasurer's Report
- V. [Other committee reports go here]
- VI. Old Business
- VII. New Business
- VIII. Adjournment

We invite and welcome all members to attend our regular Board meetings. Normally, matters to be considered by our Board should be submitted for inclusion onto the agenda by a week before a meeting. However, a visiting member may be allowed up to five minutes to discuss an item on the agenda. Consistent with standards and practices of community association management, we do have rules of procedure that limit participation during meetings to members of our Board and Board Advisory Committee. Thank you for attending and we hope you will be with us throughout the evening and to visit with us afterward.

## ***The Annual Meeting***

Our Bylaws require that we have our Annual Meeting each year. The Previous boards have chosen November, since our accounting year runs November - October. For many of our homeowners, their impression of how well the Board is managing our business is shaped at this important meeting. This may be the only type of meeting many homeowners will ever attend.

The President conducts this pivotal meeting. These are some of its functions and activities:

- Board and committee volunteers are introduced.
- Our committees report on their activities and accomplishments.
- Our Treasurer reports on our finances.
- Our President reports on our projects and activities for the year and our plans for the future.
- We elect new Board members.
- We discuss Association business.
- We present awards to valued volunteers.
- Following the meeting, we may have a social.

### **Board and committee volunteer introductions**

This is a good opportunity to recognize our volunteers and for members to connect names they've been reading about in our newsletters with the faces.

### **Committee reports**

Committee reports allow our volunteers to brief members on what they've been doing for us, what they plan for the future, to encourage homeowners to join the committee and to acknowledge individual committee member's contributions.

### **Treasurer's report**

The Treasurer gives a brief overview of how our dues are spent, highlights operating expenses and reserve items, underscoring any that have changed significantly, and explains trends or upcoming events that may affect us. Finally, the Treasurer gives a brief summary of our financial condition.

### **President's report**

The President outlines our activities and projects for the year, explains special issues we have dealt with, proposed solutions and plans for the future.

### **Board Elections**

Board Elections is the principal reason given for this meeting in our Bylaws. Sometimes we may not have a quorum represented by attendees or proxies. If that is the case, elections cannot be completed that evening and the Annual Meeting

will be reconvened at the first Board meeting following the Annual Meeting giving us more time to solicit sufficient proxies to conclude the elections. In homeowner association elections, some members cast their ballots casually, without having studied the candidates' qualifications. For example, a candidate may be nominated by a well-meaning member who thinks her neighbor, Joe, is a *great guy* and, therefore, should be on the Board. Or perhaps someone decides to run based on dissatisfaction with the way the Board is handling a specific issue, but otherwise has little to offer in the way of management skills.

### **We discuss Association business**

Items placed onto the agenda by a published deadline may be discussed. The President also may allow other matters to be discussed, at his or her discretion. However, the full agenda typical at the Annual Meeting may cause the meeting to run late if unexpected business isn't dealt with efficiently. Therefore, it is a *very* good idea for the tentative agenda sent to homeowners with the Annual Meeting announcement to include a notice that homeowners wishing an item put onto the agenda should contact the President by a certain date. Another vulnerability for the Annual Meeting is that some members who never attend regular Board meetings may regard the Annual Meeting as the place to come to *let it all out*, venting their criticisms and gripes about every little problem, including problems that affect only them. Should that happen, meetings can lose direction, interest of the attendees, become unproductive and run very late. This problem can be addressed in the following ways:

- The President should be aware of this vulnerability, know how to channel discussion and to take items and resolve to keep the meeting moving and productive.
- The notice described above, requiring business items to be placed onto the agenda by a certain date, should be published in the Annual Meeting notice and in the newsletter preceding the meeting.
- In the newsletter preceding the meeting and in the agenda mailed with the Annual Meeting notice, we should invite all members with questions about the budget or finances or with any other concerns to the *regular* meeting on a date preceding the Annual Meeting where their questions and problems can be given the time and consideration they require.
- The President should remind attendees of that invitation again at the start of the Annual Meeting, indicating that we have a full agenda and requesting that additional items of business be brought to the next regular Board meeting. Again, the President may allow some topics to be broached, but should use discretion and be prepared to re-channel any that threaten meeting progress.

### **We present awards**

This may be the single most important event of the evening in terms of returns for our time investment. The recognition we provide to hardworking volunteers and

to those whose deeds and performance we celebrate with a modest award or recognition is often rewarded many-fold with the equivalent of thousands of dollars of time on our behalf. As a volunteer-driven organization, our awards program is vital.

Traditionally, toward the end of our Annual Meeting we have presented awards to

- retiring Board and committee volunteers who have contributed at least a full 2-year term of service with good effort.
- volunteers who have made especially notable contributions.

Awards don't have to be expensive, perhaps a nice pen or small plaque or certificate, or a bouquet. It's the recognition and public acknowledgment that counts.

### **After the meeting we may have a social**

This has always been a good way to end the evening. The Social Committee can arrange refreshments such as coffee, soft drinks, various munchies, and perhaps a cake with a "Thank you..." message with the names of retiring volunteers.

### ***The Annual Meeting mailer***

Our Bylaws lists specific requirements for mailing the meeting notice. However, to give our members sufficient notice to attend, we should try to mail them *at least* two-to-three weeks before the meeting. Unless the Board sets dues increase, then it must be mailed sixty days in advance of the annual meeting.

An example mailer is included below. Parts include:

- a letter announcing the meeting and encouraging members to attend.
- tentative agenda.
- statements by candidates running for the Board.

SAMPLE



August 15<sup>th</sup>, 2004

Dear Homeowner:

On behalf of the YOUR ASSOCIATION HERE! Homeowners Association we would like to invite you to the Annual Meeting of the Association, held for the benefit of the community. The meeting will be held on Thursday, November 4th at 6:30 at the Matthews Library, 230 Matthews Station St. in Historic Downtown Matthews (the same building as Town Hall). Call 704-847-6691 for directions .


The main purpose of this meeting is to elect two (2) officers to the Board of Directors for YOUR ASSOCIATION HERE! and to discuss other community business. If you would like to serve on the Board or would like more information please contact a Board member. If you would like to nominate someone at the meeting, you must speak with that person in advance to be sure they will agree to serve on the Board if they were to be elected. Currently, Richard Matulis has been nominated to fill one of the positions.

We encourage all homeowners to attend this meeting so that the community can grow together in a positive and fiscally responsible manner. In order to manage our agenda time accordingly, we ask that if you are particularly interested in a topic, please contact a Board member before the meeting so it can be added to the agenda. There will be a brief Open Discussion time at the end of the agenda. We look forward to meeting with you and getting to know you and your neighbors.

