

HOMEOWNERS ASSOCIATION MANAGEMENT COMPANY



LEADERSHIP MONTHLY

A NEWSLETTER FOR ASSOCIATION OFFICERS AND DIRECTORS

SEASONS GREETINGS!!

John Scott

Jennifer Kinsman

Cory Miller

Daniel Barrett

Bonnie Bright



Left-to-Right: Jennifer Kinsman, Bonnie Bright, Shirley Baker, Cory Miller, Sharon Siegtried, Joy Garso, Pam Ayers, Daniel Barrett, Carrie Clark.

Sharon Siegtried

Joy Garso

Pam Ayers

Carrie Clark

Shirley A. Baker

Associations Managed by Homeowners Association Management Company

Back O'Beyond — Sedona
Butte Haven HOA — Prescott
Canyon Mesa Townhouse — Sedona
Country Club Townhouse — Dewey
Crimson View HOA — Sedona
Crossroads Ranch I — Prescott
Crossroads Ranch II — Prescott
Del Sol Townhomes — Sedona
Dream Suites — Prescott
El Paseo Estates — Scottsdale
Gail Gardner Patio Homes — Prescott
Granite Creek Condos — Prescott
Granite Park Ranch — Prescott
Happy Trails — Surprise
Hassayampa Village HOA — Prescott
Highland Pines DOM/Water — Prescott
High Valley Ranch — Prescott

Junipine Resort — Sedona
La Barranca I — Sedona
La Barranca II — Sedona
Mogollan Ranch — Flagstaff
Montana Terrace Condo — Prescott
Morning Sun — Sedona
Nizhoni Village — Sedona
Ocotillo Ridge — Phoenix
Pedregal-Condos Hassayampa — Prescott
Pine Canyon — Scottsdale
Pine Creek Estates Condos — Prescott
Prescott Canyon Estates — Prescott
Prescott Lakes Comm. Assoc. — Prescott
Prescott Properties — Prescott
Prescott Resort — Prescott

Santa Fe Springs — Prescott
Sedona Casa Contenta — Sedona
Southview Trails Community — Prescott
Spanier Investment — Prescott
The Foothills POA — Prescott
The Meadows at Eagle Ridge — Prescott
The Villages at Lynx Creek — Dewey
Timber Ridge — Prescott
Torreon Comm. Assoc. — Show Low
Valley Ranch Townhouses — Prescott
Victorian Estates — Prescott Valley
Viewpoint (East) — Prescott
Viewpoint (West) — Prescott
Vista Montana HOA — Sedona
Willow Creek Medical — Prescott
Yavapai Hills HOA — Prescott
Yavapai Hills RV — Prescott

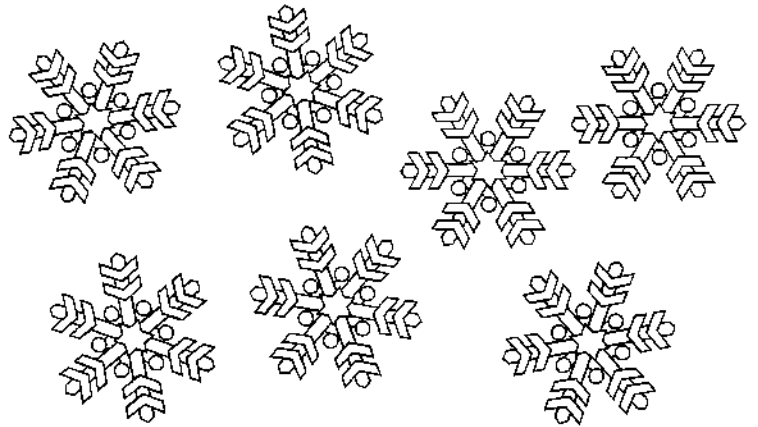
WELCOME To Our New Clients

Junipine Resort Property Owners Association

This community is located in Oak Creek Canyon —
What a delightful drive.

Morning Sun Condominium Association

We are pleased to have the opportunity to
work with this outstanding Board.



**"Kindness is no common virtue. It
is a rare gift."**

— David Samuels

**Warmest Greetings
to All of Our Friends
and Associates
for a Healthy, Happy
and Joyous New Year!**

Hoamco Staff Members

Valuation of Common Areas — *By Brian L. Zemp*

The Arizona Legislature addressed the double taxation of common areas by adding article 8 (A.R.S. §§ 42-13351-13354) to Sec. 2, Title 42, Arizona Revised Statutes. Article 8 establishes the exclusive method for identifying and valuing common areas for property tax purposes.

