



**HOAMCO**  
PROFESSIONAL COMMUNITY MANAGEMENT  
OUR ONLY BUSINESS

**D E C E M B E R 2 0 1 1**

# Current **REVIEW**

*News and Information to help inform and educate associates of HOAMCO.*

## A Warm Welcome to our Newest Clients

Our entire HOAMCO team would like to extend a warm welcome to our newest clients listed below and thank them for trusting us with their communities. Thank you, too, to our current customers who so often serve as references, as there is no bigger compliment received than from current customers who go out of their way to share their positive experiences with HOAMCO.

In New Mexico, associations are making the choice to work with HOAMCO as a company where every aspect of management, from accounting to compliance, is performed in New Mexican cities by New Mexican residents who care about and support the local economy. Our new clients in New Mexico continue to confirm they want to do business with a homegrown firm that customizes its services to their needs, while providing the personal attention that may not be afforded by other large national management companies whose major functions are conducted miles and miles away.

All of HOAMCO's clients enjoy the fact that HOAMCO only offers one thing—professional community association management. While we assist our boards in selecting collection agencies, landscapers, leasing and realtor services, we leave those kinds of tasks to others in order that we may place 100% of our focus on what is in the best interest of each of our client associations. Board members are pleased to see that HOAMCO's fees are structured to be as fair to the individual homeowner as they are to the association. We are a cutting edge company in so many ways, but when it comes to up-front honest fees, we prefer the traditional, straight-forward approach.

We do one thing and we specialize in it. We are the expert. It is our job to go out and get the best price for our clients.

Thank you for believing in us and thank you to the 136 HOAMCO clients who have now been with our company for over three years.

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- Alma Compound Condominium Homeowners' Association • Santa Fe
  - Chamisa Greens Subdivision Homeowners' Association • Albuquerque
  - El Caballero Norte Property Owners Association • Albuquerque
  - Hutchison Acres Homeowners' Association • Flagstaff
  - La Entrada at Rancho Viejo Community Association • Santa Fe
  - Los Cerritos Community Association • Los Alamos
  - Picacho Mountain Homeowners Association • Las Cruces
  - Portales Vista Owners • Santa Fe
  - Ridge at Iron Springs Homeowners Association • Prescott
  - Sierra Pines Property Owners Association • Show Low
  - Sundance Estates Community Association • Albuquerque
  - Tanglewood Villas Property Owners Association • Flagstaff
  - The Lofts Condominium Association • Santa Fe
  - Townhomes at Boulder Pointe Homeowners Association • Flagstaff
  - Troon Village Association • Scottsdale
  - Ventana Ranch West Community Association • Albuquerque
  - Ventanas del Sol Homeowners Association • Los Lunas
  - Canyon Road Homeowners' Association • Santa Fe
  - East Alameda Condominium Association • Santa Fe
  - Estancia de Prescott Phase I Homeowners Association • Prescott
  - Jordan Crossing Homeowners Association • Denver
  - Las Brisas del Rio Subdivision Home Owners Association • Los Lunas
  - Mesa del Sol Community Company • Albuquerque
  - Placitas de Santa Fe Association • Santa Fe
  - Primrose Pointe Homeowners' Association • Albuquerque
  - Romero Street Condominiums Unit Owners Association • Santa Fe
  - Stonebrook Estates Homeowners' Association • Albuquerque
  - Tanglewood Hills Property Owners Association • Prescott
  - Tanoan Community East Association • Albuquerque
  - Tome Vista Property Owners' Association • Los Lunas
  - Trinity Village Condominiums Owners Association • Santa Fe
  - Vallecito de la Tierra Homeowners Association • Santa Fe
  - Ventana Vista Homeowners Association • Albuquerque
  - White Horse Ranch • Prescott

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### AFTER HOURS EMERGENCIES

Arizona: 928-443-3593  
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# KEEP ON TRACK

By Jim Slaughter, ESQ.

Because of his busy work schedule, the association board president can't give much thought to board meetings until he gets to one. John typically arrives at the meeting just in time. That's not a problem because the board meets nearby at another board member's home. Members visit over snacks before moving to the living room for their meeting.

To accommodate latecomers, John starts the meeting about 15 minutes late. "So what do we need to do next?" he asks the association manager. He keeps asking this question throughout the meeting.

He is a real stickler for procedure and requires a motion, a second and a vote for all issues before the board, even routine matters. Meetings can last up to three hours, depending on what new issues board members raise and how long or how many times they want to talk.