In accordance with Section 9.10 of the Declaration of Covenants and Restrictions, please also accept this letter as written notice of the fixing of the annual assessment for fiscal year 2005. **The annual assessment for 2005 has been fixed at \$181.50, an increase of \$16.50 per home. Payments of \$90.75 will be due on January 1, 2005 and July 1, 2005. We have also enclosed a copy of the 2005 budget.** We encourage you to bring this budget to the meeting as budget items will be discussed. You may also want to bring your copy of the Declaration of Covenants, Conditions and Restrictions for easy reference.

Sincerely,

The YOUR ASSOCIATION HERE! HOA Board of Directors

  
 \_\_\_\_\_  
 John Pierson - President

  
 \_\_\_\_\_  
 Richard Matulis - Vice President

  
 \_\_\_\_\_  
 Tricia Curtis - Secretary

  
 \_\_\_\_\_  
 Derek Greene - Treasurer

  
 \_\_\_\_\_  
 Beth Kelly - Director



*Fifth Annual Meeting  
{Date, time & Location}*

***I. Welcome and Introductions***

Nominations and Elections of Two Directors

***II. Community Business***

- A. Review of 2004's budget v/s actual
- B. Special Assessment spending review
- C. Dues Increase
- D. 2005 Budget

***III. Community Update***

Significant Accomplishments in 2004  
ARC/Grounds Committee  
Newsletter

***IV. Street Representatives***

Website

***V. Election Results***

***VI. Open Discussion or Q&A***

***VII. Announcements***

**SAMPLE**

Please vote for 2 of the names below:

\_\_\_\_ Richard Matulis \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Cut Here

Please vote for 2 of the names below:

\_\_\_\_ Richard Matulis \_\_\_\_\_

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\_\_\_\_ Richard Matulis \_\_\_\_\_

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Please vote for 2 of the names below:

\_\_\_\_ Richard Matulis \_\_\_\_\_

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**SAMPLE**

### ***Annual report***

Most work invested by valued Board and committee volunteers is never known about outside of the Board and committees. Distributing an annual report can

- provide important visibility into volunteers' contributions.
- enhance the important Board/homeowner relationship, allowing members to know how they have benefited by those contributions.

#### **The example annual report**

An example annual report follows. We also have it as a word processing file on a computer disk, should a volunteer wish to start with it to edit its format in producing an annual report for YOUR ASSOCIATION HERE.

**SAMPLE**



*(EXAMPLE)*

2004  
Annual  
Report

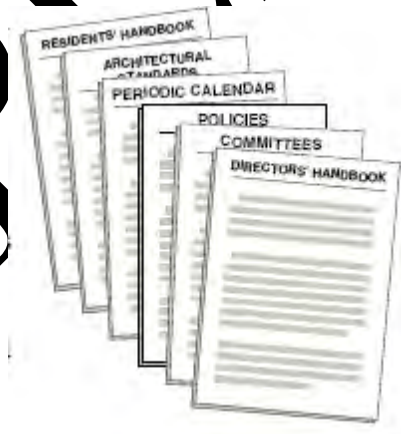
**SAMPLE**

**PRESIDENT'S REPORT**

Completing our fourth year as an Association closes a busy period for us. Our most significant accomplishments for 2004 describe what is mostly involved in restructuring a business—and the product reflects the quality time some of our neighbors have given to make it happen.

***Our new look***

No matter how well run almost any organization can benefit periodically



from taking a fresh look at the way it manages itself. This year we reviewed some management tools developed and used by other associations and compared them with our own. Thanks to the talent we've been fortunate to have had on previous Boards and committees, we found that our practices and procedures compared very favorably and were far superior to many. Nonetheless, we were determined to undertake a healthy checkup.

The result is some new policies and further improvements in the ways we manage our association. As part of our organizational refurbishment, we've crafted a new Directors' Handbook. It

includes an orientation for new Board members, descriptions of directors' duties, charters for our current committees and those we may appoint in the future, management tools, forms and letters, control documents such as our periodic events calendar and activities tracking report, and reference sections for our policies, rules, architectural standards, bylaws and DCC&R's. You may have seen some changes as a result of our efforts. A few of them are described below.

We are especially appreciative to Marge Bates who volunteered as chief editor of our Directors' Manual. We are also grateful to Gary Jones for lending his computer and word processing expertise to our project and for the time he spent interviewing our committee chairs and revising committee charters.

We have already received healthy returns for our time investment in this project.

#### **Board Advisory Committee Charters**

Each year, a homeowners association loses Board members as their terms expire or as they retire. Losing a valued Board member after a two-year term, perhaps just when making his or her most valuable contributions, is a waste. Last May, we chartered the Board Advisory Committee to which we can appoint outstanding former Board members whose experience we would regret losing to retirement. It provides standing for their continued participation in meetings and on projects, but without the burden of an active directorship. Since our appointments of Jeff Dean, JoAnne Minor and Bill Gossett, the value of this committee has been proven often.

#### **Volunteers Recognition**

We very much depend upon volunteers in our organization.

At our 2004 Annual Meeting we inaugurated our annual awards program to recognize volunteers who have made notable contributions of time and talent.

#### **Adopted Guidelines for Rules Creation**

In May, we drafted and approved a set of guidelines

for Rules Creation and Modification.

These guidelines ensure for openness and member participation in creating or modifying our rules.

Following those guidelines, we drafted, published, held hearings for, and passed a set of rules we feel are fair and should address many of the problems common for a community such as ours.

#### **Amendments to DCC&R's**

In January we passed much-needed amendments to our bylaws and DCC&R's to correct some deficiencies.

As a result we have plugged some loopholes, eliminated a couple of unfair provisions and brought it more up to date with North Carolina state law as well as contemporary life styles:

- An application for approval by the Architectural Review Committee now needn't be mailed to the official address of the Association—one may simply give it directly to the ARC chairperson or Board President.
- The provision allowing an individual the power to approve an architectural application has been eliminated. Now, applications will always be acted upon by the Architectural Review Committee, better ensuring balanced and fair consideration of each application.
- It is no longer a violation of the DCC&R's for a writer, artist, computer

programmer, consultant, or other person whose work is completely unobtrusive— to work at home.

- We may now appoint non-Board members to committees.
- The loophole allowing residents to park their vehicles in guest parking places has been closed, enabling us to greatly improve our parking situation.

**Master Plan**

Now, our big project is the Master Plan. It includes our architectural standards for exterior improvements and policies relating to the Architectural Review process at our development. A draft has been completed. Once approved, it should help the Architectural Review Committee in administering prudent controls to protect our property values. Providing a copy to the City of Charlotte Planning Department may help our residents to obtain city approval more easily for those projects that require it.

**Socials Successful**

We had two very enjoyable get-togethers. Our potluck picnic and barbecue this summer and our social following our Annual Meeting were both a success. Watch for the next one and don't miss it.

**Signage**

We have placed a number of signs: We have four speed limit signs and five "Slow—Children At Play" signs. Reports from members of speeding are way down. "Private Property—No Soliciting" signs have been ordered for each of our entrances.

