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NEWS & VIEWS

for Homeowner Associations

April 2024

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Volunteer Appreciation 2024

By David Brock, PCAM



THANK YOU TO ALL HOA BOARD MEMBERS!

Volunteer Appreciation Week is observed every year in April. As the name suggests, it is **a week to honor, recognize and celebrate the selfless individuals who volunteer their time and energy to help others and promote good causes.** In 2024, this week occurs from April 14-20. It would not be a bad idea to celebrate volunteer Board members more frequently. We cannot appreciate volunteer board members enough.

I have said it before that in my opinion HOA Board volunteers are some of the best volunteers who serve. HOA board members serve in what many consider to be a thankless capacity to help steer the ship of their communities, and sometimes in very difficult seasons. Board members, in fulfilling their role are required to wear two hats at the same time: the “member or owner” hat, and the board member hat. There are times when these two hats conflict with each other. It can be challenging to address the needs of the community and at the same time have your

*“Volunteer Appreciation 2024”:
continued on page 6.*

Going Virtual: The Pros and Cons of Online HOA Board Meetings

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



California’s Civil Code Section 4926 now allows community associations to conduct board and membership meetings entirely online without having a physical location. While the benefits of online board meetings are readily apparent, virtual meetings come with pluses and minuses that boards should weigh carefully. Here is an overview of key benefits as well as areas needing attention when taking board business online.

The Basics

1. Civil Code Section 4926 allows a community association to conduct a board or membership meetings virtually provided the association meets specified safeguards, which include: The meeting notice must include:
 - a) Clear technical instructions on how to participate by teleconference.
 - b) The telephone number and electronic mail address of a person who can provide technical assistance with the teleconference process, both before and during the meeting.

- c) A reminder that a member may request individual delivery of meeting notices, with instructions on how to do so. Every director and member must have the same ability to participate in the meeting as if the meeting were held in a physical location.

2. Every director and member must have the same ability to participate in the meeting as if the meeting were held in a physical location.

3. Any vote of the directors must be conducted by roll call vote.

1. Any person entitled to participate in the meeting shall be given the option of participating by telephone.

Note, that a board or membership meeting cannot be held solely by video or teleconference if ballots are to be counted and tabulated pursuant to Civil Code Section 5120 (secret balloting procedure).

So Why Go Virtual?

Convenience tops the list of reasons for virtual meetings. Participants can join from anywhere via video call instead of traveling to a location at the community or to

*“Going Virtual: The Pros and Cons...”:
continued on page 6.*

Only nine months remain until the deadline for compliance with SB326 on January 1, 2025.

As a resource to companies providing the inspection service, you may go to <https://www.bevenandbrock.com/board-member/> See #18.

The Corporate Transparency Act

Article provided by the Community Associations Institute (CAI)

Overview

The Anti-Money Laundering/Corporate Transparency Act that passed in 2021 and related Business Ownership Information (BOI) reporting requirements unintentionally apply to more than 350,000 local volunteer-driven, homeownership non-profit organizations in the United States. Community associations, also known as homeowners associations, condominium associations, and housing cooperatives are usually organized as state non-profit corporations therefore, are swept into the Business Ownership Information (BOI) reporting requirements of the Anti-Money Laundering/Corporate Transparency Act.

The non-profit corporation has shareholders (every owner in

the community). The owners pay their fair share of the non-profit corporation's expenses by paying assessments.

Further, the owners select, by election, the board of directors to make decisions on their behalf. The Corporate Transparency Act exempts non-profits that hold an IRS non-profit tax determination. Community associations are incorporated as a local state non-profit corporation; however, they usually do not have a non-profit tax determination by the IRS (i.e., 501c).

The consensus by community association lawyers is community associations incorporated at the state level will be impacted by this new law and will have a responsibility to file information with FINCEN through the Beneficial Ownership Information (BOI) reporting requirements. The Beneficial Ownership Information (BOI) reporting program is slated to be implemented with filings beginning January 1, 2024. The current filing deadline for existing corporations is January 1, 2025.

The U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN) published a statement recognizing the charitable sector that operates domestically presents a low risk for money laundering terrorism financing risk.

