

THE BOARD'S POWER TO INCREASE PROPERTY VALUES

By: Sara E. Barry, CAM PCAM – Nevada Licensed Insurance Producer, UNLV Certified Paralegal and UNLV Certified Legal Secretary

As a director, do you even know if your community is considered a “great” place to live? Is it in a desirable location in your city? Think about this for a minute.

Is your community in a desirable location in your community? Location can play a huge role in property values, but it is not the only thing that you need to keep in mind when looking at this subject.

Board members can do many things to help enhance the value of all the owners' homes. I was teaching a class once telling directors in attendance that they have the responsibility to Protect, Preserve and Enhance the values of the properties and an attendee raised her hand and stated the following: “I disagree with you, Sara. I don't think that it is our duty as directors to enhance the community.” She was misunderstanding “enhance” as she thought they had to install new “stuff” that was not already there, like a hot tub, etc. My response was to tell her the following story.

Having managed for 20 years, I saw that the developers were coming in and building nice new communities right next to older communities who had not done anything to keep their colors up to style, change the outdated landscaping or make other improvements. Those communities looked exactly as they were 20 years ago when they were new, old communities that were aging. Working with several of my very smart boards in these communities, I was able to get them to see that working with the painting manufacturers to update the colors for their color pallets was a great start. Adopting the manufacturer paint colors that can be used when someone is painting their home or the association is painting the condos, etc. goes a long way to making a community look newer. Some of you older folks will remember the popularity of lime green for our appliances, shag carpets, etc., which is so outdated now compared to what is out there.

One Association took my suggestions to heart and converted their landscaping from the ugly dying plants that they had not updated and replaced them with plants that were more fitting for their community, they changed their paint pallets that owners could paint their single-family homes when it was time to paint and they updated the large signs at their entrances that showed the name of their community. A tiny broken down wooden sign became a very nice stucco'd wall with amazing change to their logo. When this association was done, their community eventually took on a whole new look and didn't look like a rundown old community next to new homes being built across the street. Owners were happy, the board was happy and I as the manager was happy as I was not embarrassed to have people see the community that I was responsible to manage. How did they do this? They actually held several educational community meeting where they educated the homeowners who agreed to a special assessment to update their community and were then extremely proud when they were done.

So, what are some of the other things directors can do to help in making a difference while serving on the board to raise property values and make a huge difference.?

1. **Budget Accurately and Honestly.** You did not get on the board to keep the fees down. If you did, you may be inadvertently hurting the property values by not caring for the common areas and the community as it should be cared for. No one wants to pay high maintenance fees, but you need to carefully go over the budget to ensure all areas are adequately taken into consideration with no putting off of maintenance.
2. **Avoid Deferred Maintenance** - Please don't defer maintenance as that deferred maintenance will actually cost the owners more in the long run because of needing to be replaced vs. just being maintained and repaired. You feel that by doing this you can create a false appearance of financial solvency. If you don't understand the budget, bring in the reserve study professional who has national designations and the CPA who specializes in HOA's. Nevada law requires that you use the experts when necessary and if you don't understand this process, you need the experts.

Boards are also tempted to underfund the reserves. Adequate if defined in Nevada law as to what the reserve study says. Anything other than that is "not" adequate. NAC 116. 425 section 2 states.....

"2. As used in this section, "adequately funded reserves" means the funds sufficient to maintain the common elements:

- (a) At the level described in the governing documents and in a reserve study; and
 - (b) Without using the funds from the operating accounts or without special or reserve assessments, except for occurrences that are a result of unforeseen catastrophic events. (Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, 4-17-2008; R050-13, 8-10-2015)"
3. **Maximize Curb Appeal** - Are your resident embarrassed to bring people into your community because of the way the entrance looks or how some of the homes have been allowed to deteriorate. This hurts everyone's property values. You only have one chance to make the first impression on potential buyers. If they pull up and the gate entrance device is "tired" and you can't even see any of the worn off numbers, they may just move on to look at other houses.
 4. **Create a Culture of Transparency** – Nevada law requires transparency of our directors. When directors do this, homeowners feel that it is really easy to see what and why something is being done. Owners to have an interest in protecting their property values and the board showing the same desire goes a long way. By doing so, you build trust, which translates into happy owners who go out into the community and talk positively about their home.
 5. **Adhere to Your Association's Rules and Standards** - Rules exist for everyone, not just the rest of the owners. Almost every single owner in a community has one or two things that they would like to have go away and this includes directors. Giving directors special passes doesn't work. If the Board doesn't like a rule, it can be changed, but

remember that you have to have the right legal authority to adopt any rule and some documents require that even the owners have to vote on changing rules, not just the Articles, Bylaws and CC&R's.