**City Projects**

We've participated jointly with our neighbors at Cypress Point Lakes Association on projects such as car wash noise abatement, initiating a program addressing disaster preparedness and water conservation, and successfully representing our 515 collective households in the Public Works hearing on closure of the Stierlin Road access to Central Expressway.

**Newsletter Inaugurated**

In April we approved a new charter for our newsletter committee. Since then we've used our new format to keep everyone informed of events, significant issues, problems and solutions, notice of meetings, alerts to hazards, and our involvement in City matters. Of course, we are always interested in contributions to it and in anyone who would like to become involved with the Newsletter Committee.

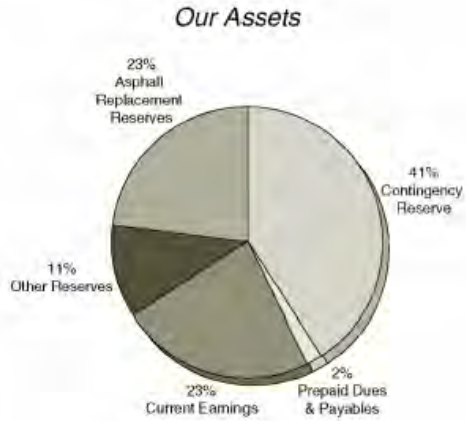
**The Future**

You are the future of YOUR ASSOCIATION HERE!. Our future depends upon your participation. If we are content to assume others will manage it in our best interest, we may be robbing ourselves. We will always depend upon member participation, upon the initiative of those who will attend Board meetings, serve on committees or on the Board, involve themselves directly to ensure we are soundly managed, anticipate and minimize problems, engineer sound solutions, plan our finances, provide good communications with our membership and ensure the continued good health of our investments.

Karen Mason  
President

**STATEMENT OF RECORDS  
LOCATION**

Corporate books and records, including names and addresses of our current members, are located at 306 Wildflower Park Lane, They may be examined by members by appointment during normal business hours.



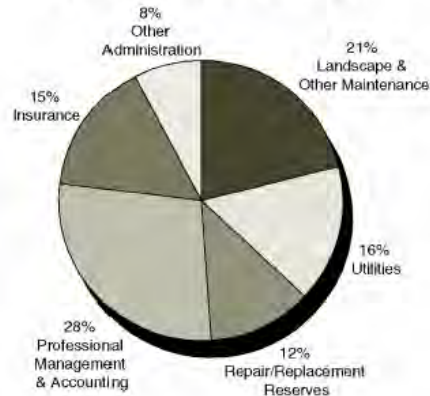
In developing the 2005 budget for 2005, a copy of which members received in September, our Board focused upon two principal goals:

1. Ensure that expenses of the current period are well-considered giving our Association the best value for the dollar; and

**TREASURER'S REPORT  
Closing Out 2004**

Included in the back of this report you will find an income statement and a balance sheet as of the end of the fiscal year and a statement of changes in financial position for the fiscal year. During 2004, our Board worked hard to maintain the sound financial position of the Association. As a four-year-old development, our cash outlays have been primarily to pay for maintenance of common area utilities and administrative expenses of the Association. However, it is crucial to our long-term property values that we also continue to accumulate adequate reserves. In the last four years we have steadily added to our reserves so that we will have funds available when needed to replace or make substantial repairs to our common areas. As we close 2004, we carry forward substantial assets of over \$179310, key components of which break down as illustrated in figure "Our Assets."

Where Do Your Dues Go?



2. Ensure creation of adequate reserves to fund future replacements and repairs of our common areas.

The new budget requires a monthly assessment increase of \$7.50, which is needed primarily as a reserves adjustment to ensure that reserves will be adequate to preserve the value of our common areas.

**Expenses**

The budget was prepared using actual cost information from the Association's financial statements through October 2004. Expenses for 2005 are expected to increase by about 3% for each homeowner. The most significant increases are \$1505 to cover state and federal taxes on interest earned on cash balances held in our reserve accounts, \$500 for professional fees and an estimated \$1075 increase in insurance costs. These increases, fortunately, are partially offset by a \$2580 reduction in utility costs re-estimated for 2005 based on actual 2004 costs, which we have been able to hold down to a level significantly below that originally budgeted.

**Reserves**

Healthy reserve balances play a crucial role in maintaining the property values of a Planned Development. In addition to maintaining the appearance of our individual homes, property appraisers and lenders demand careful planning for long-term maintenance of common areas and accumulation of adequate funds in reserves to carry out these plans. The Board's responsibility in managing your funds is to have funds available when needed—without accumulating excessive amounts of members' money in reserves. We use a two-step process in determining the budget allocation for a particular reserve fund item, such as asphalt or lighting. First, the total amount needed for an item is calculated using the average of actual quotation information presented by companies that repair, replace or service the particular reserve fund item. Next, the incremental annual budget is determined by dividing the unfunded balance of the reserve needed by the number of years

remaining prior to the planned repair, replacement or service.

At our Annual Meeting in November, homeowners were presented an overview of the problems we have had with some of our physical assets and our plans to deal with them. As a part of this plan, our 2005 budget supplements our existing reserve for asphalt slurry seal on a five year cycle with a new reserve for a complete asphalt resurfacing. 2005 funding for the new reserve will be \$16125 equating to about \$6.25 monthly for each homeowner. The Board welcomes any and all comments and suggestions that will help us manage your money more effectively. Please join next board meetings and make your thoughts known.

William Bonner  
Treasurer

[Here include income statement and balance sheet as of the end of the fiscal year, and a statement of changes in financial position for the fiscal year.]

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## ***Rules creation and enforcement***

In addition to restrictions specifically described in our DCC&R's, that document also provides for the creation of other rules by our Board of Directors.

We have two general classes of rules passed by our Board:

1. Architectural rules that relate to the review process for approval of exterior improvements that members may make to their properties and the *standards* for those improvements, and
2. General rules that regulate other behavior.

Both classes of rules are in our Residents' Handbook, a section of this binder intended also to be copied and distributed to all residents. Below is a discussion of rules creation and enforcement.

### **Why have rules?**

Most of us would like to believe that we could live without rules—and we can, *mostly*. However, over time it becomes apparent that a high-density living environment like ours is vulnerable to certain kinds of problems, some of which could seriously affect the quality of life and the value of our investments. A carefully crafted set of rules, tuned to the needs of our community and without being overly burdensome, is necessary to prevent problems as well as to resolve them. Most of the value of having rules is in their *prevention* of problems. Knowing what our rules are helps to sensitize us to each other's rights and interests and helps to prevent problems from occurring in the first place. Should problems occur, having rules allows us to resolve them. Rules provide objective standards that, under the authority of our DCC&R's and Bylaws and the laws of the state of North Carolina, are legally enforceable.