The Corporate Transparency Act intends to detect and report suspicious activity including predicate offenses to money laundering and terrorist finance, to facilitate tracking money that has been sourced through criminal or terrorist activity to safeguard the national security and the financial system of the U.S.

This Act was not intended to apply to volunteer-driven nonprofit corporations that are locally based with the sole purpose of providing municipal-like services to residents.

Potential Impact:

At a minimum, here is what is going to need to be reported by the community association to the FINCEN federal agency on an annual basis.

- Business name.
- Legal name of board members, birthdate, home address, and identifying number from a driver's license, state ID, or

passport.

- Individuals with substantial control. The same information (name, birthdate, home address, identifying number) of person (s) who exercise substantial control over financial reporting for the community association corporation. It is unclear whether a community manager and/or management company qualify as an individual with substantial control. This is yet to be confirmed. CAI will continue to evaluate this and provide guidance accordingly.
- Changes, corrections, and additions to the filing must occur within 30 days of when you become aware of the change (i.e., board member moves, is replaced, etc.).

Just as we were headed to the printer this came in from CAI:

In a stunning decision late last week a federal court ruled the Corporate Transparency Act (CTA) unconstitutional.


On March 1, U.S. District Court Judge Liles C. Burke issued a 53-page opinion granting summary judgment in a lawsuit filed by the National Small Business Association. In his decision, Burke wrote the Corporate Transparency Act "exceeds the constitution's limits on the legislative branch and lacks a sufficient nexus to any enumerated power to be a necessary or proper means of achieving Congress' policy goals."

The court then permanently directed the government to stop enforcement of the CTA against the plaintiffs and ordered a hearing on awarding litigation costs.

While it is likely this litigation will continue in the federal court system, the initial decision is a victory for small businesses. More importantly, the decision means compliance with the CTA is in question.

Attorneys will interpret how this impacts community associations.

This lawsuit provides additional uncertainty and lack of clarity regarding CTA. Now is a great time to contact your Senator <https://www.votervoice.net/CAI/Campaigns/108066/Respond> and urge them to delay implementation of the Corporate Transparency Act and clarify whether community associations are exempt from CTA reporting requirements. ❖



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Guarding Against Plumbing Woes: Top Six Preventative Tips for HOA Boards

By John Bottala, Western Supreme Rooter



During 2023, all the Beven & Brock associations spent on average 18% of repair expenses on plumbing. In addition, unaddressed plumbing leaks also increase the water

consumption bill. Very often, plumbing issues go unaddressed, and sometimes unnoticed, until disaster strikes. Association boards may want to periodically remind owners to pay attention to these six preventative recommendations below.

1. Watch for leaks and drips: leaking faucets, toilets or pipes may seem minor, but they can waste a significant amount of water over time and lead to more severe issues. Addressing leaks promptly not only conserves water but also prevents potential water damage to your home.

2. Mind what goes down the drain: Be mindful of what you allow down your drains. Avoid disposing of grease, coffee grounds, and large food particles in the kitchen sink, and use drain screens to catch hair and soap scum in the bathroom. Preventing clogs before they occur can save you from the inconvenience and expense of dealing with blocked pipes. Flushable wipes are not so flushable. Be mindful of what does down your drain.



3. Invest in regular inspections: schedule periodic plumbing inspections by a professional. A licensed plumber can identify potential issues that may not be apparent to the untrained eye. Catching problems early on allows for timely repairs, preventing minor concerns from escalating into major plumbing disasters. Regular pressure checks on your main water supply is very helpful. The plumbing code states that water pressure should be under 80 PSI. A pressure regulator is highly recommended.

4. Emergency earthquake gas shut off valve: no one can accurately predict an earthquake and a gas shutoff valve that activates automatically is highly recommended. In the event of a 5.4 or greater earthquake, the gas supply will be shut off. Check your gas meter to see if you have one installed, and if you do not, call a plumber.

5. Maintain your water heater: extend the life of your water heater with regular maintenance. Flushing the tank annually helps remove sediment buildup, ensuring efficient operation. Check for any signs of corrosion or rust on the tank and connections. Proper maintenance not only prevents unexpected breakdowns but also contributes to energy savings by keeping your water heater running efficiently.

