

THE Advisor

Information for Reston's Clusters,
Condos and Single Family Residents



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Tell Me Where it Hurts:

When and Why a Board Should Consider Hiring a Consultant

Ray the cabinetmaker was an old-fashioned fellow who did not believe in doctors. He thought doctors were a waste of good money and he didn't trust 'em.

While working on a cabinet one day, Ray accidentally cut off his finger. Calmly, he walked into the kitchen, taped it back together, and returned to work. Another time, Ray rolled a tractor on an embankment. How he got it righted with those broken ribs no one will ever know, but he finished cutting the grass that very day. Ray lived to a ripe old age, though his later years were toothless and painful, arthritic fingers and all.

Some association boards remind me a little of Ray – talented and purposeful with a predilection towards self-help. Like Ray, they keep plugging along, fighting pain and lacking resources (like teeth). "Sure, we have a few issues to deal with, but we have a manager to take care if things and anything she can't do, we can handle ourselves. Consultants? All they want to do is back the truck up for you to dump money in. Then they are off to the bank!"

Certainly our metropolitan area is rife with consultants of every flavor. Humorous stories about "creative" team-building exercises and huge bills are not hard to come by. Nonetheless, broad brushing all consultants with a negative pall and dismissing the concept out of hand without considering the potential benefits could be costly in more ways than one.

Good business leaders recognize their personal and organizational weaknesses and take action to address them. They discern the difference between an investment (money spent to obtain a short or long-term benefit) and an expense (money spent for an immediate and transient need). Sometimes, an outside consultant is part of the solution. Remember, it is the duty of the board to do the business of the association. Sound business principles apply equally for community association and business leaders. If you have any doubts about that, consider picking up Jim Collins' book, Good to Great for the Social Sectors.

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Test Your Knowledge

How well do you know community association law? Based on the provisions of the Virginia Property Owners Association Act and Virginia Nonstock Corporation Act, are the following statements true or false with regard to a property owners association in Virginia?

1. A board of directors may conduct work sessions or other informal gatherings without notifying association members.
2. A board of directors may take action outside of a board meeting if a majority of members consent to the action in writing.
3. Charges assessed against an association member for a violation of the declaration may not exceed \$50.00 for a single offense or \$10.00 per day for any offense of a continuing nature.
4. If properly requested, an association is required to disclose the actual salary of the six highest compensated employees of the association earning over \$75,000.00.
5. Every five years a board of directors must conduct a study to determine the amount of reserves necessary to repair, replace and restore the association's capital components.

This article made available by Kenneth E. Chadwick and Bruce H. Easmunt of Chadwick, Washington, Moriarty, Elmore and Bunn, P.C.

Answers:

1. False, see Va. Code Section 55-510.1(A);
2. False, see Va. Code Section 13.1-865(A);
3. True, see Va. Code Section 55-513(B);
4. True, see Va. Code Section 55-510(B)(2);
5. True, see Va. Code Section 55-514.1(A)(1).



“I’m glad I understand that while language is a gift, listening is a responsibility”

- Nikki Giovanni

Continued from page 1 TELL ME WHERE IT HURTS

Association leaders have successfully engaged consultants to assist with a variety of tasks including, but not limited to:

- Site-specific leadership training.
- Property audits (operational and administrative reviews).
- Long range and strategic planning.
- Project planning and facilitation.
- Conflict resolution.
- Developer transitioning and resident orientation sessions.
- Operational plans for self-managed associations.
- Management company searches.

In deciding whether or not to engage a consultant to help on a particular issue, the board can ask itself a few questions:

- Do available human resources have the time to address the issue without negatively impacting current responsibilities?
- Do available human resources have deep, industry-specific experience to address the issue?
- Is there a value to capturing “outsider” perspective (the “fresh set of eyeballs” concept)?
- Is there potential for long term cost savings by careful consideration of the issue?
- Would input from someone outside the “family” be received more readily than that which can be provided from the inside?
- Does the association have a history of repeating unhealthy or unproductive patterns?
- Is the association facing a life cycle transition with evidence suggesting the old program does not match the new reality?

There is great wisdom in periodically taking a step back from day-to-day madness to take a look at the bigger picture and see things for what they really are. Ask not just “what?”, but “why?” As Jack Welch, the renowned former CEO of General Electric said, “Face reality as it is, not as it was or as you wish it to be.” Compare that to what you’d like reality to be. Now you are ready to take action. Including this vision as part of the budgeting process is a great way to make sure things happen.