### **Creating rules**

In order to ensure fairness, first we must agree on the process for rules creation, consistent with our Bylaws, and ensuring member participation. The process we use is described in our policy entitled *Guidelines for Rules Creation/Modification*, located in the *Policies* section of this Directors' binder. Objectives of the policy are:

- to ensure openness and member participation.
- to subject proposed rules to comments by members to ensure they provide the best protections for our interests and have the support of our community.
- to ensure rules are reasonable, that is, they should not be unnecessarily restrictive and there should be a good reason for their existence. This does not mean that we shouldn't have a rule simply because a member objects to it. A rule may be necessary should there be, in the judgment of the Board, a reasonable possibility for a problem to occur or likelihood that significant damage or hardship could occur for lack of a rule.
- to help ensure rules are consistent with laws and local ordinances.

- to ensure publicity for new rules. First, to have the benefit of prevention, we must know what the rules are and, second, to be legally enforceable, they must be published. Every member should have a copy of our rules. It also helps to remind members in the newsletter periodically about rules that relate to problems that tend to reoccur.

### ***Enforcing rules***

Rules enforcement is one of the most difficult issues faced by new Board members. Most of us have never been in the position of having to enforce laws or rules and most of us find it abhorrent and incompatible with the way we prefer to relate to our neighbors. However, rules creation and enforcement are responsibilities of the Board; as fiduciaries we are required to be diligent and uniform in enforcement of rules in order for us to keep protections afforded by them. Fortunately, it is possible to create rules and to administer them in such a way so as not to interfere significantly with relationships. Methods we use to do this involve

- fairness
- education
- participation

These methods, part of the *art* of rules enforcement, are discussed earlier in this section in the *Directors' Orientation* under *Legal Environment*.

#### **Rules must be published**

Before enforcement can take place, rules must be *published-published-published!* Should enforcement be challenged, the first thing the judge will ask is proof that a rule has been well published—and the more, the better. That is one reason why descriptions of duties of our association Secretary include archiving every copy of every newsletter and notice mailed to owners. That is also why our procedure requires so many notices to be delivered before a disciplinary hearing can be scheduled. Enforcement is longer but our position is strengthened considerably.

#### **Enforcement must be uniform**

We are required to be uniform in administering enforcement. This usually means we cannot treat one resident differently from another—even a Board member. Consistency is a test that may be applied should enforcement be challenged and inconsistency may torpedo the association's case. That is what is meant when a judge rules that a certain rule or law is not enforceable because the administrative authority was "arbitrary or capricious" in its enforcement. The requirement for uniformity is the reason we have formalized and documented our enforcement procedure and the reason we put so much emphasis on following it.

### Enforcement must be careful and deliberate

Just as occasionally we may need to remind ourselves that enforcement is our obligation, we also must be careful in not allowing our emotions to influence us in being too aggressive in enforcement. Sometimes it may be necessary to absent yourself from a vote or other enforcement proceedings because you feel you are too close to the situation. For example you may be close friends with the person, work with them in a professional environment, or are a direct neighbor.

Sometimes aggressive enforcement is necessary, such as when there is imminent threat to property or safety. However, pursuing a patient, deliberate schedule, to include repeated warnings before action, has these advantages:

- Most violators will come into compliance once given notice and a little leeway. None of us wants to feel as though we're living in a neighborhood where our association is waiting to pounce upon us for the slightest infraction. Most of us are responsible people who may step over a line occasionally, usually by accident although sometimes, perhaps, testing limits a little. Gentle reminders that provide the benefit of the doubt usually solve the problem while keeping the important Board/Homeowner relationship intact. And gentle reminders that are ignored will be followed by less-gentle notices.

A deliberate enforcement schedule is, administratively, more realistic. It is easier to follow, making it more likely to be followed consistently and uniformly.

- If you've been the Board member chosen to defend the Association in a court room pursuing a contested enforcement action, you know how much time, expense and emotional drain that can be caused by neglecting the smallest enforcement detail— such as the inability to produce sufficient evidence of a rule's notice or publication, or alleged failure by the Association to properly deliver a notice, or inability to provide evidence of consistent enforcement. Many judges have a bias in favor of the *little guy* and against a bureaucracy like a homeowners association. The thoroughness of our enforcement procedure may seem unnecessary at times and some members may think the Board too lenient in not immediately towing a vehicle or assessing a fine, but you will be thankful that you observed the procedure should you find yourself at the defendant's table when being sued for unfair enforcement. For example, in the case of a parking violation, a violator may be able to sell a judge excuses for one or two violations, but almost any judge should be impressed with our patience and diligence in issuing *three* notices and a hearing before a fine was levied. (See below.)