6. Perform regular maintenance on your sump pumps: to prepare for the rainy season, check your sump pump in late summer or early fall. It is best to open up the sump pump pit and remove all the debris from the bottom of the pit. The purpose of this

is to make sure the pump is ejecting water correctly and nothing is getting jammed into the sump pump body. Washing down the sides and scrubbing the bottom of the sump pump pit and removing all the debris will prolong the life of the pump and ensure that you will have not trouble during a rainstorm. Filling the pit up two to four times letting the pump eject water automatically will ensure that the function of the pump and the floats are working correctly.

As Ben Franklin said in 1736 “An ounce of prevention is worth a pound of cure” and his words are still true today.

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Community and the Importance of Communication

By Dave Brock, PCAM

“A Common Interest Development (CID) is simultaneously a corporation, a business, a real estate projects and a community and each aspect of the CID must be balanced.” This statement is attributed to the CID lawyers, Kelly Richardson, Matt Ober and two other authors of the Community Associations Institute course, California Basic Board Education course. Sadly, in many associations, the interest in, and desire for “community” is lacking. How is “community” defined?

Community is often defined by where one lives. As such, it is a group of people who may have diverse characteristics but share in common with others an aspect of life. Living in an HOA community requires the residents to communicate effectively with each other as the important issues of the shared aspect are addressed. Healthy communication is vitally important for the building of community particularly in some of the more challenging aspects association business, such as financial issues and enforcement of rules.

For many years we have encouraged the pursuit of *Community* with boards to have some type of event once or twice a year. We have always believed that residents engaging with each other over a meal and drinks can help foster a community spirit which would result in other benefits as well. We still believe this to be the case.

However, community isn't just about social events. Community can be built, in other ways and conversely, community can also be destroyed by how board members and community members communicate.

An important aspect of living in an HOA community is meetings. The way communication is handled

at meetings plays a significant role in the building up, or tearing down of community.

Now that a California court has determined that boards can discuss business in emails, the opportunity for members to observe their board discuss issues no longer occurs. Even before this recent case, many boards already engaged in the illegal practice of “email meetings” and never, or rarely, met in person. This practice, while convenient for the board, did not provide for the owners to speak to the board about concerns they may have.

Now that the law permits email discussions, it **does not** allow the board to make decisions by email. The act of a board voting on an issue still must occur in an open board meeting where owners can attend. Meetings can now be held



digitally, as of January 1, 2024, providing certain requirements are met.

While a board could simply vote at the board meeting on potentially controversial issues, it would be advisable for a board to brief the owners present on their email discussions before voting. Transparency is very important and if a board is considering an action that may have a detrimental effect on owners, that to minimize future problems taking a few extra minutes to communicate with owners is strongly encouraged.

Board members can benefit greatly from a concept called

“Community and the Importance of Communication”: continued on page 5.

IF I WAS THE TREASURER OF MY HOA...

By Dave Brock, PCAM

Approximately 10 years ago, I wrote an article titled "If I was President of my HOA" which has been republished a few times. A related article for the Treasurer is long overdue.

If I was the Treasurer of my HOA I would.....

1. Understand and embrace my role as the most knowledgeable member of the Board on financial issues.
2. Read and understand the most recent financial reports and bank reconciliation and learn the importance of each.
3. Familiarize myself with the latest Reserve Study and commit to obtaining an updated study every year.
4. Review the financial statements with at least one other Board member or the full Board at a meeting.
5. Report on the financial condition of the association to

the Board at every meeting and raise any concerns regarding delinquent accounts, cash flow issues, and the year-to-date comparison to budget report.

6. Work with the association consultant or manager to develop a realistic and balanced budget for next year.
7. Seek to follow the recommendations of the Reserve Study and advocate to the Board to do the same.
8. Understand that reserve funds are to be invested in FDIC insured accounts and not in speculative or uninsured accounts.
9. Always strive to operate in the best interests of the association, even though that may not be my personal preference.
10. Maintain any information I am aware of regarding delinquencies in owner assessment payments held in

strict confidence.

Beven & Brock offers some resources to help Treasurers in their role. One resource can be found at this link: <https://www.bevenandbrock.com/financialstatementhelp.pdf>

To find the article for the President, you can find it here on page 4: <https://www.bevenandbrock.com/wp-content/uploads/2013/10/November2013.pdf> ❖

"Community and the Importance of Communication": continued from page 4.

