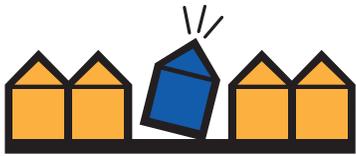


WHAT'S NEW?

a PUBLICATION to INFORM & ENTERTAIN | November 2011



NEW CONCEPTS

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Featured Article: Board Communications and Technology

by Nancy Polomis, Attorney and Partner with Hellmuth & Johnson

Boards acting on behalf of associations governed by MCIOA are required to have open board meetings except when the discussion involves certain sensitive matters (as enumerated in MCIOA).

Not all associations, of course, are governed by MCIOA. For those associations not governed by MCIOA, only the Minnesota Nonprofit Corporations Act (Chapter 317A) applies. Under that statute, a board may hold meetings via remote communication, provided everyone participating is able to "hear" each other



Nancy Polomis,
Attorney and Partner with Hellmuth &
Johnson

simultaneously (conference call, private chat room, etc.). Since exchanges of electronic mail messages do not allow for simultaneously "listening," an e-mail exchange does not count as a permissible meeting by remote communication.

A vote of the directors may be taken by e-mail if the e-mail is simply to vote not to discuss the issue being voted upon and the vote is unanimous. If the e-mail votes represent a unanimous decision of the board, then e-mails collectively can

constitute a unanimous written consent resolution of the board. If the e-mail vote is not unanimous, however, the e-mail vote is not effective. For a valid "non-unanimous" vote, the board must hold a meeting, either in person or via permissible remote communication and take the vote at the meeting.

Using e-mail as a means of communication is often an efficient, effective means of conveying information to a group of people. However, its use has limitations, and directors must appreciate those limitations if directors are to carry out their duties within the parameters of the law. ■

Deal with Problems Early on.

By Grant Parker – Pres. & CEO of Lewis Management Resources in Tucson, AZ
Re-printed with permission.

Why do smart, well-meaning directors, serving on HOA and Condo boards, sometimes make bad decisions?

In 2007, one of the largest, high-end retirement communities in southern Arizona had an election. A well-heeled resident who regularly boasted about his status as a "previously very important person" with a Fortune 100 Company ran for the Board on the platform that the community was going to hell. He was successful in convincing his neighbors that the association was wasting money, and that the reason was incompetent management. For the previous seven years, this community had enjoyed unparalleled prosperity. They had transitioned from developer control, passed sweeping and necessary amendments to their governing documents and completed a \$3.5 million

renovation of their clubhouse and restaurant facility. Their bank account was flush and they had run operating surpluses for the last five fiscal years. Not bad for a \$6 million dollar a year budget.

One of the more unfortunate aspects of our human nature is that we respond to fear and fearful rhetoric. It has always been a very powerful motivator. It is not unusual for an "ex-captain of industry" like the person in this story to have learned that lesson along the way.

He also knew that it's easy to bully fearful people. Even though a majority of the sitting directors did not agree with this man's views, they did little to block his path. On a seven-member board, three incumbents who were up for re-election, (continued on page 2)

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Deal with Problems Early on. (continued from page 1)

did not agree with this man's views but instead of challenging his erroneous views, they chose not to spar with him. They feared an attack on their credibility and their reputations and declined to run for re-election.

Even though his allegations of waste could not be substantiated, he persuaded a lot of people to his position. His forceful personality and threatening manner made believers of a lot of the residents. He was elected to the Board of Directors and became its President in his first year. It was easy to get three of his close cronies to fill the other two vacancies on the board. Once at the helm, he focused on his biggest challenge. He was aware that the Community Manager was well-liked; a well qualified industry practitioner with

the highest credentials the industry can confer and 25 years of experience. The new President relished the prospect of going "toe-to-toe" with his new employee.

Thus began four years of turmoil. The seasoned manager, who had seen this drama played out too many times, promptly resigned. One by one, the department heads were marched into the President's office and terminated without any notice or severance. No review of personnel files, no performance evaluations, no attempt to understand any one else's point of view. Within six months, the entire company culture was eviscerated. The outcome of every Board vote was decided in the President's favor. Employee turnover became a very expensive proposition as high-caliber professionals were replaced

with people who would "do what they are told."