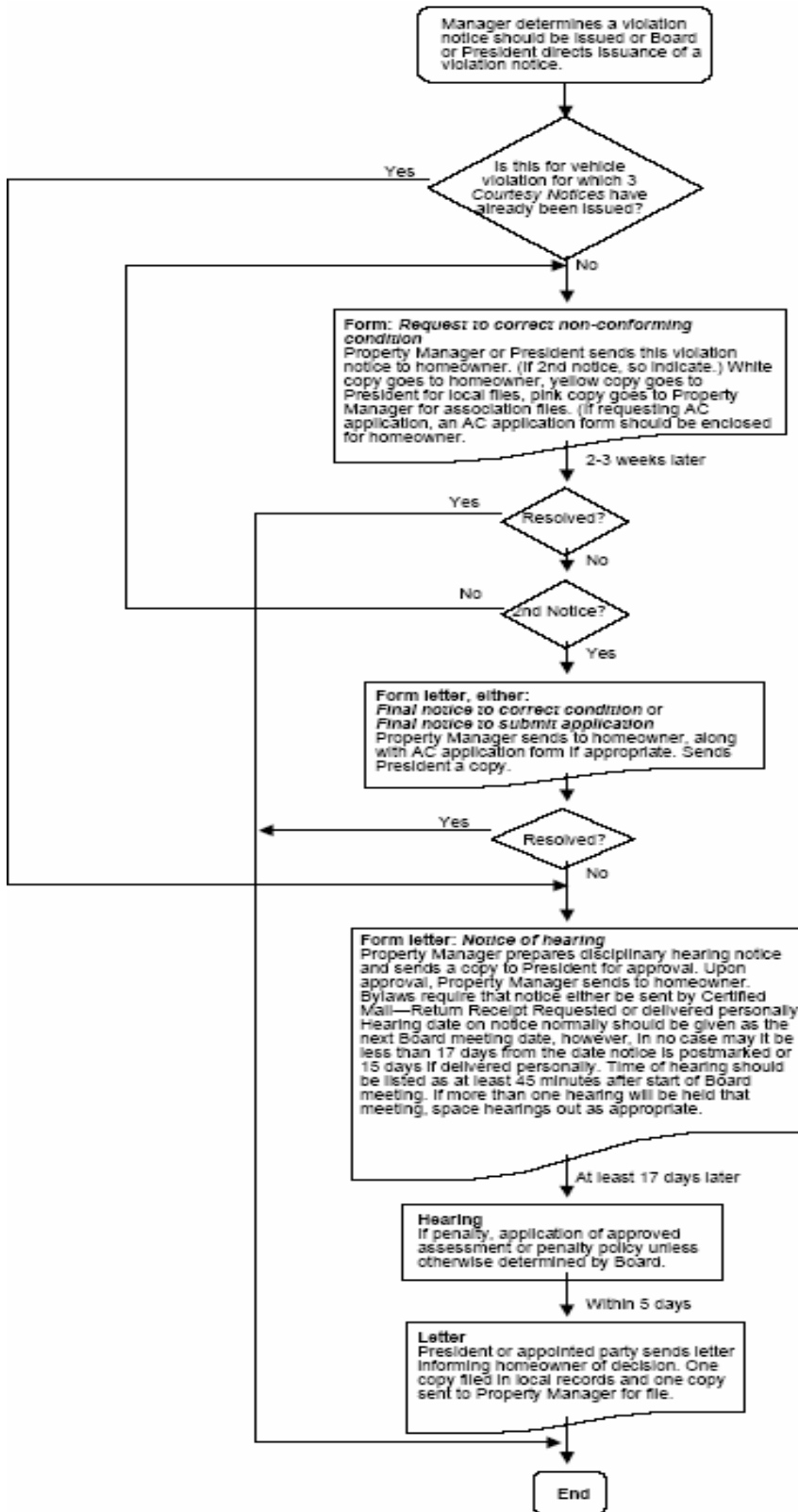
### Our enforcement procedure

The YOUR ASSOCIATION HERE! Bylaws and DCC&R's describe requirements for due process and rules enforcement. Due process may also be regulated by state law. We have designed a procedure to implement those

requirements with practical, *how-to-do-it* steps. That enforcement procedure is described below in our flowchart entitled *Guidelines for Rules Enforcement*. Having a flowchart provides a concise, graphically illustrated, easily copied and distributed, convenient reference to our procedure. A procedure easily referenced is more likely to be followed, consistent with the requirement that our enforcement be uniform. Further discussion about our procedure follows the flowchart in descriptions of our *Enforcement tools*, documents referred to in the chart (see below).

SAMPLE

### Guidelines for Rules Enforcement—YOUR ASSOCIATION HERE!



**FILE**

### ***Enforcement tools***

Our enforcement flowchart refers to the following tools we use to enforce our rules:

- **Courtesy request to correct condition**—to notify those who violate rules.
- **Final notice to correct condition**—final warning to comply with a rule.
- **Notice of hearing**—to notify violators who have not complied or responded to earlier notices to attend a disciplinary hearing.

### ***Request to Correct Condition***

We use this form to notify homeowners about apparent violations of all other types of rules. It takes an educational approach, presenting the premise of protection and requesting compliance.

As described on the enforcement flowchart, if this form is ignored or if an owner still does not comply after receiving it, we send it out a second time. When used as the second notice, we mark the notice (anywhere) as “2nd notice” as a reminder that the matter will be followed-through. We don’t have a “second notice” check-off box on the form because we don’t wish to telegraph to the recipient with the first notice that he or she needn’t comply quickly because yet another notice will follow.

SAMPLE



SECOND NOTICE

July 1, 2004

Mr. & Mrs.  
Gatesville Lane  
Charlotte, NC 28270

Dear Mr. & Mrs.:

In our letter dated April 20, 2004 we requested you to replace a piece of missing siding, maintain the grass and weeds in your front yard and attempt to grow grass in your back yard. It appears that none of this has been rectified. Please be reminded of the guidelines for our community:

Page 10, Section 6.01 of the Declaration of Covenants, Conditions and Restrictions (DCCR's) for YOUR ASSOCIATION HERE! states:

"Each owner, at all times, shall maintain, repair and otherwise be responsible for his or her Lot and the improvements thereon...an Owner shall be responsible for replacement and reconstruction of improvements on his or her Lot required because of damage or destruction by fire or other casualty..."

A YOUR ASSOCIATION HERE! resident, Mr. Kim has a business repairing siding. You are welcome to contact him to arrange the repair. His number are 704-992-0535 (mobile) or 704-321-9504 (home after 7pm).

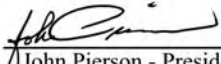
Page 13, Section 7.09 of the DCCR's states:  
"No weeds.... shall be placed or permitted to accumulate on any Lot or any portion of the Property which would render it unsanitary, unsightly, offensive or detrimental to any property in the vicinity thereof or to the occupants of any property in such vicinity. Grass, hedges, shrubs, vines and mass planting of any kind on any Lot or any portion of the Property shall be kept trimmed and shall at regular intervals be mowed, trimmed and cut so as to appear neat and attractive. Trees, shrubs, vines and plants that die shall be promptly removed."

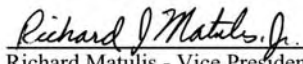
Page 6, Section IV, of the Standards and Guidelines states:  
"The Committee specifically prohibits...failure to maintain any type of grass, i.e. dirt yards."

If the above matters are not reasonably and consistently maintained after **Tuesday, July 6, 2004**, the HOA Board of Directors will have no choice, but to set a hearing date with you to review your non compliance and possibly, levy a fine of \$25.00 per day until the matter is resolved.

If you would like to contact the Board regarding this letter or any other questions or concerns; you may do so on the community website [www.mckeewoods.com](http://www.mckeewoods.com). You can click on "Contact Us" to email all the Board Members. You may also contact us in writing at the address below.

Sincerely,  
The Board of Directors for the YOUR ASSOCIATION HERE! Homeowners Association

  
John Pierson - President

  
Richard Matulis - Vice President

  
Tricia Curtis - Secretary

  
Derek Greene - Treasurer

  
Beth Kelly - Director

**Notice of hearing**

We send this *Notice of hearing* once other methods to elicit compliance have failed. It helps us to meet requirements of our governing documents and state laws for due process.

Our bylaws may have specific requirements for delivery of this notice. We must ensure we comply with them.

SAMPLE



**NOTICE OF HEARING ON POSSIBLE IMPOSITION OF FINES AND ADMINISTRATIVE SANCTIONS FOR VIOLATIONS**

June 24, 2004

Mr. & Mrs.  
 Cole Mill Road  
 Charlotte, NC 28270

Dear Mr. & Mrs. :

PLEASE TAKE NOTICE that due to verbal and written complaints by residents of our community, and the number and ongoing nature of the violations mentioned below a hearing will be held before the Executive Board of the YOUR ASSOCIATION HERE! Homeowners Association, Inc. The Board has sent you at least seven letters regarding the violations and the problems continue to occur. The hearing is pursuant to the provision of N.C.G.S. 47F-3-102 of the North Carolina Planned Community Act. The hearing will be held on **Tuesday, July 13, 2004 at 6:30 p.m. at The Colony at Piper Glenn 7810 Ballantyne Commons Parkway Suite 300.** (Located across from Stonecrest Shopping Center. It is a three-story office building on the northeast corner of the intersection of Ballantyne Commons Pkwy and Rea Road. Call 704-319-2200 for further directions.) It will be determined whether you violated the provisions of the Declaration of Covenants, Conditions and Restrictions (DCCR's) for YOUR ASSOCIATION HERE! Homeowners Association, Inc. identified below and whether you should be fined if a violation is found to exist. At the time and date of the hearing, the Board will give you an opportunity to be heard and present any statements, evidence and witnesses as to whether you have violated said provisions and if so, what remedies and penalties should be imposed.