Common area is defined as "improved or unimproved real property that is intended for the use of owners and residents of a residential subdivision or development and invited guests of the owners or residents and include[s] common beautification areas" that meets all of the following criteria:

- ◆ The property must be owned by a nonprofit homeowners' association, community association or corporation (the "association");
- ◆ The association must be organized and operated to provide for the maintenance and management of the common area;
- ◆ The Owners of lots and parcels in the development must be mandatory members of the association;
- ◆ All members of the association, their families and, if permitted, their guests, must have the right to use and enjoy the common areas, subject to the right of the association to assess fees;
- ◆ The right to use the common areas must be appurtenant to and pass with the title to each lot and parcel;

- ◆ The common areas must be deeded to the association; and
- ◆ The common areas must be subject to a recorded deed restriction limiting its use as common area, and a copy of the deed restrictions must be filed with the county assessor.

Condominium common elements and golf courses are not considered to be common areas. Subject to the foregoing conditions, the land, buildings and improvements used for common areas shall be valued at \$500 per parcel for valuation years from and after December 31, 1998. If requested by the association, the county assessor may consolidate all of the common areas within the same taxing district into one parcel.

As of the date of this article, there are still a number of implementation problems, one being the fact that many county assessors in the outlying counties are not yet aware of the valuation amendment. In addition, the assessors have not yet prescribed forms to have used for revaluation and consolidation, no protocol has been established for phased developments, and the assessors are reluctant to apply the revaluation retroactively.



Yearly Beloved By Beth A. Grimm

How to prepare for, plan, and successfully conduct an annual meeting.

Hint: (Start right now!)

It's not enough to know that your community association has to have an annual meeting. You also must know that anything can happen during one. An annual meeting that I attended during my days as a paralegal featured three inspectors of election: one attorney for each side, plus the association manager. Counting the proxy votes on a particularly contentious issue took about two-and-a-half hours. While the two attorneys were off with the manager counting votes, the rest of us—owners, the board, and me—were left in the meeting room to grow weary, frustrated, tired, and disillusioned. Talk in the room turned to criticism of the attorneys and the board, the amount of money that was being expended, and their inability to "count proxies." There was nothing for people to do but gripe.

The nightmare eventually ended, but it provided a valuable lesson: When it comes time to plan your annual meeting, if you and your board try to anticipate both the worst possible scenario—which I experienced at that meeting—and the best possible scenario, you can be ready for anything.

I. THE BEGINNING

The annual meeting is a gathering of the membership of an entire community association that takes place once a year (hence "annual"). It's the best opportunity for a board to address, face-to-face, the people who own property in the association. It's a lot like any corporation stockholder meeting, where the owners of the stock are invited to attend. As in a corporation, officers and top management present reports, providing information on the association's financial status, the past year's events, and upcoming projects, and directors are elected to fill open positions on the board.

However, unlike in a corporation, where stockholders are invited only to listen, in most states homeowners are allowed to participate in annual meetings (with some reasonable restrictions, of course). Sometimes the meeting is combined with a social on-site or nearby, sometimes it's held in the clubhouse, and sometimes it's very official. Of course, if you do throw a social, there's likely to be more pressure to include non-owners, whom some associations don't want to attend (not even spouses of owners or tenants). The board can set the rule on who is allowed to attend.

If you're having trouble getting people to your meetings, chances are you'll have trouble getting new people to serve on the board as time goes by. So it makes good sense to carefully plan the annual meeting. In fact, it makes good sense to *pre-plan* it:

Consult Your Bylaws. Start in your own backyard, with your association's governing documents (usually this means bylaws). These should tell you the requirements for board terms, nominations committee, meeting notice, agenda, voting rights, record date, quorum requirements, use of proxies, and all the other necessities of annual meetings. Just be sure to look for the section on *annual* meetings, not board meetings.

Know the Law. Well, you don't really have to know the law, you just need to have a good lawyer standing by to answer legal questions as they arise. It's an excellent idea to make a simple phone call to your association's attorney to see if there are any state or local statutes that override the governing documents for notice, proxies, or quorum requirements, three very important parts of the annual meeting. In

California, for example, associations are required to use some recognized process of parliamentary procedure for meetings.

II. THE PLAN

To draw in as many association homeowners (and renters, if they're to be invited) as possible, some associations stage their annual meeting around a social event, or stack the agenda with a special assessment or some other attention-getting items. Be warned, however: This means more prep work.

