

## A CREATIVE SOLUTION TO TERM LIMITS AND RESIDENT APATHY




One frustrated Board President took an extraordinary step to fill a vacancy.

At the end of a third consecutive term, and unable to run again due to his community's bylaws, an Annandale, VA Board President nominated Miss Beatha Lee to fill the vacancy. Her qualifications were her enjoyment of community activities, love of the outdoors, and experience overseeing a 26-acre estate. She was unanimously elected.

The problem? Miss Lea is his Wheaten terrier! While some homeowners were angered by the deception, most were amused. After all, the intent was to show how difficult it was to find people who were will-

ing to serve as well as how unrealistic the bylaws were that limited the number of terms a person could serve.

The Association's attorney commented that while the bylaw was meant to encourage everyone to participate and give everyone a chance to serve, it forced the only person willing to run to get very creative. He further stated this isn't just about Board positions, but a cautionary tale (tail?) about making sure rules that sound good in theory work well in practice.


What was the end result of the imaginative election? Miss Lee serves as acting President, and her owner serves as Vice President. 

## 100% SUCCESS RATE WITH FHA RECERTIFICATION

In late 2010, HUD introduced very strict FHA recertification requirements for condominiums. Because these requirements include financial and governing document questions, many Associations turned to their legal counsel to complete the process, and have the bills to prove it. Not Client Preference customers!

We're proud to report we have suc-


cessfully achieved FHA recertification for 100% of our eligible clients, all without paying a penny in legal fees. This is thanks to our in-house FHA recertification expert, Barbara Finch, CMCA®.

If you'd like help with *your* FHA recertification, contact Barbara at [bfinch@clientpreference.com](mailto:bfinch@clientpreference.com) or by phone, (303) 991-2773. 

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## ARTICLE SOURCES

Unless otherwise specified, all articles in this newsletter have been written by Association Manager Barbara Finch. Sources of research background include CAI publications and various internet sources. 



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## VACANT AND UNOCCUPIED PROPERTIES

No matter who owns a property, they are legally required to maintain the property - and banks are responsible for this just like any other owner.

Abandoned properties or those in the foreclosure process tend to create the most maintenance problems within Associations. A lack of maintenance on any property detracts from your community and decreases everyone's property values.



### *What can be done?*

An Association can force a lender to perform maintenance on a property, but it almost always requires spending the money to file a lawsuit just to get their attention. Or volunteers can take care of the property. But be-

ware! There is the practical matter of the cost of such maintenance; if the owner declares bankruptcy the Association will likely not recover these costs. And, unfortunately, there is also a certain degree of risk. In our litigious society, Associations have to be wary about creating a situation where the property owner sues the Association or an individual gets injured performing the maintenance.



Nationwide (including Aurora, CO), Associations are working with their municipalities to create ordinances requiring lenders to register properties in the pre-foreclosure and foreclosure process. In Colorado, these laws can then be used to force lenders to hire property management companies to assure maintenance of

the properties. Generally these ordinances require registration of properties at the first notice of default, and require a lender to determine if someone is living in the home. Hiring a property management firm prevents signs of disrepair for the unoccupied properties.



If your Association is having problems with the maintenance of vacant or unoccupied properties, check with your municipality to see if they have a process in place to handle the situation. If they don't, sit down with them and discuss the possibility of creating such an ordinance. ©



## HOA'S AND SOCIAL MEDIA

A couple of years ago, saying "friend me" or "follow me" would have resulted in blank stares or a response of "what?" Now we live in a world of instant communication and are surrounded by "social media".

In their desire to communicate with as many members as possible, some Associations are jumping into the cyberworld by creating their own Twitter and Facebook pages, considering them part of an "open-door policy". These platforms are great for meeting date reminders, community calendar events, and for people who like the ability to instantly post

on the go. But that is exactly where an association could get into trouble.

What if a member or director posts false, offensive, confidential or libelous statements or information? The best preventive method is to have someone review comments before they're posted, which turns the page into more of an online bulletin board.

Before embarking on any social media venture, an Association should adopt a social media policy. This would limit who may view and/or post, and what types of messages are allowed. It should state that the

Board may remove possibly offensive, false, or libelous posts, and that repeat offenders will be blocked. The posts should also be kept informational, and not used as anyone's personal editorial column.

Associations should not allow whatever form of social media they may use to take the place of member attendance at meetings or gatherings. They should use it instead to encourage members to attend and participate in the community. ©



# CHILDREN, STREETS, AND HOA RULES

One of the most difficult things for an Association is finding that balance between protecting the Association from liability and protecting the children who live there.

Parking lots and streets are some of the most nerve-wracking areas in any community. They may be the best places to roller-skate or play all kinds of ball games. That creates a huge concern for drivers about children darting in and out.



Rules should be adopted only for those things that are

essential for the health and well-being of the people who live in the Association, and which the Association is willing and able to enforce.