6. **Avoid Special Assessments** – Nevada allows a “Reserve Assessment” without a vote of the owners. Most documents require for a vote of the owners for a “Special Assessment” - If directors had been doing their job and properly budgeting all along and properly funding their reserves, these would not be required. Keep the assessments as low as possible without looking out for unexpected circumstances, will ultimately result in special assessments. Some directors mentality is that “I won't be around in 20 years when we need to pay for a new roof”. Everyone should be paying for their fair share of replacement items not the new owner who just bought in and now has to kick in a huge amount for a Reserve Assessment. The new owner will think they were lied to in escrow and not told of this huge new expense.
7. **Building a Sense of Community** – Serving on the board of directors is not all about enforcement. You want people to be proud of where they live. Having social activities and inviting you City Representatives to come of the events goes a long way. One of the larger association's in town has a park named Friendship Park because of a social held at the landscaped area serving free Blue Bunny ice cream. A little girl named the park and won a contest because of what she saw going on in the park. It goes a long way.
8. **Educate Yourself and Fellow Board Members** – Did you get into your position in life by just jumping in without any education? Effective boards don't happen by accident. They attend training, read publications and join organizations who can help educate the directors.
9. **Employ Properly Credentialed Community Managers** – Can the Board run the organization without a properly licensed Community Manager, yes! You can't be paid, however, and it is interesting that once of the disciplines that the Nevada Commission for Common Interest Communities and Condo Hotels can levy is to force you to hire a properly licensed Community Manager. Managers are required to keep up to date with the laws and changes in our state that change every 2 years.
10. **Team up with Knowledgeable Industry Business Partners** – Note below in NAC 116.405 where you are required to consult with properly licensed professionals. Even if you are an attorney, does your company's Errors & Omissions coverage extend to the advice that you will be giving your fellow directors. NO. The same goes for a CPA on the board, etc.

Doesn't seem that hard, does it, to work to help keep your property values up along with the values of individual homes? If your directors had done it right from day one, you would not be in a position to even question where you were at as you would know that your reserves are adequate and that your community is well kept up.

It surprises me that there are some Community Managers out there who don't want their members of the board to be educated. They want to help them make decisions without being challenged. Who is responsible for your multi-million dollar Nevada Corporation? The board is

ultimately responsible and is held accountable. If you find yourself in trouble with the Nevada Real Estate Division, one of the first things that they will ask you is, “what classes have you taken in this industry to comply with NAC 116.405?”

If you have not looked at that section of the law, it is important that you do as it lists those items that will be taken into consideration as to whether you have fulfilled your duties as a director in Nevada. Below is the wording and we hope you will take it into consideration seriously and get education where and when offered. Remember that as Fiduciaries for a Nevada Not For Profit HOA, you have the highest standard there is by law when making decisions for your corporation.

NAC 116.405 Executive board: Determination by Commission of whether members have performed their duties. (NRS 116.3103, 116.615) In determining whether a member of the executive board has performed his or her duties pursuant to [NRS 116.3103](#), the Commission may consider whether the member of the executive board has:

1. Acted outside the scope of the authority granted in the governing documents;
2. Acted for reasons of self-interest, gain, prejudice or revenge;
3. Committed an act or omission which amounts to incompetence, negligence or gross negligence;
4. Except as otherwise required by law or court order, disclosed confidential information relating to a unit’s owner, a member of the executive board or an officer, employee or authorized agent of the association unless the disclosure is consented to by the person to whom the information relates;
5. Impeded or otherwise interfered with an investigation of the Division by:
 - (a) Failing to comply with a request by the Division to provide information or documents;
 - (b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or
 - (c) Concealing any facts or documents relating to the business of the association;
6. Kept informed of laws, regulations and developments relating to common-interest communities;
7. Cooperated with the Division in resolving complaints filed with the Division; and
8. Caused the association to:
 - (a) Comply with all applicable federal, state and local laws and regulations and the governing documents of the association;
 - (b) Uniformly enforce the governing documents of the association;
 - (c) Hold meetings of the executive board with such frequency as to properly and efficiently address the affairs of the association;
 - (d) Obtain, when practicable, at least three bids from reputable service providers who possess the proper licensing before purchasing any such service for use by the association;
 - (e) Consult with appropriate professionals as necessary before making any major decision affecting the association or the common elements, including, without limitation, consulting with a reserve study specialist who is registered pursuant to [chapter 116A](#) of NRS and [chapter 116A](#) of NAC when conducting the reserve study, as required by subsection 2 of [NRS 116.31152](#) and [NRS 116A.420](#);
 - (f) Deposit all funds of the association for investment in government securities that are backed by the full faith and credit of the United States or in a financial institution whose accounts are

insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Securities Investor Protection Corporation or a private insurer approved pursuant to [NRS 678.755](#);

(g) Maintain current, accurate and properly documented financial records;

(h) Establish policies and procedures for the disclosure of potential conflicts of interest and the appropriate manner by which to resolve such conflicts;

(i) Establish policies and procedures that are designed to provide reasonable assurances in the reliability of financial reporting, including, without limitation, proper maintenance of accounting records, documentation of the authorization for receipts and disbursements, verification of the integrity of the data used in making business decisions, facilitation of fraud detection and prevention, and compliance with the applicable laws and regulations governing financial records;

(j) Prepare interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of the association is fairly presented in accordance with the provisions of [NAC 116.451](#) to [116.461](#), inclusive;

(k) Make the financial records of the association available for inspection by the Division in accordance with the applicable laws and regulations of this State;

(l) Cooperate with the Division in resolving complaints filed with the Division; and

(m) Adopt and fairly enforce the collection policies of the association.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R108-08, 4-20-2010; R050-13, 8-10-2015)