It may be that there are resources within the current leadership and management team to successfully address these challenges. If so, that’s a blessing. On the other hand, if the board is feeling a little achy from old wounds that never quite healed, finds itself “toothless” (working too hard to get things done without all the right tools), or simply wants to avoid such difficulties in the first place, perhaps it’s time to reach out for a little help. Consulting your community association doc(tor)s might be just the ticket.

Author’s Bio: Tom Willis, CMCA, AMS, PCAM, Vice President, Zalco Realty, Inc., AAMC, is a member of the Chapter’s Board of Directors. He is also a consultant for Association Bridge, LLC.

Covenants Department News

Many of you may have had the opportunity to speak with our newest cluster property advisor, Kim Dobbin, who has been with covenants for the last three years. She has served as a covenants assistant for the last three years. With Kim's promotion, we hired Lisa Mohrweiss. She came to Reston Association from the community association practice of Whiteford, Taylor and Preston.

Mid to late January 2010 cluster inspections: Hillcrest and Hunter's Square clusters. Owners have been notified by mail and are aware of the pending walkthroughs by Reston Association covenants staff.

**"Man's greatest blunder
has been in trying to make
peace with the skies instead
of making peace with
his neighbors"**

- Elbert Hubbard

News You Can Use

Stop Mulch Volcanoes

The cone of mulch that you may see piled up against the trunk of tree is called "volcano mulch". This incorrect mulching technique is a waste of money and is extremely unhealthy for the tree. You have probably seen this practice around shopping centers, office buildings or apartments. When people see this odd method used, they may think this is the way it should be and copy the over-mulching method on their own trees. But it is quickly becoming the number one cause of death of trees and shrubs.

When a tree is properly mulched it should mimic the leaves on the forest floor. Mulch piled against the trees will have the reverse effect and actually shed water away from the tree. When mulch is properly applied it will:

- Conserve water and keep the roots moist.
- Protect the trunk from mower and weed wacker damage so the string weedy won't cut into the bark of the tree.
- Reduce soil compaction.
- Other benefits include preventing soil erosion, reducing the weed growth around the tree and improve the soil fertility as the mulch decomposes.



However, over-mulching can cause root suffocation and root rot. The roots may actually grow into the mulch as they try to reach for water and creates unstable trees that may blow over in wind storms. Deep layers of mulch against the trunk provide an ideal habitat for rodents that will chew on the bark of the trees and shrubs. Deep mulch promotes fungal and bacterial diseases that will live in the moist mulch. Thick layers can also produce heat, like compost, and cause excessive heat around the trunk of the trees.

You should always be able to see the natural root flare of a tree. Make sure the mulch is no more than two or three inches deep. Extend the mulch out as much as possible. Reapply mulch only as necessary and you may want to rake lightly to break up any crusted or compacted layers of mulch that may actually be repelling water. Spring and fall are both good seasons to mulch.

Workshops and Events

January 13

Coming Home 2010 Winter Social

(board member event) Snow date January 20, 2010
at RA headquarters

February (Date TBD)

Reserve Study Workshop

March 20

**CAI Essentials of Community
Association Volunteer Leadership**
(board member event - nominal fee)

Workshops and Open Mic Nights

Workshop and open microphone nights are held at 7:30 p.m. at Reston Association headquarters. They are free and open to all Reston Association members. If there are topics that would be of interest to you, contact:

Arlene Whittick

Reston Association
Neighborhood Outreach Specialist
at arlene@reston.org.



Board Changes

Do you have a new president, new treasurer or new director?

If you have answered yes to any of these questions, please click on the link below and complete the respective form (cluster or condo). Once you have completed the form you may e-mail it to Arlene@reston.org.

All submissions must be completed by the president or vice president. All submissions will be verified before changes are made.

[click here for cluster](#)

[click here for condo](#)

“Success is not final, failure is not fatal: it is the courage to continue that counts.”

- Winston Churchill

Independent Contractors' Insurance Requirements

It is common for community associations to hire independent contractors to provide services such as landscaping, trash removal, snow removal and elevator maintenance. Although having contractors perform such work can be convenient and cost-effective, it is not worry free. Community associations must make sure independent contractors have the appropriate insurance in place before hiring.