What's wrong with this scenario? If you are content with long, disorganized and unproductive meetings, stop reading now. If you prefer shorter, more effective board meetings, here are 10 tips for doing better than this board president.

**Plan the meeting.** No single effort saves more time during meetings than planning ahead. What needs to be accomplished at the meeting? Who is responsible for each item? Have minutes of the previous meeting, the agenda and other necessary documents been provided to each board member?

At a minimum, a president should have a general outline of a meeting. Parliamentary books such as Robert's Rules of Order Newly Revised recognize a standard order of business, which includes:

- ▶ Opening the meeting. The president should officially call the meeting to order by saying, "The meeting will come to order."
- ▶ Approving the minutes.
- ▶ Reports. The manager or committee chairs should only be called on if they have something to report. No vote is needed unless action is recommended.
- ▶ Unfinished business. Unfinished business includes any motion that was not resolved at the previous meeting.
- ▶ New business. Members can introduce new items for consideration.

▶ Closing the meeting. In most bodies, the president can adjourn the meeting by asking, "Is there any objection to adjourning the meeting? Hearing no objection, the meeting is adjourned."

**Pick the right location.** Typically, meetings in a relaxed setting tend to be relaxed about everything, including the meeting's length. That's fine. But does meeting in a board member's living room give the right impression to a homeowner appealing a rules violation? A large association may want to present itself like the business it is. If you don't have an on-site meeting room, you can find free or low cost rooms at a library or place of worship.

A room's layout also should be considered. Auditorium seating usually leads to less participation by board members. In contrast, a circle of chairs can invite too much discussion. Some boards prefer U-shaped seating, which encourages participation, but acknowledges the president is running the meeting.

**Start on time.** The president should arrive early to be better prepared to tackle the evening's business. Delaying a meeting encourages board members to arrive late and punishes those who are on time.

**Prepare an agenda.** An agenda is more detailed than an "order of business" and lists the specific items that will be discussed during the meeting. Well planned agendas make for shorter meetings that seem effortless.

At a minimum, an agenda should list the order in which items will be discussed. If there are several important items, prioritize them. Some boards prefer agendas be prepared in advance and used as a guide. Other boards adopt the agenda at the beginning of the meeting, locking in the discussion items and sequence.

Boards needing serious intervention may wish to consider a timed agenda, which gives a start and end time for each item. Such scheduling helps rein in long discussions, allowing several controversial items to be addressed. The president should announce when time has expired and wrap up the matter.

**Set an adjournment time.** At a minimum, an agenda should list the time the meeting will adjourn. This will force the board to use its time more efficiently. Some boards plan their meetings to fit a set time, such as 90 minutes. They

cover more important issues first and carry over items not addressed to the next meeting.

## **Use informal procedures when you can.**

*Robert's Rules* notes that strict procedures can actually hinder business for boards with fewer than 12 members. For example, it recommends smaller boards not require a second on each motion and allow the chair to make motions.

Even during informal meetings, boards may wish to be more formal on matters of great importance or controversy. For example, they may want to observe limits on debate to keep the meeting on schedule or vote formally to help avoid legal challenges.

**Use unanimous consent.** A great time-saver for routine items is unanimous consent. Boards often use it to adopt routine reports, approve minutes or end debate. On noncontroversial matters, the president can ask if there is any objection to approving the item. If no one objects, it is approved. If a member objects, the president can ask for a motion and a vote.

Some boards even use a "consent agenda" at the beginning of a meeting that includes all noncontroversial items, such as approving minutes. Any board member can remove an item and place it on the regular agenda for consideration and a vote. The board then approves the remaining items on the consent agenda unanimously without discussion.

**Require new business in advance.** If board members never know how long meetings will last, it's probably because they don't know what issues will be raised. Require them to submit their new business items in advance. Allowing members to bring up issues at the meeting can lead to poorly thought-out motions. The board can allow new business to be brought up for the first time at the meeting as a late item (by suspending the rule) or carry it over to the next meeting.

**Manage discussion.** Encourage new discussion and prevent repetition by asking for comments from those speakers who have not spoken. Seek alternative views. After hearing from a proponent, ask if anyone opposed to the motion would like to speak. When members digress, note that their comments aren't relevant to the discussion and promise to take it up at a later date.

**Limit discussion.** Set the discussion time prior to addressing any potentially controversial

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# Fight or Fall Back?