The following provisions of the Declaration have been alleged to the Executive Board of the YOUR ASSOCIATION HERE! Homeowners Association, Inc. to have been violated:

- 1. Parking a vehicle on the street/grass overnight.** Page 12, Section 7.03 of the DCCR's states:

“...Any automobile, motorcycle or truck shall be parked, stored or left wholly within the garage located upon the Lot, except to the extent a garage is already occupied to capacity, in which case such vehicle may be parked temporarily in the driveway but for no more than 24 consecutive hours...”

- 2. Storing building materials for longer than 30 days where visible from street.** Page 7, Section V, B of the Standards and Guidelines for Interpretation of the DCCR's states:

**“Building materials and equipment should not be stored where visible from the street for more than thirty (30) days.”**

3. **Throwing trash in yard and in Common Areas.** Page 6, Section IV, P of the Standards and Guidelines for Interpretation of the DCCR's states:

**"The Committee specifically prohibits...garbage or waste materials accumulated or dumped on any lot or common area."**

4. **Leaving trash can/recycle bin visible.** Page 7, Section III, D and E of the Standards and Guidelines for Interpretation of the DCCR's states:

**"Garbage cans and recycle bins must be stored in one of the following locations (stated in order of preference): 1) inside your garage or 2) behind the house (screened from street view by the house). No garbage cans or recycle bins should be placed at the curb any earlier than the night before collection and should be removed by midnight the day of collection."**


5. **Failure to maintain yard. Unfinished projects in front yard.** Page 13, Section 7.09 of the DCCR's states:

**"...No weeds, vegetation, rubbish, debris, garbage, waste materials or materials of any kind whatsoever shall be placed or permitted to accumulate on any Lot or any portion of the Property which would render it unsanitary, unsightly, offensive, or detrimental to any property in the vicinity thereof or to the occupants of any property in such vicinity. Grass, hedges, shrubs, vines and mass planting of any type on any Lot or any portion of the Property shall be kept trimmed and shall at regular intervals be mowed, trimmed and cut so as to appear neat and attractive. Trees, shrubs, vines and plants which die shall be promptly removed."**

You are advised that if it is determined that a violation is found; a fine of \$25.00 per day will be imposed against you for the violation starting on **July 19, 2004**. Continuing fines may also be imposed without further hearing for each day that the violation continues thereafter. In addition, privileges (including your voting rights) and services provided by the Association may be suspended. This suspension will not release you from paying dues or fines. **If you are unable to attend, you must notify the Board in writing via email at Mckeewoodsboard@carolina.rr.com or US Mail at the address below, no later than Wednesday, July 7, 2004 to reschedule.**

Sincerely,

The Board of Directors of the YOUR ASSOCIATION HERE! Homeowners Association

  
John Pierson - President

  
Richard Matulis - Vice President

  
Tricia Curtis - Secretary

  
Derek Greene - Treasurer

  
Beth Kelly - Director

### ***The disciplinary hearing***

Once we have determined that a property owner has not complied or responded satisfactorily to notices described in the enforcement procedure, we send the *Notice of hearing*. The hearing may be scheduled either separately or, for the convenience of the Board, at the same time as a regular Board meeting. In either case, scheduling must be consistent with due process as described in our Bylaws and applicable North Carolina state law.

Remember, we *must* be able to demonstrate that we provided due process as part of our disciplinary procedure. This means that

- the notification procedure previously described must be observed.
- the subject must be informed of all basic complaints for which action is being considered, that is, he or she must not be surprised at the hearing by complaints previously undisclosed and for which a defense could not be adequately prepared.
- the subject must be given the opportunity to examine evidence.

Every effort should be made to hear all relevant facts at the hearing in order to avoid a continuance that could prolong the process. Therefore, before the hearing call should be taken to prepare arguments on behalf of the association and to compile all documents that are material to the violation. *All* documents, evidence, and witnesses should be ready and available at the hearing.

Normally, the President will prepare the arguments and materials. Normally, the President will present the association's case at the hearing though any other person may be designated to do this. If, after having been given notice of a hearing, an owner asks that another hearing date be selected because of a conflict or hardship, we should attempt to accommodate a credible request within reason.

An owner given notice may choose not to appear at a hearing. However, absence of the owner is not a valid reason to cancel a hearing. We should continue with the hearing, consider any facts known to us that support that owner's interests and make our best objective assessment as to whether a violation occurred and what, if any, fine or other disciplinary action is appropriate. Unless there are clear extenuating circumstances, failing to assess a penalty may compromise future enforcement. If a rule has been violated, disciplinary action should be taken consistent with our policies on fines. (See the Policies section of the Directors' binder.)

Should penalties be assessed, our Secretary should write a letter informing the owner, pursuant to the requirements for such notice. The assessment should be levied, payments tracked and late charges added as provided by our Bylaws. Please see our bylaws for more information about late fees, hearing notices, and daily fines.



Mr. & Mrs.  
 Cole Mill Road  
 Charlotte, NC 28270

July 14, 2004

Dear Mr. & Mrs.:

TAKE NOTICE that YOUR ASSOCIATION HERE! Homeowners Association Board of Directors afforded you an opportunity for hearing on July 13, 2004 however you failed to attend. The Board of directors has found you in violation for all of the guidelines listed in the hearing notice. **As a result of these violations, and in accordance with sections 4.09 & 9.11 of the Declaration of Covenants, you are being assessed a violation fee in the amount of \$100.00.**

**If the following guidelines are not met consistently by July 19, 2004, then an additional fine of \$25.00 per day will be assessed. You will receive no further notices before additional fines are imposed.**

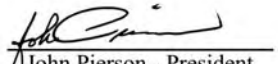
- I. All vehicles that you or your guests own must be parked either in the garage or fully in the driveway. No cars are allowed to park on the street or grass overnight.
- II. Your property needs to be kept neat and orderly. No building or other materials are allowed to be left where visible from the street overnight (including children's toys). There are to be no unfinished projects left for more than seven days. All projects need to be approved by the Architectural Review Committee.
- III. Neither you, your children nor your guests may discard trash in your yard or the common areas, including the bus stop.
- IV. Your garbage and recycling bins must be moved inside the garage or behind your house (out of view from the street) no later than midnight the day of collection.
- V. Your yard must be mowed weekly during the summer and as needed throughout the year. You must attempt to grow grass and not have large patches of dirt.

