

FALL NEWSLETTER

October 2020



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PRESIDENT'S REPORT

Happy Fall to everyone! Has anyone else baked their first pumpkin pie for the season? Ours was yummy.

As far as I know, there will be 'trick or treat' in our area, unless Something changes between now and then. Please provide a safe way to distribute goodies. I know there are some clever people out there, so a little neighborly competition of who has the coolest way might be in store.

In thinking of items to submit in a newsletter, I thought this is a good opportunity to provide some background information about how an HOA operates. I joined the board in 2015 as a perfectly green homeowner knowing nothing regarding an HOA except there were rules. Here in 2020, I am considerably more knowledgeable in the operations and aspects of HOAs. It has been an enriching experience.

This board has met 11 times throughout this calendar year with regular board meetings as well as meetings with our attorney in the revamping/upgrading HOA governing documents. We are also working diligently about addressing the needs of the HOA identified in our recent Reserve Study – for example, electrical work soon to begin to install pond underwater aerators hopefully before the end of this year. We have been closely monitoring the legal issues that seem to arise daily from the current pandemic we are experiencing. We are awaiting further instructions as to how we can hold an in-person meeting which is required by our documents. This is one of the changes we hope to effect with the rewriting of document language that will allow 'virtual' meetings. This is just some of the ways in which this very active board is working/volunteering for the enrichment of the entire community as we are *all* part of the same community.

The following are some snippets of information that we as board members access to help guide us in the operations of the HOA. The first is an article in a newsletter we receive from our legal offices of Kaman & Cusimano. It sums up one of the reasons this board has chosen, like so many other HOAs, to update their governing documents to be more current.

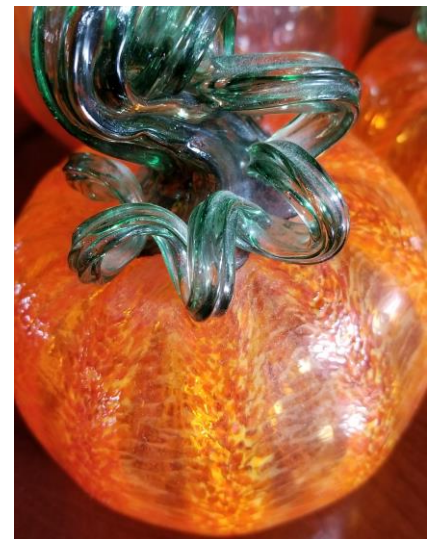
Governing Documents Defined

Some owners move into an association without complete knowledge as to which documents govern an association. While statutes and case law also control, each association has its own unique documents that are imposed or

required for the protection and benefit of all owners. The three governing documents of each association are as follows: 1. Declaration: This document contains a legal description and “declares” the property as a community association. It is recorded with the county wherein the property is located and recites the restrictions imposed for the betterment of the community. 2. Bylaws/Code of Regulations: This document controls the internal governmental operation of the association itself. It too is recorded with the county and defines aspects such as owner voting rights, number and term of board members, and association procedures. 3. House Rules otherwise known as Covenants and Restrictions: While the declaration and bylaws are generally written by the developer’s attorney, the house rules are generally promulgated by the board. This document, which is often in booklet form, contains plain English language that covers information and conduct regulations of the association and the community’s residents. To have a successful community, it is important that all owners familiarize themselves with all the governing documents. *(The law firm of Kaman & Cusimano represents our Association)One analogy...

The Basic Duties of a Board Member By: David W. Kaman, Esq.*

Owners often question the basic duties and responsibilities of being a volunteer community association board member. While personalities among individual board members differ, each one should have the best interest of the well-being of the entire association as their primary trait. Once elected or appointed, a board member studies the association’s governing documents to familiarize him/herself with the association’s responsibilities. Thereafter, the board members join together in meetings to establish goals for the property, to determine maintenance priorities, to determine who will work for the association, and to enforce the regulations that protect the safety of the residents and value of the homes. The number of board meetings varies from community to community depending on current activity on the property. Most community boards meet quarterly at a minimum while many, especially those transitioning from developer control, meeting monthly. Clearly, attending meetings to voice one’s opinion and vote on issues requiring a decision is the primary duty of a board member. In addition to selecting the many different contractors who work for an association, one of the biggest decisions the board must make is the amount of the annual assessments. The board determines the association’s annual budget, determines how much will be put into reserves, and determines budget priorities. A board member’s vote on the budget is not based upon the individual’s financial condition, but rather, on what is needed for the protection and preservation of the entire property. In conclusion, a board member reads the governing documents, attends meetings, and votes in the decision making process. *(The law firm of Kaman & Cusimano represents our Association)



Operating Under COVID...