In the fourth year, with the ruling body unable to prove that wasteful spending was actually taking place, the wheels began to come off. Service levels were at an all-time low. Residents were angry that the records and dealings of the association were not as transparent as they once were. Ultimately, the previous board members who decided not to run could no longer stomach the direction the community had taken. The regime was overthrown with the threat of a recall election, and the "powerful" President quietly resigned.

If only those directors had taken a stand four years ago. ■

Free On Line Seminars – For November & December!

Classes run between 30-60 minutes. You can register anytime right up to the start of any seminar by going to www.webinar.com and click on the "join webinar" button. You will be guided through the registration process. To register you will need to supply your e-mail address and identify the seminar you wish to join by typing in the 9 digit I.D. # assigned to each class below. Here are our upcoming offerings:

"How to prepare for next year's ice dams" – Tues. Nov. 29th, 2011 from 7-8 p.m. I.D. # 192453438. Last winter was one of the snowiest winters we have encountered in a long time. Removing snow from roofs can be a costly proposition, and one that easily breaks any budget. What can an association do? In this webinar we will discuss both the measures necessary to relieve damage from ice dams, as well as, look at how insulation and ventilation can save the association on money with utility costs and insurance claims. A special presentation by Xtreme Exteriors - Jeff and Jeannie Sigler.

"What's an HO-6 and why do I need it?" – Wed. Dec. 14th, 2011 from 4-5 p.m. I.D. # 991032294. Have you wondered why you need additional insurance when you already pay for it monthly in your dues? Hear explained the purpose of an HO-6 policy and why it's critical for everyone living in a homeowner's association. – Instructor Paul Roth, Executive Vice President of New Concepts Management.

NEW "How much do homeowners really need to know?" – Mon. Dec. 19, 2011 from 7-8 p.m. I.D. #160805598. From time to time boards find it necessary to hold what's called the Executive Session. When is it prudent to hold back information from the members of the association? What responsibility does the board have in communicating to its members? – Instructor Gene Sullivan, President of New Concepts Management. ■



FREE SUBSCRIPTION

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New Concepts Management –
give us a call at
952-922-2500 and ask for Courtney.

Home Savings Store

Resources, products and services available at special pricing for our homeowners and subscribers. To take part in any of these specific offerings, please contact our Home Savings Store Coordinator Courtney Sletten at 952-224-2663 and ask her for full details.

Home Appliances & Cabinets

We are happy to add to our list of preferred vendor relationships – All Inc. Everything you need in appliances, cabinet and counter top refinishing and/ or replacement and all at prices that can't be beat. Call Coordinator Courtney Sletten at 952-224-2663 in order to receive the New Concepts special pricing.

Furniture, floor coverings and more!

In our efforts to expand the very best in products and services we are happy to include HOM Furniture and Abbey Floor coverings! – Special pricing and discounts that

you won't find anywhere else are available to all New Concepts clients and customers. Call Coordinator Courtney Sletten at 952-224-2663 in order to receive the New Concepts special pricing.

Home Maintenance

Don't know where to turn to when you need a new water heater? Who can handle all those handyman tasks that you have been meaning to get to around your home? You can be assured that when Start To Finish is on the job, it will be done right by experienced, licensed, and insured professionals who care about your home as much as you do.

Mortgage Network

Whether you're refinancing to reduce a high rate adjustable mortgage, preparing to pay the cost of a special assessment, or getting back on your feet from near foreclosure, experience the difference that only MetLife Home Loans can offer. Mortgage Banker Mike Cass doesn't simply put you into something in order to

make a sale. He spends the time to counsel you to see what makes the best sense.

Preferred Realtor Network

Because we are involved with the resale disclosures on every sale at your association, we know who does the best in getting the job done quickly and at top dollar. If you do not have a relationship with an experienced agent, we can help. Discounts are also available on the cost of a re-sale disclosure by going through this program..

Rental Management Services

Your preference was to sell, but your home isn't moving. That new job is calling, and you don't want to walk away from your equity. What do you do? Call New Concepts. We can give you peace of mind knowing your property is being watched closely, and the renters aren't getting you in hot water with the Board or your neighbors. ■