Furthermore, if the above listed violations continue, according to section 6.03 of the declarations and covenants we will take steps to correct the violations at your expense. In conjunction with this letter we are giving notice that we may exercise our right to enter your property (lot) during times of continued violations to correct these violations (Section 6.04).

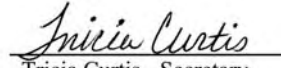
The Association's governing documents and North Carolina Law provide that the Association is entitled to enforce your obligation to pay assessments and other charges duly levied through lien and foreclosure action and to recover costs and reasonable attorney's fees incurred in connection with the action taken.

Sincerely,

The Board of Directors of the YOUR ASSOCIATION HERE! Homeowners Association

  
John Pierson - President

  
Richard Matulis - Vice President

  
Tricia Curtis - Secretary

  
Derek Greene - Treasurer

  
Beth Kelly - Director

CC: Board of Directors  
File

ENCLOSURE

**SAMPLE**

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## *Our Association Manager*

Some associations manage themselves without engaging the services of an association Manager. Self-management can be very successful for those associations whose members understand the importance of everyone's participation and support and have resolved to commit the required time and resources. However, over time many associations develop apathy among their members and have a problem maintaining commitment sufficient for good management. Therefore, at some point most associations face the decision of whether to engage the services of a professional association management company or Association Manager. Here are some considerations:

Hiring a management company can provide these benefits:

- Continuity. An Association Manager carries an intimate knowledge of the association, its members, governing documents and physical assets year after year and from one Board to the next. This continuity is important in a homeowners association where there is frequent director turnover.
- Helping to keep us legal and current. Although the Association Manager isn't an attorney, a good manager should alert us to important news circulating within the field of HOA management such as court decisions and new statutes affecting homeowners associations. The manager also can alert us to other news and resources that can be of value to us.
- Shared resources. Having an Association Manager automatically provides copying, publishing, mailing, accounting, clerical and other necessary services. We share the overhead for these services with other associations.
- Experience. A good Association Manager will have much more experience with homeowner association issues than most of our directors will ever have—experience in working with boards of other associations and dealing with a spectrum of problems and issues similar to those we will face. That's invaluable.
- Knowledge of services vendors. When getting bids for us, an association Manager may already know the best companies to contact and also (very importantly) whom *not* to contact.
- Insulation for rules enforcement. An Association Manager will do much of the routine *dirty work* of rules enforcement, insulating Board members from the wrath of unenlightened violators. A good Association Manager also will have a talent for resolving many problems tactfully and diplomatically, without need for formal enforcement proceedings.
- Off-loading the day-to-day administration such as mailing statements, tracking receivables, paying bills, generating financial statements, preparing budget drafts, handling complaints, and other important services. This is particularly important with associations where apathy is a problem. If members don't volunteer, how can they expect those who *have* volunteered to assume the added burden of day-to-day management in addition to the burden of running a Board and committees with few volunteers? *Wherever there is an association with members reluctant to*

*volunteer, there can be no valid complaint by an apathetic member about assessment of dues to pay for the services of an association Manager.*

### ***What to expect of an Association Manager***

A common mistake is for Board members to imagine that signing a contract and paying a monthly management fee means we can sit back and expect *flawless* management of our Association, with the burden of all management functions lifted from our backs. That won't happen.

First, a management contract is not a blank check for a manager's time. We aren't paying for *perfection*. What we are really paying for is *performance to industry standards*.

Failing to understand this may result in mistaken expectations of the manager.

While, admittedly, somewhat subjective, *industry standards* mean completion of tasks in a workman-like, competent manner as a reasonable worker or professional in the trade would accomplish them.

This doesn't mean we should not have much higher standards or be very particular in the way our business is managed. We should. But high standards mandate two more things: flexibility and homeowner involvement

- **Flexibility**—Subjective standards of performance cannot be in every management contract. Therefore, we should have some flexibility and expect flexibility in return from our manager. We should be willing to pay for extras not specified in the contract and for additional time to perform certain tasks to unusually high standards. In return, a good manager should be willing to go the extra mile for us when we need it. The relationship must serve the interests of both parties.
- **Homeowner involvement**—by volunteers who are willing to spend the evenings and weekends necessary to write that newsletter or compose that nice enforcement letter or walk through the neighborhood and make those detailed descriptions of problem areas, or attend that City hearing, or edit that handbook, or spearhead a project, or commit to chair a committee, or do whatever else it takes to effect a quality result. *No one, including an Association Manager, can represent certain interests of our homeowners better than our homeowners. There is no substitute for homeowner involvement.*

#### ***Normal supervision***

The President is the principle liaison with the Association Manager, responsible for direct supervision. The Treasurer will also work directly with the manager on financial issues, however, he or she is not a *co-supervisor* and should direct non-routine or special problems to the attention of the President. Other contact with the manager for Association business may be authorized by the President or Board and arranged with the manager for a specific purpose, but such contact should be minimal.

Effective management requires that the President have regular meetings and/or telephone contact with the Association Manager to review the status and follow-up of activities. There should be at least one or two such contacts between regular Board meetings—or more if required.

Imagine having a new boss, someone far less experienced than you but determined to direct or supervise your every action. How would you feel? This is

what some Association Managers have to deal with—board members who, mostly, haven't been board members for more than a few years, making the same mistakes all of us make in a new field. Of course, the message is that we must be careful not to *micro-manage* the manager. Give the manager some credit for knowing his or her job and leeway to do it. If the manager is so incompetent as to require micro-managing then we should get a new Association Manager. The manager supervises the services contractors. Care must be taken not to undermine the manager's authority with them. Should a Board member present his or her business card when meeting and welcoming a contractor, as part of establishing the initial relationship, there must be no doubt that the Association Manager is the person with whom the contractor is to interface and take direction.

### Managing problem performance

Realistically, performance of any contractor, including an Association Manager, may vary. Consider that competitive Association Managers must manage a fair number of associations in order to generate a fair income. Also, good managers are very much in demand. Consequently, they can be stretched rather thin. At the busiest times a manager may find him- or herself overworked and unable to adequately perform all tasks for all associations he or she is managing. The Board and President should understand this and have some flexibility for performance variation on low-priority matters, the contingencies of which are minimal. This assumes, of course, that important matters are being handled well.

Repeated lapses on important matters, and even failure to handle lower-priority matters over time, can be very frustrating for a board. The longer a performance problem continues without discussing it with the manager, the more frustrated the Board likely will become. *With any problem, the President should waste no time in meeting with the manager to discuss problem performance.*

Because homeowner association boards often have members inexperienced in personnel management, sometimes a President without such experience is reluctant to engage the Association Manager about performance. He or she may have anxiety in anticipation of an unpleasant confrontation and rationalize why a meeting probably wouldn't work. However, this avoidance can be very damaging to the Association. *The President has a duty to supervise.*

Association managers are hard to find! We cannot simply look in the yellow pages or go down the street to the next management office and expect to find someone who won't disappoint us after a few months. And firing the manager destroys the continuity asset described above from which it may take years to recover. A good manager knows the score and will respond positively to feedback on performance. The President may also learn something that will help him or her and the Board to understand the reason for the lapses and if there was a misunderstanding it will likely be cleared up. Such a meeting almost always results in relief from frustration and a new understanding. Frequent communication is *vital* to maintaining a healthy relationship with the Association Manager.