Finding Candidates. Keep good records as to the terms of the current board members, so you can determine whose terms expire at the next annual meeting. The person or persons responsible for soliciting nominations for vacant board seats might be the board, the manager, or a nominations committee, according to what the authorizing document (probably the bylaws, remember?) provides. Even if your bylaws don't specifically provide for a nominations committee, it makes good sense to appoint someone to survey the membership before the annual meeting, to roust some willing candidates to run for the board. Otherwise, the same people tend to run year after year, sometimes begrudgingly, because no one shows up to take over.

Setting the Agenda. Give the agenda some serious thought before you send out your meeting notice. Most annual meeting notices say that there will be an election of directors, and many notices also include something like: "The conduct of such other business as may properly be brought before the meeting." It would be interesting for the membership to know in advance if the board is considering discussing items such as improvements to the properties, changes in the rules, addition of social activities, attempts to get more people interested in the association, etc. The reason is simple: This may encourage attendance and participation.

Proxies. A proxy is not to be confused with a written (mail) ballot. It's a document that authorizes someone to vote on behalf of someone else (usually someone who can't attend the meeting). The person who is named a proxy holder is expected to vote the choice of the proxy giver. The proxy is an important part of the package that goes out to owners, usually along with the candidate statements or the meeting notice. It generally contains designation of a proxy (the person authorized to vote in an owner's place), the names of the nominees for the board election, and any measures to be voted on at the annual meeting.

Meeting Notice. The notice of your annual meeting should clearly state the meeting's date, time, and location. Again, you should consult your bylaws to find out if there are any limitations. Notice of the meeting should be sent to the last known address for the owner of every lot or unit in the development. The manner in which the notice must be distributed—first-class mail, hand delivery, posting in the common area—is also dictated by the bylaws unless there is an overriding statute.

III. THE MEETING

If the board has done its homework, the meeting should be an enjoyable and rewarding event. Things will flow even more smoothly if you've considered the minor details (see "Sweating the Small Stuff") before the big day, not to mention the major ones.

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From the top:

Orderly Set-Up. Getting people into the meeting quickly and efficiently, having a sign-in sheet or check-off roster to verify that those attending are members, and logging the receipt of proxies are all critical. Some associations ask for identification. Some have a signature sheet at the meeting to verify member signatures. This is important—especially when there is a serious measure to be voted on.

Quorum. Most bylaws require a majority of the owners to be present in person or by proxy at an annual meeting in order to have a valid quorum of 33-1/3 percent to 51 percent for the first go-round of an annual meeting, with a lowered quorum of 25 percent if the board is unable to get sufficient participation. The lowered quorum allows the chair to notify the members present at the annual meeting that the meeting will be adjourned and reconvened (usually within five to 30 days).

SWEATING THE SMALL STUFF

- A process for the orderly receipt and counting of proxies, including a sign-in sheet for members, a check-off sheet for proxy exchange, tables with chairs by the door where volunteers can check people in as they arrive, and enough assistance at the door to accommodate people so there isn't a large back-up of members waiting to get in the meeting room.
- Comfortable surroundings, pleasant temperature, adequate number of chairs, seating geared to serve anticipated attendance, and refreshments of some kind.
- Someone assigned to direct people to restrooms, answer questions, and possibly greet members, so board members and sign-in helpers won't be distracted.
- Name placards for board members, so the audience can see them.
- Possible name badges for the members (first names at least), so that people can meet their neighbors and address each other by name.
- Security guard, just in case. (You never know.)
- Cell phone for emergency use, in case of heart attacks or disruption.
- Assistance to help set-up/take down chairs, food, tables, etc.

Sticking to the Agenda. Although the president or chair can ask at the beginning of the meeting if anyone has any proposed changes to the agenda, once matters to be discussed are established, the board should follow the agenda for an orderly meeting. If someone is eager to address a particular issue, and that matter is taken out of order, others who couldn't get to the meeting on time but intended to be present when the matter was discussed may be very upset.

Parliamentary Procedure. Someone—a board member, or your attorney—needs to be familiar with parliamentary procedure in order to help keep order at the meeting. This doesn't necessarily have to be the chair. The association can have a parliamentarian available, or someone else can be assigned the task of knowing and understanding parliamentary procedure and assist the chair if needed.

Elections. When an election is to be held on any matter—including the election of directors—the board should have some process in place to assure that votes are counted swiftly and accurately. If the election is likely to be heated or otherwise subject to dispute, the board should appoint inspectors of election to count the votes. In California, the inspectors of election must be one person or three people—not an even number. They may be members of the association, but don't have to be.

Food. The association might have a social event before the meeting. There may be a buffet set-up or snack table, and the board may wish to direct people to get food at certain points in the meeting. Regardless, if the board doesn't want disruptions, an announcement should be made at the beginning of the meeting as to how the food will be handled.