One very important thing for Associations to remember is that the responsibility for monitoring and controlling the behavior of children *lies with their parents*, not with the Association. This may be difficult for Associations to handle in reality, as many parents act as though it's everyone else's responsibility to make sure their children don't get hurt.

An Association should ask if a rule is necessary as a warning, a deterrent, or if it will work to reduce the Association's liability? Sometimes adopting a rule can actually increase your Association's liability - because unless you can enforce it 100% it can leave you vulnerable.



## XERISCAPING



By now, most Managers and Board members know that Colorado statutes have been created for the purpose of water conservation. In our dry climate, many homeowners

believe xeriscaping to be a wise plan.

Not everyone is familiar with what, exactly, xeriscaping is. Xeriscaping is NOT the replacement of all greenery with rock (that is sometimes referred to as "zeroscaping"). And it isn't all cactus and dusty-green plants: there are many plants that can provide color and conserve water.

What types of plants are drought-tolerant or water-conservative? Lavender, woolly thyme, big leaf periwinkle, sun rose, up-



right or spreading junipers, pinyon pine (and you can harvest the nuts!), globe peashrub, little bluestem, blanket flower, four-o'clocks, burning bush, and many others. Start small,



with a few plants, and then add some new ones every year.

Dead grass is NOT xeriscaping! Voluntary water restrictions allow for enough water to keep grass green. Associations can enforce poor maintenance.

Associations should review their landscape requirements to be sure they include



what can and can't be done with xeriscaping, how many plants should be used in a given area, etc.

## CLIENT PREFERENCE: LICENSED TO MANAGE

Many states, including Colorado, do not require the licensing of community managers. That means virtually anyone can manage your HOA, whether they are educated in the industry or not.

Client Preference goes one better. Not only do our Association Managers hold the CMCA® designation, but everyone on our management staff is a licensed Colorado Real Estate Broker.

What does that mean to your HOA? Client Preference is not only educated in the disciplines and documents governing your community, we are also accountable to the State of Colorado for the way we manage our clients' businesses.

So ask yourself: To whom is your manager accountable?

## IMPERFECT NEIGHBORS



People still bring food to people who are sick or have experienced a loss, and they often talk while walking dogs or babies.

However, too many times neighbors scream at each other, hurling profanities, and deliberately break noise rules to annoy someone they feel has slighted them.

In nearly all communities, the biggest issues are noise, dog waste, parking, property upkeep, and Association spending.



The rise in incivility can have many different causes. People are very focused on their own needs and don't always look at the common good. We are inundated with televised programs using bad behavior and treating people with disrespect as entertainment. The economy has also forced people into communities with documents and common areas who have never dealt with those things before.

A lack of neighborliness uses time

during meetings, costs money for legal fees, and adversely affects the way people feel about where they live.

Some say the instantaneous nature of social media removes people's "politeness" filters and allows them to include every slight (real or imagined) in an email and throw in a couple of profanities. When people don't have to identify themselves, that can create a malicious environment.

However, there is also research that shows people who use social networking are more engaged in group activities.

Just getting to know your neighbor can change attitudes and help you feel less isolated and alone. We don't always take the time to stand on the porch and talk to our neighbors, but that type of nicety makes your community friendlier and safer.

What can a Board do to help build neighborliness? Most professionals agree on a few items:

- Run meetings in a civil manner,

encouraging people to come and be heard but maintaining civility.

- Constantly remind residents of the rules. The more you hammer it home, the more people will comply.
- Empathize with homeowners, but encourage them to work things out themselves first. If that doesn't work, then they can bring their issues to the Board.
- Encourage people to participate in community events and activities, increasing opportunities for people to interact.

People who are engaged in community activities, and who know their neighbors, are more likely to think about the common good.

Anything you can do where people get together and are encouraged to talk to each other builds those positive relationships and helps them discover they have things in common.



## WATCH THOSE EMAILS!

A Colorado court recently required an association to provide thousands of emails (sent and received from Board members' personal computers)



for the previous 3 years in response to a records inspection request. This included personal communications as well.

In spite of the fact that no statutes that address Association records inspection rights include emails in their definition of corporate records, or that private communications between Board members must be dis-

closed for inspection, we live in an era of electronic communication. With the transparency of governance expected by the public and the growing areas of litigation regarding records inspection, similar rulings are likely.



Board members can take steps to protect themselves by doing the following:

- Email should not be used for discussion purposes. If a discussion is necessary, the item should probably be tabled for a Board meeting.

- Don't put anything in email you wouldn't want published in the paper. Remember email is (almost) forever. It hangs around on hard drives, servers, etc., even after deletion.
- Consider creating an email address that is ONLY for Board issue use. Using your personal email account means your personal communications are discoverable as well.

While this decision is currently on appeal, it serves as a caution to Boards who use email as a discussion tool.