Withholding payment from a manager for failure to perform to certain standards is *never* acceptable, unless explicitly provided-for in a management contract.

Withholding payment may be deemed a significant breach of contract, releasing the contractor from further obligation to perform, and/or compromising our position should a legal contest develop. Specific lapses or failures by a manager who otherwise has substantially performed other duties does not release us from our primary obligation to pay. Also, it would be a substantial breach of faith from which recovery may be difficult without a Board turnover.

For chronic problems, the President should reassess the diligence with which he or she has supervised the manager as described above, and then increase the frequency of performance reviews and make clear to the manager the importance with which the Board regards performance improvement. If this fails to improve the situation, then our Board either should request that the current management company assign a new manager to us or we should engage in a careful, systematic search and screening for a new management company.

If the latter is necessary, a Board should try to conduct its search for a new management company before dismissing the existing company and Association Manager. Otherwise, Board members should be prepared to self-manage between managers. Unless a management disaster has taken place, a Board may even consider including the existing Association Manager in a search to gauge the quality of candidates. It may be that the manager survives the screening as the best candidate. (There are a lot of junkies out there.)

If a management change is warranted, our Board should try to make the transition with the cooperation of the existing manager. A smooth transition with the goodwill of the departing manager is in the interest of those we represent and may even be worth some extra expenditure. The alternative could mean expensive audits, situation cleanup, and fines, and a lot of wasted emotional energy—or worse.

This discussion about manager termination and transition shouldn't be taken to mean that we should expect it will happen. We should be optimistic and positive in a relationship with an association Manager. But should a transition be necessary, it can be a nightmare if the above isn't taken into account.

### **The search for a good Association Manager**

Should you be on a Board that decides to look for a new Association Manager, if possible, compile a list in the names of at least 5 association management companies in our area. Contact them and tell them about our Association. Request information from them, including client references. Screen them down to a list of four or five likely candidates. Then, using a form like the one entitled *Prospective Association Management Rating Survey*, at the end of this section, call Board members of the homeowners associations listed as references and ask questions like those on the form. The form provides a means of rating and comparing various aspects of an association Manager's performance. Tally the scores on the forms, discuss the results, and screen the candidates down to the final three.

When arranging for an interview with the three management candidate finalists, ask that the person who would be our Association Manager attend the interview. Often a management company will send the company heavyweights out for the interview and to close the deal, but then assign a less-experienced manager to the

account. It is okay to have a principle come but ensure that the manager who would be assigned to our association is there too.

When arranging the presentations by the management companies, don't ask all to come at the same time; space interviews appropriately, for example, every 30-45 minutes, so they aren't all present at the same time.

During the interview, ask whatever questions of the prospective manager that you must to ensure your confidence in him or her as our next manager.

Be aware that management companies may find the larger associations to be the more desirable accounts. There is a certain amount of overhead for each association and, of course, the monthly income from the larger association is greater. As an association with 148 homes, this can work to our advantage.

Smaller associations may find that they have to pay more per household for a good Association Manager. But, again, this still may be a prudent investment if it better ensures quality management and helps in fulfilling the board's mission *to preserve, protect and enhance the investment*.

Remember, *this is not an exercise to discover which candidate has the lowest fees.*

Selecting management talent who may considerably affect the value of the most important investments many of our members will ever make is not an occasion to fall into a trap of false economy. A single action by an inexperienced or incompetent manager or a failure to act can cost us *far* more than the apparent savings in management fees. As fiduciaries we must use our best judgment to find the management talent that provides the best *value*—even if that means spending more for the manager.

### **Be good to the Manager**

Any long-term relationship must be managed, be it a contract, employment or a marriage.

We should not take a relationship we have with a manager for granted.

- The President should meet regularly with the manager as described above; keep communication lines wide open.
- Treat a manager as a partner, not a servant.
- Frequently ask the advice of our manager. How else can we benefit from her experience?
- Don't berate our Association Manager in public. (Imagine how you would feel if your employer upbraided you in front of those you worked for and with.) The President should discuss any performance problems with our manager privately.
- As the *point* person, the manager occasionally may be assailed at a meeting by an irate homeowner. If that happens unfairly, support him or her; don't leave him or her *hanging*.
- Be especially good to our manager on his or her birthday; give him or her a balloon and a stupid hat.

***Prospective Association Management Company rating form***

Below is a form that has been used successfully by other homeowners associations in the screening process for a new Association Manger. After getting names of client HOA's from our candidate management companies, call their client board members and use this form to rate the managers.

**SAMPLE**

**Prospective Association Management Rating Survey**  
**YOUR ASSOCIATION HERE! Homeowners Association**

Management company: \_\_\_\_\_

Association: \_\_\_\_\_

Contact name: \_\_\_\_\_ Phone: \_\_\_\_\_

Survey taken by: \_\_\_\_\_ Date: \_\_\_\_\_

Please rate the following from 1 to 5	Unsatisf	Poor	Average	Above Average	Excellent
<b>GENERAL:</b>					
Relationship with Board of Directors and members	1	2	3	4	5
Complaint handling, maintenance	1	2	3	4	5
Administration of contractors and employees	1	2	3	4	5
Obtaining bidding for maintenance, painting, common area repairs, landscape maintenance, etc.	1	2	3	4	5
Response to emergencies	1	2	3	4	5
Response and handling of problems with renters, CC&R's and ARC violations	1	2	3	4	5
<b>FISCAL AND ACCOUNTING SERVICES:</b>					
Assistance with budget preparation	1	2	3	4	5
Monthly financials—for accuracy, completeness, timeliness	1	2	3	4	5
Handling of delinquencies, liens and collections	1	2	3	4	5
Assistance and advice related to investing reserve funds, etc.	1	2	3	4	5
Follow-up regarding claims for losses, subcontractor billings, damage claims, etc.	1	2	3	4	5
Billing for services in excess of estimate provided	1	2	3	4	5
<b>BOARD OF DIRECTORS:</b>					
Attendance at meetings, annual meetings and special meetings	1	2	3	4	5
Timeliness of meeting agendas, minutes, manager's reports, special reports, etc.	1	2	3	4	5
Quality of records management related to correspondence, file maintenance, ownership, etc.	1	2	3	4	5

This is the end of our Director's Handbook. Remember, this is intended to be updated and refined as we learn new lessons. Annotate this or write your ideas onto a separate sheet of paper as they occur to you and give to the President or designated editor. Periodically, the master word processor file should be updated and the handbook republished.

**SAMPLE**