#257 HOA Homefront – The Board Balancing Act

By Kelly G. Richardson, Esq.

The ancient Chinese concept of yin and yang deals with opposite and inseparable forces. Common Interest Developments ("homeowners associations") have their own "yin and yang" issues, in which four basic and inseparable priorities must be balanced to produce a successful and harmonious community.

The four interests to be balanced are the association's corporate, real estate, financial and community priorities. Each are critically important areas of emphasis for a healthy community, and the neglect or over-emphasis of one of these priorities often is the root of major association problems and conflict.

The Corporate: HOAs are a legal entity and are governed by legal documents such as covenants and bylaws. Boards must obey laws and the governing documents and observe the corporate process.

The Real Estate: HOAs are real estate developments and their boards must act to preserve, protect and maintain the common area and its architectural theme. Buildings, streets, and other common elements must be repaired and maintained.

The Financial: HOAs collect money from the owners and then spend it to benefit the association community. Money must be collected diligently and be spent wisely. Budgets, bids and bills are part of the "bottom line" in the association's financial world.

The Community: HOAs are made up of people who chose to live in a way which trades some independence for the benefits of cooperatively sharing some control with one's neighbors. The community interest attends to the fact that the members are not just stockholders or investors but neighbors, and boards promote the peacefulness of the community.

A closer examination the cause of many HOA struggles can often reveal an imbalance between these four central facets of association operation, as certain ones of these priorities may have been overemphasized or neglected.

The real estate often can conflict with the financial, as a board tries to keep the property in good repair but at the same time keep the budget under control. It can be tempting to put off preventative maintenance or reduce landscaping or janitorial services, in order to try to keep from increasing assessments and "hold the line" on expenses. The financial responsibilities demand that the board is careful to spend reasonably, but if taken too far, can result in member unhappiness as the property deteriorates in appearance.

The corporate interest often can conflict with the association's community interest. The legalities are important, but too often boards, managers, and lawyers address only part of most decisions, asking "can the board do this," but failing to ask, "*should* the board do this?" Community interest might influence a board to take extra effort to inform the community in advance of a significant project, even though the board has the legal power under the bylaws to pursue it without member vote or input. Community interests might also occasionally influence a board to issue a warning before citing a member who has broken a rule, or to plan and fund community social events to promote interaction between neighbors.

Excellent association living depends upon balancing these competing priorities, making sure the association obeys the law and follows its governing documents; property in the community is well-maintained and presentable; assessment funds are carefully collected and carefully spent; and the community is a pleasant place to live, with residents feeling they are considered and valued by their association.

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