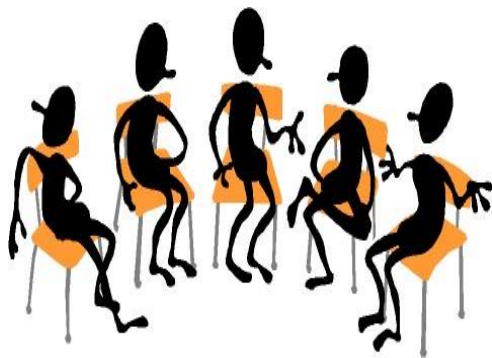
As a result of social distancing necessitated by COVID-19 and the resulting Ohio order limiting group meetings to no more than 10 people, many community associations have had to postpone their annual meeting and board member elections. Numerous board members have inquired as to whether an election can be held without an in-person meeting of the owners. In Ohio, community associations are required to follow the election procedures mandated in their own Bylaws. And, most association Bylaws require an in-person meeting, a quorum, nominations from the floor, and balloting at a physical meeting. As a result, most annual meetings and board elections have been postponed. An election process that does not follow the Bylaws results in an invalid election.

Fortunately, there is an alternative. Bylaws are written on paper, not stone. Generally, Bylaws and the election procedures contained within may be amended by a 75% vote of the ownership. Many associations have now changed their election procedure to one where every owner will be sent a ballot to cast their vote before the election takes place. The proposed amendment establishes the procedure for interested candidates to submit their names prior to the election. Owners can then send in their ballot, either by regular mail or electronic transmission. By the same token, some associations also are amending their Bylaws to allow for virtual meetings. If the Bylaws do not specifically permit virtual meetings, they must be

amended to explicitly allow for them; otherwise, in-person meetings are the only way association meetings can be conducted'. (ref: By Katelyn R. Kaman, Esq., Kaman & Cusimano, LLCThe bottom line..)

Necessary Reserves

The association is legally responsible for the maintenance and replacement of all common areas. If the funds are in the bank for the replacement, the jobs are more likely to be done properly and when needed as opposed to settling for a less than adequate job or an unqualified contractor. Without reserves, a board is left with little choice other than a special assessment. Facing the natural opposition of owners to special assessments, some members insist on seeing extensive deterioration before they agree to have the work completed. Resistance, resentment, association political unrest, and lower re-sale values all result from special assessments. With a special assessment, the issue switches from the need for the work, to the economic hardship on the owners. The yearly collection of reserve funds that are incorporated into a budget provides a more accurate picture of association costs. In addition, owners can more easily afford a little more each month versus an assessment of thousands of dollars. In order to preserve the community, it is important to yearly set aside reserves for the community. *(The law firm of Kaman & Cusimano represents our Association)



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Attend the Annual Association Meeting - Even If You Are Happy

While serving on my association's board for seven years, I came to realize that happy owners generally do not attend their association's meetings, even if there is only one a year. In soliciting proxies for an annual election meeting, I often asked my fellow owners why they did not plan to attend. An almost universal response was that they did not like the negative attitude, rambling, or complaining from owners that are present at far too many meetings. One owner told me she had only lived in our association for six months, loved the property, and thought the monthly fee was a bargain. Then, after attending the annual meeting and hearing nothing but complaints about the board, management, and monthly fees, she began to think her new home was not so

sweet after all. It was only after a non-attending owner pointed out to her that our association consisted of one-hundred sixty homes with only about thirty homes attending the annual meeting, (with some of those being husbands and wives) did the new owner realize her positive attitude was being skewed by a minority of owners with complaints to register or a personal agenda to put forth. Over the last several years, boards have come to realize the negative impact of failing to control the annual meeting agenda. As a result, many association boards have altered their annual meeting format from being "bottom heavy" with owner comments to being "top heavy" with informative reports and speakers. Now, it is not unusual to hear from the association's accountant, insurance agent, manager, and lawyer at the annual meeting. Some associations have even further improved their meeting format by inviting the local police or fire chief, city council person, or even the mayor to briefly address the owners. Even if you are happy, your association needs you to attend the annual association meeting. The primary purpose of most association meetings is to elect the new board members. If only the negative and/or complaining owners attend, the likelihood of electing only negative and/or complaining board members increases. If you are happy, vote to re-elect current board members. If you are unhappy, vote to elect new board members. Regardless of your attitude, your vote is needed. See you at the annual meeting – even if you are happy! *(The law firm of Kaman & Cusimano represents our Association)

IT'S THAT TIME AGAIN!

We are looking for nominees interested in running for election to the 2021 Board of Trustees! Are you interested? If so, contact any board member to nominate yourself or someone you know wants to run. The date of 2021 Annual Meeting of the HOA and fees will be communicated to you soon. Happy Thanksgiving!