"perspective taking". According to Wikipedia: "perspective-taking takes place when an individual views a situation from another's point-of-view". In the world of HOA governance, a board must consider how a decision may be perceived by members of the community, and consider the impact in the community of any decision.

Secondly, if there are issues that you may suspect would generate community-wide interest (and the potential of unrest in the community), it is best to find ways to communicate with the members on potentially "hot-button" issues in any way possible, both during board meetings, and by written communication.

The "hot button" issues usually include topics such as financial issues, especially those that may lead to an assessment increase or a special assessment, major maintenance issues, and adoption of new rules.

Finally, in the matter of how communication can impact

community, think about the "tone" of communication both at meetings, and in written correspondence, such as violation letters or general announcements. Remember that owners have a vested interest in the community and are not tenants.

Every board meeting requires a portion of the meeting called "Open Forum" where owners can speak for a few minutes. This is the time for board members to listen and there is no obligation to respond at that time. Questions and concerns raised by owners should always be addressed, but that can be done later. An immediate response in the moment may not always be best. Board members are not required to defend themselves during Member Forum and should always be polite and civil, even when verbally attacked or confronted.

If the board commits itself to setting a great example of polite and civil communication, you will have a community where owners are happy, love to live and may be more willing to volunteer in the community. ❖

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individual preferences not be met.

Many HOA board members have been serving their communities tirelessly for many years. For these owners, the Association also is their HOME and INVESTMENT. Board members are required to make decisions that are for the benefit of ALL OWNERS.

This newsletter is distributed to board members for the most part. Unfortunately, the members of your community may never see this article. Feel free to post this newsletter in a conspicuous place on the property, perhaps the mailboxes. You can also forward the digital version on to your community.

*"Going Virtual: The Pros and Cons...":
continued from page 1.*

the management office. This saves time and expands participation since offsite owners, those caring for others, working late, or with demanding schedules and owners who are ill or disabled can easily log in and observed or participate.

Virtual meetings also improve attendance since they sidestep common deterrents like bad weather or evening commutes in the dark, improving community engagement. Also, in times of heightened emotion and threats against person and property by disgruntled or hostile members, virtual meetings allow the directors to govern without fear of harmful confrontation, violence or hostility, allowing the board to conduct the business of the association without interruption.

With an expanding technological toolbox, virtual meetings can enhance information availability too. Meetings can be recorded and posted online along with slide decks, documents, and meeting minutes. This heightened transparency is another convenience. Members with a secure log-on code can access information shared during a virtual meeting.

Of course, what we gain in convenience and enhanced participation on line, we lose in terms of in person engagement, body language and perhaps a

To owners who see this article, we encourage them to find a way or ways to APPRECIATE your board members. The nature of community living does not mean that the community members will agree on everything. During disagreement, it is still possible to recognize and appreciate those who willingly serve when not many others do agree to serve.

Here are some ideas: begin with a simple Thank you note or email. Gift them a token of appreciation... a small Starbucks card, or a small Amazon card. Attend a meeting and speak your appreciation during an Open Forum. Simple expressions of meaningful recognition and gratitude will encourage them to continue serving longer. ❖

sense of community. Communities conducting virtual meetings should consider other ways to bring the community together.

Preparing for Success Online

Virtual meetings require a bit more planning to match an in-person experience.

Notice: Meeting notices must cover the general meeting notice and agenda items plus technical details for logging in, and contact information for technical support both before and during the meeting. The notice also must contain a reminder that a member may request individual delivery of meeting notices.

Participation: The technology platform should offer multiple channels for attendance like video, audio-only calling, screen sharing capabilities, chat boxes for written questions, and virtual "hand raise" options. And of course, the ability to mute someone when necessary to gain control of the meeting.

Engagement without body language: Even though members speak or interact only during the "member comment" portion of a board meeting, connecting with directors and members, and keeping them engaged without body language cues requires extra work. Consider using polling questions, screen share, whiteboard collaboration tools, and of course,

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*"Going Virtual: The Pros and Cons...":
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meeting etiquette and conduct rules. Also, use of chat boxes with active moderation may assist here.

Particularly for board meetings, it may be difficult to replicate an in-person board meeting atmosphere. Keeping directors intellectually invested and engaged in board discussions during a virtual meeting remains an ongoing challenge. This puts pressure on the board president to keep directors engaged through prompts and questions on the agenda item being discussed.