Critics and Gadflies. Thoughtful discussions and consciousness-raising

questions should always be encouraged at an annual meeting, but it can seem like only the chronic complainers show up. Just as important as a working knowledge of parliamentary procedure is the ability to neutralize critics or gadflies, especially if their sole purpose is to disrupt business. One way to get your meeting off on the right foot is to start out with glowing reports of association and volunteer accomplishments from the past year. This gets everyone (or mostly everyone) in the room in a positive frame of mind before a gadfly or critic is given the opportunity to take on the board. The chair might also take a few moments at the beginning of the meeting to explain the rules of order, ask for common courtesy, or remind attendees of "The Golden Rule."

Efficiency. Keep your annual meeting simple. Try not to fill time with reports that are technical, difficult to understand, monotonous, or unimportant. If you hold the election first, then you can allow for some homeowner comment time during the counting of the votes. It's okay to limit the time that homeowners can speak, so the meeting doesn't go on all night. You might ask the owners in attendance to fill out speaker cards as they come in, so you'll have an idea of how many people want to speak and what they want to speak about.

IV. THE END

The annual meeting is over, either because everything went smoothly or everything turned into chaos, and it's time to adjourn. If everything went well, then go home and sleep soundly—and set the same schedule for next year's annual meeting.

If everything went downhill, the first board meeting after the annual meeting might be the time to begin thinking about next year. It might take a year for people on the board to prepare themselves for parliamentary procedure, people issues, learning how to handle disruptions, grooming new board members, and the like. Don't despair—but learn from your mistakes. Next year, plan a social event that will bring more people together. And make sure your agenda has its share of meaty items of interest—beyond the nuts-and-bolts necessities. If you can offer child care during the meeting, you may get more participation. Ditto a guest speaker, such as a local supervisor or popular area politician.

The more organized your association is around an annual meeting, and the better the planning that occurs, the more likely it will be that you and your board can accomplish what you need to. And the more likely that your members will walk away feeling confident in their management and their board.

It's critical to set up a timetable, so that the association is certain to fulfill all of its responsibilities in a timely manner. Draw up your timetable for next year's meeting as soon as possible after this year's meeting. Include the following items:

- Date to start planning annual meeting.
- Date to assign tasks, if any (such as appointment of nominations committee).
- Date that materials soliciting nominations for director should go to membership.
- Date for return of nominations or director solicitation surveys to board or manager.
- Date for preparation of agenda (before the meeting notice goes out, if it's to be included).
- Date for annual meeting notice to be sent out, and notation to include proxies (notices and proxies can but don't have to be sent out together).
- Date candidate statements to be distributed to the membership (often goes out with the meeting notice and/or proxies).
- Date for return of proxies (often coincides with the beginning of the meeting, but if it doesn't, date should be noted clearly on mailed membership materials).
- Date of meeting.
- Date new officers are to be installed (probably at the first board meeting after the annual meeting).

ARE YOUR HOMEOWNERS' ASSOCIATION POLICIES CLEARLY UNDERSTOOD BY YOUR HOMEOWNERS?

George and Wanda were pleased with their new home. The neighbors seemed friendly and the house was just about perfect—except for the size of the family room. Although it was a little too small, by enclosing the patio and taking out the existing wall, they could almost double the size. George thought he could do the work for almost nothing.

At the time of their purchase, the previous owner and the real estate agent gave George and Wanda a number of documents. As with most new homeowners, they were more interested in furnishing their new home than in reading all the "legal" stuff in the lengthy documents. As a result, George and Wanda put the documents away in a file drawer for safekeeping.

They were well into drafting plans to enlarge their family room and had already purchased all the materials when Wanda mentioned their project to a neighbor. "You may want to talk to the architectural control committee before you do any improvements. They may not be allowed under the CC&Rs," he told her.

Later that evening Wanda asked her husband about the "CC&Rs" and the "architectural control committee." They remembered all the documents they received at the closing of their home. It took only a few minutes to pull out the documents but it took hours to read through them and try to understand what they said. For the first time they understood that the money they paid each month for the "common areas" went to a homeowners' association made up of some of their neighbors. They found a reference to an architectural control committee, but the documents they had did not say what the committee was supposed to "control." They certainly did not find anything that said they could or could not enclose their patio.

George started work on the construction the next morning. About a week later, they got a letter in the mail from the Happy Acres Homeowners' Association Architectural Review Committee. The letter told them to stop construction and threatened to fine them if they continued. Within a short time, George and Wanda had retained an attorney and were involved in a legal dispute with their homeowners' association.

