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Directors Choice, LLC Newsletter

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Issue: #20

August/2012

Dear Janet,

Welcome to August! Can you believe we are already halfway through Hurricane Season? We hope you have removed the coconuts from your palms and trimmed your trees. Has your Disaster Committee (or Board!) had a meeting to refresh the Hurricane Preparation plan? While you still have some time during the so-called "lazy days" of summer we hope you will take care of these simple things to make your experience a little easier in the event we do see a named storm this year.

Also, we know there is always a link to "forward" in our e-mails, but thought we should point it out. We realize that a lot of the information we give to our Board members is common knowledge for Board members. More often than not, however, we find that it is NOT common knowledge for association homeowners and residents. Unless you are a Director or are working in the Community Association field, much of the information we consider common knowledge comes as news to the residents and homeowners in community associations. Our goal for this newsletter has always been to present a useful tool for Directors to provide hints and knowledge not only to Board members, but also to community members. So please, if you feel we have presented something of interest that could be useful to your community members, feel free to click the "forward" button!

TIP OF THE MONTH

Pesky Violations

Of all the day-to-day tasks I have the pleasure of handling for each of my associations, sending violation notices is the task I enjoy the least.

Unfortunately, it is a necessary evil. Because of this, I have learned a few things which I hope will be helpful to you in your endeavors to enforce your governing documents:



- 1) Always enforce violations uniformly. If your documents mandate that window coverings must be white and only white, ALL owners with coverings a different color must receive a notice. You cannot send a notice to the owner with green curtains and ignore the owner with brown blinds. This will get you into trouble.
- 2) You have a duty to enforce the covenants and restrictions in your documents and if you do not enforce them you lose your right to. We have received advice from attorneys stating that if a Board knowingly ignores a violation of the governing documents for a period of more than 6 months, they no longer have the right to enforce the restriction. The Board does have the option of sending a notice to all the residents informing them that the previously unenforced restriction will now be enforced, but there is a possibility the current offender(s) will be grandfathered in and allowed to continue ignoring the restriction. This can be messy!
- 3) Uniform enforcement of violations is in "apples to apples" circumstances, not "apples to oranges." According to advice from one of our trusted sources of legal counsel, if you did not enforce the regulation that mandates window coverings be white, it does not remove your right to enforce the regulation that pets may not weigh more than 25 pounds.
- 4) It is my job as your manager to ensure that you are enforcing your governing documents uniformly to reduce your liability as a Director. As I am sure you well know, you are the first to be scrutinized because you are a Board member. As such, you should be the first person to receive a late notice and the first person to receive a violation notice. How does that old saying go? "When you point one finger, three are pointing back at you." Your neighbors who are also receiving notices watch for your compliance with the documents as well. It is human nature to look for fault in the accuser when being accused.
- 5) As a manager, it is my duty to remain objective. Believe me when I say it makes no difference from my back yard if you have a 25 pound dog or a 50 pound dog. But, if your governing documents mandate that your pet be no larger than 25 pounds, and the Board has asked me to enforce that regulation, then I will do so with a smile on my face because I am fulfilling my duty to your association. Managers do not have personal vendettas against community members, nor are we picking on anyone. We are merely performing our duty to the Association to uphold the governing documents which each resident agrees to abide by when they become a resident. This is what you do as a Board member as well! Many times it is easier to have a manager complete this for you as it keeps you at arms length and hopefully in a better

relationship with your neighbors.

A CAM'S PRAYER

We thought you might enjoy this as much as we do:

Please give me a Board of altruistic common sense owners.

Please help members recognize self-serving egotism and arrogance of potential candidates.

Please help Board members understand the Community Association Manager is there to make their tenure on the Board a rewarding experience and not a contest of wills.

Please help Board members understand the boundaries of "fiduciary."

Please help Board members to be confident to ask questions concerning issues and financials reports that are outside their realm of experience.

Please help Board members understand they are elected to represent the owners not "rule" them.

Please help Board members understand freedom of information since it is the members' money and not theirs.

Please help members understand a CAM, even as a professional, is also a person.

Please help Board members understand it is not a challenge to their authority to ask the members for opinions concerning application of debatable restrictions.

Please help Board members understand the documents were not drafted on Mount Sinai.

Please help us all recognize when an offer of a product or service is exploitive transient self-interest.

Please help Boards and members be open to amendments to the documents to adjust to modern mores and changes in convention.

Please help the Board utilize my experience and give me the opportunity to prove my capability.

Please help us all understand that mediation is always preferable to confrontation.

Please help me remember service is to the entire community and not just to Board members.

Please give me patience to understand when a questions is necessary for education and not a personal challenge to my professionalism.

Please give me the knowledge to know what I know and what I don't know.

Amen.

Author unknown.

Directors Choice, LLC is a Naples, Florida based Community Association firm working with Condominium and Homeowners' Associations. We provide a full range of financial, consulting, and management services to our clients.

If you feel we can be of service to your association in any way, please contact us. We would love to speak with you.

Best Regards,

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