Inclusiveness: Requiring a telephonic option and dial-in numbers enables members without internet connections or digital proficiency to join discussions and participate, and ensures association compliance with the Civil Code.

Transparency: Civil Code mandates roll call votes for virtual meetings, and prohibits virtual-only meetings when counting secret ballots. This reassures members the right to observe the decision-making process.

Post-Meeting Confirmation: Making board meeting minutes readily available and in a timely manner allows those who may not have heard clearly or could not participate the opportunity to review decisions made and action taken during the virtual meeting.

Watching Out For the Pitfalls Back-up Plan. A rock-solid backup plan tops the precaution list for virtual meetings. At a minimum, have a call-in number if the online platform fails so the meeting can continue by telephone. Internet outages, power blackouts, technology glitches, and user error always lurk as hazards to an exclusively virtual meeting. Of course, when all else fails, the

board can adjourn due to technical issues and reconvene at another date. Notice of the adjourned board meeting date should be provided containing the notice requirements required by Civil Code Section 4926.

Zoom-Fatigue. Consider a timed agenda to move the meeting along. The frequent pauses for questions or clarification needed during complicated discussions can heighten meeting length beyond reasonable durations. "Zoom fatigue" is real. Long virtual gatherings test patience and concentration so consider breaking complex agenda items into multiple shorter sessions.

Caution-Recording in Process. Finally, extra transparency means extra caution. Current technology makes it impossible to prevent a member from recording the virtual meeting. All meetings should begin with a warning that recording is prohibited. Board meeting conduct rules also should include a recording prohibition to allow for enforcement should a member record a meeting without permission. Recordings can lead to unnecessary second-guessing and political posturing around "gotcha" moments taken out of context, lost signals misinterpreted as sneaky backchannel conversations, or heated arguments that go viral across community social channels. Directors or members should feel "safe" working through issues candidly on behalf of the association without the fear of an unexpected recording being broadcast through email blast or on social media. Proactive protection from unapproved recording and publication of meetings is needed.

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community

Transitioning community governance to a virtual world raises valid concerns around lack of connection and engagement, ability to navigate technology, voting integrity, transparency, and overall professionalism of conduct during remote meetings. However, the logistical ease also removes previous barriers around busy schedules, mobility constraints, out-of-town owners, inclement weather and more that hindered in-person attendance. This expanded access and oversight by members into board deliberations is the very essence of open elections and homeowner association ideals – when executed conscientiously. As more boards explore remote formats, technology and best practice solutions will evolve rapidly to smooth out current limitations. Proactive online meeting management supported by clear virtual meeting rules will provide California homeowners associations with an encouraging additional governance tool and better opportunities for community involvement. Associations and community managers are sure to benefit from this legislation by way of meeting efficiency, time management, board meeting safety, and cost savings. ❖

About this newsletter:

HOA News and Views has been published and provided free of charge to board members in Los Angeles county for over 30 years. This issue is our 120th.

The newsletter is distributed quarterly during the first week of each quarter. If you do not receive it, and you have received it in the past, please let us know at HOANewsletter@bevenandbrock.com. We do not remove names unless requested.

If you would like to be removed from the newsletter or add additional recipients, please provide the name, and email or mailing address to: HOANewsletter@bevenandbrock.com.

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



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NEWS & VIEWS

for Homeowner Associations

HOA BOARD MEMBER EDUCATION

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

There are several ways for board members to be educated, and Beven & Brock offers two types of training for board members.

UPCOMING DATES:

Board Training - April 25, 2024

<https://www.bevenandbrock.com/wp-content/uploads/2024/01/BoardTrainingFlyer2024-April.pdf>

Free three-hour training course for current and prospective HOA board members. A course syllabus and informational handouts are provided. This CAI-sanctioned class is taught by its co-creator Kelly Richardson, Esq. CCAL of Richardson Ober, and is co-sponsored with the Community Associations Institute. Seating is limited, and reservations may be made by emailing: BoardTraining@bevenandbrock.com. Priority is given to current Beven & Brock managed associations due to space limitations.

A RESOURCE AVAILABLE FOR HOA BOARDS!

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

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



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