



COMMUNITY ASSOCIATIONS



Fostering A Sense Of Community: Can't We All Just Get Along?



By: Nancy T. Polomis, Esq.

New Year's resolutions are still in abundance these days: Lose weight. Get organized. Call Mom every Sunday. Exercise every day. But wait; those are all *personal* resolutions. How about some resolutions by community associations to help foster a sense of community?

Encourage Open Communication

In many associations, homeowners routinely complain that "they don't know what's going on." Fists raised in protest, they pester the Board for information, claiming they "have a right to know!" "Lack of transparency" is one of the concerns most often voiced by homeowners.

While some Board discussions must take place in private, and some decisions must be made confidentially, most association business should be conducted openly. As non-governmental entities, associations are not subject to "open meeting laws" that govern public meetings (City council meetings, school board meetings, etc.). However, if the association is governed by Minnesota Statutes Chapter 515B, the Minnesota Common Interest Ownership Act (MCIOA), then most board meetings are required to be open to members of the association. If homeowners are able to observe the actions and decision-making process of the association, it is less likely that homeowners will object to actions taken by the Board. They may not agree with the actions taken, but they cannot say they were not aware of the issues, the concerns of the Board, and the basis for the decisions reached.

Even associations that are not governed by MCIOA may wish to consider having open Board meetings. Facilitating open communication minimizes the "us vs. them" mentality that affects some associations, and shows homeowners that there is "rhyme and reason" to the decisions reached by the Board.

While it is important to conduct Board business in the open, it is also important to lay reasonable "ground rules" at the beginning of each meeting:

- Remind association members that they are welcome to observe the meeting, but, since they are not members of the Board, they are not entitled to participate in the meeting unless invited to do so by the Board.
- Establish an "open forum" at the beginning or end of Board meetings, during which homeowners have an opportunity to raise questions, voice concerns or express opinions on issues currently before the Board. Be sure to set aside a specific amount of time for the forum. When that time period has expired, close the forum. Allowing an open forum to go on "until everyone has had a chance to speak," while noble, may hamper the Board's ability to complete association business in a timely manner, and often results in chaos.
- Encourage homeowners to submit questions, concerns, etc., in writing before the meeting. This practice documents the homeowner's concerns, and reflects the seriousness of the issue to that homeowner. The Board, in turn, should give those concerns the same serious attention the homeowner did in taking the time to put "pen to paper" in making the written submission. Before the meeting, ask if

the homeowner would like to be placed on the meeting agenda to discuss his concerns. Placing the matter on the agenda allows the Board to plan for the discussion (both in terms of time and documentation/preparation) and will also reduce open forum time that the homeowner may wish to use to address the Board.

Speak Kindly of Your Neighbors

Remember the Golden Rule you learned as a child? “Treat others the way you want to be treated.” It still applies. When a homeowner is upset, she may react strongly or emotionally to a comment or question. An effective tool for disarming the anger that homeowners may express is to remain calm and keep the discussion professional and focused. Avoid making the issue “personal”—even if it is. Stick to objective facts. If the dispute involves the Association’s authority to take a specific action, cite the provision in the governing documents or law that support the Association’s position. If it becomes clear that civil discussion can no longer happen, **stop**. Re-schedule the discussion for a later date, when tempers have cooled. If necessary, consider engaging an objective mediator or facilitator who can ensure civil discussion and, one hopes, civil and amicable resolution to the problem.


Above all, never speak disrespectfully or unkindly about a homeowner, in public or even in private Board sessions. Such comments always seem to find their way back to the homeowner, and will serve no useful purpose—and usually serve only to add fuel to an already-blazing fire. If the Board treats all homeowners with dignity and respect, they should expect the same in return.

Ask for—and accept—help from all members of the community

Every association has one: the Complainer. The Complainer complains that the Board isn’t doing its job, the grounds look awful, the dues just keep going up, his neighbor’s deck got fixed but his didn’t, etc. Rather than listen half-heartedly to the complaints—or worse, complain about the Complainer—ask the Complainer to help resolve the issue. If the complaint is that the grounds look awful, ask the Complainer to form a committee (overseen by the Board, of course) to look into changes in groundskeepers, landscaping, etc. If the Complainer fails to produce anything for the Board to consider, but continues to complain, the Board can point out that it is interested in hearing the Complainer’s proposals and wonder when he will be ready to present them to the Board.

Sometimes, the complaint is based on lack of knowledge—which often stems from a lack of communication. As discussed above, open communication between the Board and association members goes a long way toward dispelling rumors— and complaints.

If, according to the Complainer, nothing the Board does is right, encourage the Complainer to consider serving on the Board. If a Complainer is elected to the Board, he will see that the Board really does do a great deal of work, using limited financial resources as effectively and efficiently as possible. The Complainer may still complain initially, but, usually, once he “digs into” association business, he sees just how difficult it is to satisfy everyone’s needs and desires. He may even have some suggestions for dealing with Complainers.

Community associations are, at their root, *communities*. By encouraging a sense of neighborliness, community associations may find that there is less acrimony, less ridicule, more respect, more encouragement and more cooperation—all of which will no doubt lead to more pleasant living for everyone. 

H&J Adds New Attorneys

Hellmuth & Johnson, PLLC is pleased to announce that Katheryn Andresen, Edward Beckmann, and Michael McNamara have joined the firm.

Kate Andresen joins the firm as Partner and has over 15 years of experience in the areas of information technology, eCommerce, intellectual property and general corporate law.

Ed Beckmann has represented parties involved in disputes arising from several industries, including aviation, construction, energy, reinsurance and others. He is also uniquely qualified to represent individuals and businesses whose reputations have been tarnished by libel, slander, or exposure of private information.

Michael McNamara practices in the firm’s litigation and insurance practice groups. Michael received his law degree from William Mitchell College of Law and is licensed to practice in the State of Minnesota.

To learn more about our new attorneys, please view their biographies on our website at www.hjlawfirm.com.

Please join us for

The Hellmuth & Johnson Spring Association Seminar!

Choose one of two dates:

Saturday, April 16th, 9:00 a.m - 11:30 a.m. **or** Saturday, April 30th, 9:00 a.m - 11:30 a.m.

Location:

Hellmuth & Johnson, PLLC
Seminar Room
8050 West 78th Street
Edina, MN 55439



Association residents, board members and property managers are invited to join us to review and discuss the latest developments in community association law. This 2 hour session will provide participants with information on long term planning, construction defect issues affecting community associations and national case law update. A question and answer period will follow the presentation to address your specific concerns. There is no charge for this program, but space is limited. Please register via email to pflaming@hjlawfirm.com and include your preferred date, or via phone to 952-746-2184.

This newsletter provides general information on legal matters, and should not be relied upon as legal advice. A qualified attorney must analyze the relevant facts and apply the applicable law to provide specific legal advice. If you require legal advice or want additional information regarding the services we offer, please contact David Hellmuth at 952-941-4005 or dhellmuth@hjlawfirm.com.

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