

CHAPTER 15

HOW TO RUN AN HOA WITHOUT PROPERTY MANAGERS AND LAWYERS.

By

Jim Burneson

www.court-house.com

Mr. Burneson is available for consulting on HOA problems and disputes between Directors and membership. Mr. Burneson is not an attorney and is not intended to be providing legal advice while offering his consulting services. He is also available to coordinate the steps of converting an HOA from management by lawyers and property managers to self management by Directors. He can be contacted by email at burnesonj@msn.com

Managing your HOA without any property manager or lawyer can be achieved with little effort beyond what is being expelled now. It's one of the best means of providing honest management to the membership. It will also bring a greater transparency between the membership and director's actions in management. Once the functions of management are set up very little extra time or effort will be required. The following are a list of steps to be taken in the order of importance.

1. HOA books will be managed by a public accountant using "Quick Books" software. The public accountant's computer is connected with the HOA's computer located at say a Clubhouse or the Treasurer's home. Accounting information will be transferred over the Internet from the accountant's computer weekly to the HOA's computer. You now have two computers with the same information as a backup.

2. A local bank will be hired to perform a "lock box service." Members will mail their monthly assessments to your account at this bank. The bank will account for each member's payment. The bank will send the payment information the public accountant's computer over the Internet. The bank will provide the accounting of all membership payments for a nominal monthly fee. The fees for this bank service will be reimbursed by interest earned on the balance keep on deposit in the HOA's account.

3. There are several very sophisticated software packages for HOAs that will remove the need of any property manager services. One of the services is providing access to the membership's to own account over the Internet. For those members who don't have computer access their account information will be mailed every six months if there is nothing owed. If there is a sum owed then a monthly statement will be mailed to the members without a computer. Big savings in cost of mailings with this system especially since postage is going up. Public accountant can set up computer printing of those accounts; requiring monthly and six-month mailings. Computer prepares envelopes and statements and a service can be retained to stuff and mail notices depending on the

number. If a clubhouse is available a small office could be set up and members could pick up their notices at this office.

4. The HOA software also has a newsletter function to do just that publish the newsletter. Here again computer assess will provide the newsletter to members without postage or hand delivery. Each newsletter will be retained for future reference and can be retrieved for what was promised by the Board of Directors. Newsletters can be provided at the HOA Office or hand delivered. Postage is too expensive.

5. The minutes of monthly board meeting will be published in detail in the monthly newsletter. The minutes are always available to the membership instead of some summary version, which is not accurate for reference by the membership. In these minutes each check issued by board approval by motion and vote will be included in the minutes of each monthly meeting. All expenditures must be voted approval by the board or the President and Treasurer can't sign the check. This requirement stops abuse by poor directors or a bad treasurer and president. Certain payments that are standard each month at a fixed amount can be approved at a board meeting to be paid without monthly approval.

6. Collection of Delinquent Assessments is where a major savings will be made for HOAs that are self-managed. After a set number of days delinquent the computer will select a notice to be sent to the member by email or a letter. The Treasurer will approval form letters for first, second and third notice. Within these notices an offer will be made to the delinquent member that if a small payment could be made towards the delinquent amount there will be no legal action taken. If this offer is not accepted and a reason is not provided for the delinquency then a lien will be recorded against the delinquent member's property. This lien will protect the HOA from any amount owed by the member as of the date of recording. The lien forms can be preprinted with just a date and name and address fill in by computer. There will be no legal fees attached to the delinquent assessments. This will make it much easier for the delinquent member to pay off his delinquency to the HOA.

7. A lawyer services maybe needed only for a few instances each year. The lawyer's services will be hired for each instance by a motion and vote of the board at a duly held meeting. No contact with a lawyer by any member of the board is allowed without a motion and vote by the board. Some directors have a habit of calling the lawyer to talk about some issue facing the board and this freedom to call is one of the biggest expenses an HOA faces. Lawyers have clocks that start at the first ring and chitchat with him is at a price. The board must approve any and all phone calls made by a director. Property Managers are guilty of making these phone calls without board approval and the legal bills cost no matter who calls the lawyer. That means the President and Treasurer can't pick up the phone and make the call without full board approval.