When should you take a tough stance against violators of your association's architectural rules? The association's restrictions are meant to protect everyone—even when not everyone agrees with them. Sometimes they have to be enforced. Courts have said that architectural standards must be applied fairly and consistently. Yet many managers and lawyers advise you to be reasonable and flexible. What's a board member to do?

## 1. CHECK YOUR GOVERNING DOCUMENTS.

Your community association might not have architectural control authority if it's not expressly stated in the governing documents. Is that authority limited to exterior changes or does it include interiors? Does it include color schemes and design, or is it more limited? You might also need the association's attorney to check state statutes, regulations and case law, which can trump your governing documents. When board authority is limited, check whether the local municipality or a master association has authority over the issue.

## 2. BE FAIR AND REASONABLE.

Boards must apply architectural rules fairly and consistently. The courts can and do overturn decisions they conclude are arbitrary or capricious. Association decisions must be reasonable and designed to promote the interests of the community as a whole. Boards shouldn't enforce a provision against one homeowner and not apply that same restriction to other homeowners, but they can determine that certain restrictions are not worth the time and effort to enforce, says Gary

Poliakoff, an attorney in Fort Lauderdale, Fla., and a member of CAI's College Community Association Lawyers (CCAL).

"Historically, boards have thought they had to be very strident in their approach because (they believed) any type of flexibility would preclude them from being able to enforce other covenants," he says. However, that may not be cost effective or in the community's best interest, Poliakoff says. "I think most boards do...pick and choose what are the important restrictions that need to be enforced in order to maintain the architectural integrity of the community. So the board members may turn their heads and look the other way when someone puts up an ornament on the outside of their house. On the other hand, if someone were to paint their house a chartreuse and red color, that would be a sore thumb in the community. It would be something the board would see the need to restrict."

However, if a rule isn't worthy of enforcement, the board probably should eliminate it, says Honolulu attorney Richard S. Ekimoto, who is on the CCAL board. "You don't want owners and residents to get into the habit of ignoring the rules," Ekimoto says. But you don't have to enforce all rules equally. "Some rules should only result in a reminder and possible fine if they are consistently violated by someone. Violation of other more important rules may require the association to bring a legal action to prevent the violation from continuing," he says.

Being reasonable sometimes means

making exceptions or granting variances. This is a legitimate part of architectural control. Make sure you have the authority to grant variances, establish a standard for deciding when a variance can be granted and apply that standard consistently, Ekimoto says.

## 3. REVIEW AND UPDATE YOUR ARCHITECTURAL STANDARDS REGULARLY.

Paint colors and building materials become outdated. Better materials may exist today than those available when the development was built. Poliakoff also notes that a new group of homeowners might have different priorities than the original homeowners. Ekimoto agrees. To minimize conflict with homeowners, tailor the restrictions to the needs of your community and involve homeowners in developing or revising the rules. Write the rules clearly so that homeowners understand them and make sure that the rules are reasonable and practical, he says. Share community guidelines with residents on a regular basis and explain why the rules are important to the long-term health of the community. Convey the information in newsletters, new resident packets, e-mail reminders and community functions.

## 4. KEEP ACCURATE RECORDS.

In case an association decision is challenged, maintain a paper trail. "Even if it's a verbal warning, you should have notes in the file," Ekimoto says.

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## Keep on Track

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or important issues. You can do this with a motion to limit total debate to a specified number of minutes. Such a motion generally requires a two-thirds vote. When discussion is no longer fruitful, ask for a motion to close the debate. Most parliamentary books allow debate to be closed with a two-thirds vote.

By following these simple suggestions, you can help keep your board on track, making meetings shorter, more effective and less burdensome.

*Jim Slaughter is president of the law firm of Forman Rossabi Black in Greensboro, N.C. and a member of CAI's College of Community Association Lawyers. He is a Certified Professional Parliamentarian and Professional Registered Parliamentarian.*

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## HOAMCO *Holiday Schedule*



HOAMCO's offices will be closed *December 26 through December 30, 2011*. Coverage for emergencies will be available by calling HOAMCO's after-hours telephone numbers. (Our after-hours numbers can be found on the first page of this newsletter, or by calling our regular office number and listening to the recorded message.)

*HOAMCO wishes everyone a Safe,  
Happy and Healthy Holiday Season*

This newsletter is provided for informational purposes only and is not intended to take the place of individual legal advice. Readers should not act upon this information without seeking professional counsel.

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