Many disputes between homeowners and homeowners' associations come about because of poorly publicized and articulated policies. Covenants, Conditions and Restrictions (CC&Rs) are often very long and very poorly written. Homeowners' associations may invite problems by reacting to violations rather than informing and educating the homeowners before the violations occur. This is especially true in resale situations.

Associations must comply with the requirements of the CC&Rs. If the CC&Rs are inconsistent or out-of-date, they may need to be re-written or amended. Often, the CC&Rs themselves provide a way for the homeowners to amend the documents. It is not always necessary to amend the CC&Rs; it may only be necessary to implement rules and regulations. Rules and regulations are generally

passed by a vote of the board of directors of the homeowners' association. Once approved, the rules and regulations are binding and enforceable on the homeowners as long as they do not conflict with the CC&Rs. However, they must be enacted according to the procedures established in the CC&Rs, Articles of Incorporation and/or Bylaws of the homeowners' association.

In order for any rule or regulation to be enforceable by the association, it must comply with four requirements:

1. It must be reasonable. The general rule is that the regulation must bear some relationship to the intent and purposes of the CC&Rs. No rule or regulation should be used to impose an injustice or to violate an individual's civil rights. Rules and regulations should not appear to discriminate against members of any protected class designated by the U.S. Supreme Court such as members of a certain race, religion or national origin.

2. It must be applied uniformly to all homeowners. Preferential rules applying to only one section of a subdivision are not enforceable. Unfortunately, many times the board of directors will be more restrictive on those homeowners not part of the "in" group. The attitude on the part of the directors is indefensible.

3. The association must follow the guidelines of their legal documents to pass the rule. The basic governing document is the recorded CC&Rs. A properly constituted homeowners' association will also have Articles of Incorporation and Bylaws. The Bylaws will often give an outline for running the association. The board of directors can also pass reasonable and limited rules and regulations as may be necessary to operate, such as pool use in a development with a common pool area.

4. The association must give proper notice as required by the documents. Sometimes the CC&Rs (and usually the Bylaws) give specific instructions on how notice of meetings, assessments and rule changes shall be given to the homeowners. These notice requirements must be strictly followed. Homeowners have "notice" of the CC&Rs because they are recorded in the county recorder's office. The other documents, however, are not public record and must be provided to the homeowners by the association.

Pursuant to Arizona Revised Statutes §33-1260 of the Uniform Condominium Act, and §33-1806 of the Planned Communities Act, either the seller, or in larger developments (50 or more units), the association, upon notice of sale, must provide the purchaser with detailed information concerning the operation and assessments of the homeowners' association. Both statutes provide that the seller or the association may be liable to the purchaser for any damage the buyer incurs as a result of the failure to provide the required information, including the assessment of reasonable attorneys' fees.

In the case of George and Wanda, their association (which had more than 50 units) had failed to provide them with the information required by the statute. As a result, not only did George and Wanda get to enlarge their family room, but they were also awarded damages and attorneys' fees against the association.

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Ice Ice, Baby



There are any number of frozen-pipe indicators out for which to keep an eye during cold weather, including:

- * Lack of heat in a living unit—particularly if the thermostat seems to be broken or unresponsive.
- * Unexplained wet spots on hallway carpet or ceilings.
- * An unexpected drop in water level or pressure in the boiler, along with ice forming on exterior balconies where it doesn't normally appear.
- * Open windows in subzero temperatures.
- * Malfunctioning garage doors and garage heaters. (And make sure that heating and domestic waterlines in close proximity to garage doors are adequately insulated.)
- * An improperly set boiler—water levels, pressure, and/or temperature settings—that doesn't compensate for below-average temperatures.

HOAMCO HOURS

Monday - Friday — 9:00 am to 4:00 pm
 Closed for Lunch — 12:00 pm to 1:00 pm

HOLIDAY HOURS

We will be closed Friday, December 24,
 and Friday, December 31.



Live your life each day as you would climb a mountain. An occasional glance towards the summit keeps the goal in mind, but many beautiful scenes are to be observed from each new vantage point. Climb slowly, steadily, enjoying each passing moment; and the view from the summit will serve as a fitting climax for the journey.

— Harold Melchert

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Pearls of Wisdom

Work With Committees —

1. Define the committee's purpose.
2. Support the committee members.
3. Keep in touch with them.
4. Seek their opinion.
5. Ensure that they follow the rules of parliamentary procedure.
6. Give them objectives.
7. Give them deadlines.
8. Remember — a committee usually offers recommendations, not solutions.
9. Offer them love, praise, and acceptance.
10. Reward them.