8. Budget for the year is to be prepared by the Audit Committee (appointed by the board one director on the committee) for approval by the membership at the annual membership meeting. The budget can't be violated by any Board of Directors vote at a

monthly board meeting. The budget was approved by the membership and it takes the membership to approval expenditures outside of the budget.

9. ACC is appointed by the Board of Directors but is a standing committee and is not controlled by the board in decisions voted on by the committee. If the board doesn't like decisions of the ACC their only actions is to dismiss the ACC committee. At that time the Board of Directors would have to call a special meeting of the membership to approval or disapprove the issues causing the dismissal of the ACC committee members.

10. The ACC Guide to Architecture Control can make or break an HOA. Research of who voted the existing ACC Guide must be determined if the membership voted it in or did some past directors who are no longer on the board bear responsibility. A committee must be formed to make this review and make recommendations for a new Guide to be presented to the membership at the annual meeting for full membership ratification.

11. Election. With the new HOA software future elections can be held online with written ballots mailed in by the membership without computers. This eliminates any use of proxies, which are abused by directors in the past. On line voting will increase the membership participation and with this impute gives the management of the HOA real membership control. Just imagine the membership's vote counts as to how the HOA is run, managed and money spent.

12. All recorded documents of the HOA will be published on the HOA website. This gives all members access to the rules of their ownership. This is the first step to protect the owners from an out of control directors.

13. A membership bulletin board can be used by members to express their opinions. Another member can answer all messages left by other owners and both opinions are on view by the membership. There is no censorship by directors.

14. Open books is a must for all honest HOAs. The minute the directors restrict membership inspections of all books it's a sign of a crooked board. With all financial statements and checks displayed on the Internet. Most of the hidden information is now open to all members each month on the Internet. Only members have access to the HOA data and the public is denied this access.

15. For most HOAs of any size the number of director should be 7 instead of 3 to 5. A list of committees will need a director to serve as a member not chairman. This will give both sides the directors and members a voice of how committees provide management advise to run the HOA.

16. All actions voted in monthly board meeting must be recorded in the minutes. All actions of the Board of Directors must be ratified by a motion and vote by a quorum of director or an action is not legal to be implemented by the directors.

17. A CPA audit or Public Accountant audit must be performed every year and it will be conducted as a criminal audit. All HOA audits in the past were not to find anything wrong. It was a form of adding the numbers up and if they don't balance the Auditor will not tell anyone it will be a secret between the accountant and the directors. That's the old day. Now the audit will be published on the HOA website for everyone's review.

18. Any dispute between a director or ACC committee will be held by the member reporting to the committee on their meeting night and discussing what the problem is. Most problems are addressed in the Bylaws or in the ACC rules. There are times when a problem is unusual and may require some research or mediation. This is something that might be needed added to the Bylaws. The board and membership must make every effort to resolve their problems without going to court. Many problems in the past were created by the Property Manager or lawyers which had to go to court because the lawyers would make money and the membership had to appear as pro se litigators.

19. Everything the board does is recorded in the minutes of the monthly board meetings. If an action takes place without it being voted at a board meeting the action is unauthorized. If there is a cost to the action the board members will reimburse the HOA their divided share of this cost.

20. If your HOA was managed by property managers or lawyers who were members of the CAI (Community Association Institute) the Board may need to reverse past changes implemented for the benefit of the Lawyers or Property Managers. These rules will be easy to spot and should not need a lawyer to make the reversions.

21. The successful board is one who can keep the committees full of members and active in the management of the HOA. These committee are training grounds for future Directors.

22. List of committees is as follows. ACC, Construction, Landscaping, Audit, Swimming Pool, Capital Improvement.

23. The biggest loss suffered by HOAs is the involvement of Lawyers and Property Managers. These two professions sole interest is how much money they can get out of your treasury. The Board of Directors must be strong enough to resist all forms of services offered to supposedly make the life of a director easier.

24. If you have questions about your HOA which have not been answered get in touch with Mr. Burneson at his email burnesonj@msn.com