What is the definition of an independent contractor?

An independent contractor agrees to do a particular job according to his own judgment and methods. The person or entity that hires the independent contractor has no control over the means or methods used by the contractor to perform the work. The independent contractor is not an employee or agent of the community association.

Who is responsible for the acts of independent contractors?

In general, community associations are responsible for the acts of employees when such acts are within the expressed or implied scope of the employee's job duties. Employers can be held vicariously responsible for the acts of their employees.

Contrary to an employment situation, community associations generally cannot be held vicariously liable for the acts of independent contractors. Sometimes, however, this does not hold. For instance, a potential plaintiff could claim negligent hiring of an independent contractor by alleging that the community



association had the duty to carefully choose the contractor, but it did not exercise good judgment. The possibility that an independent contractor committed a negligent act and is without sufficient (or any) insurance is yet another cause for concern.

What should we know about insurance and independent contractors?

If an independent contractor provides your association with services such as landscaping, trash removal, or snow removal, it is essential that the association have a Certificate of Insurance on file confirming that the contractor has appropriate insurance including general liability, workers compensation, and automobile liability coverage.

Although recommendations differ depending upon the type of contractor and the nature of work to be performed, we generally suggest a minimum \$5,000,000 combined single general liability insurance limit for bodily injury and property damage with a \$5,000,000 annual aggregate limit. A single general liability policy or combination of a primary underlying and umbrella policies to achieve the suggested limits is acceptable. Policy limits should be

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As single family detached homeowners, there may be many issues that you have that would interest a broader audience. So, please send us your ideas and suggestions for articles to share with your neighbors.

Submit them to:

Arlene Whittick, *Neighborhood Outreach Specialist*
Arlene@reston.org • 703 435-6503

Does your neighborhood have a committee or group that represents your common interests? We can help you form a neighborhood committee.

Contact:

Arlene Whittick, *Neighborhood Outreach Specialist*
Arlene@reston.org • 703 435-6503

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INDEPENDENT CONTRACTORS INSURANCE REQUIREMENTS

provided to the full extent for the benefit of the association, or the contractor should be asked for a loss run for

the current policy term to confirm that aggregate limits are not in jeopardy of being exhausted.

Workers' compensation insurance should always be confirmed with coverage and amounts as required by law including employer's liability coverage with a policy limit of at least \$500,000 and a provision for extending the policy in accordance with the law of other jurisdictions. Automobile insurance should include owned, non-owned, and hired car liability coverage with bodily injury and property damage limits of at least \$1,000,000 each occurrence and annual aggregate.

The contract should include an indemnity clause with a "hold harmless agreement" in the association's favor including both indemnification and defense provisions, which requires the contractor to protect the association's interests against claims, suits, or other causes of action caused by or arising out of the contractor's work.

Unless an independent act of negligence (such as negligent hiring) can be established against the insured, most associations would probably not be liable for damages caused by an independent contractor. Safety rules and regulations are a commonsense necessity.

Where should I go for more information?

If you have any questions or need further information, please contact Steve Dickerson 703-205-8788 or Steve.Dickerson@usi.biz or Theresa Melson 703-205-8753 or Theresa.Melson@usi.biz.



**"No one can
have peace longer than his
neighbor pleases."**

- Dutch Proverb

Reston Police Station Services

For more information regarding these services please contact the crime prevention office at 703-478-0799 or e-mail officer Katy Fernbacher at katy.fernbacher@fairfaxcounty.gov.

Reston Police Newsletter: Please visit the link below to access the Fairfax County Police newsletter service center to sign up to receive *The Reston Reliance*: <http://www.fairfaxcounty.gov/police/newsletter>.

Home/Business Security Assessments: If you are concerned about the safety and security of your home or business, call Fairfax County Police to schedule a free security assessment. They can make recommendations and offer suggestions to better safeguard your home or business.

Neighborhood Watch Training: If your community is interested in receiving Neighborhood Watch training, the crime prevention office can schedule a time to come to your community to give the training.

Reston Business Crime Watch: This e-mail alert system is designed to give businesses up-to-date and specific crime information pertaining to the type or location of the business.



2008 CLUSTER OF THE YEAR - HEMINGWAY

Kathleen Driscoll McKee (front Center), RA board secretary presented the Cluster of the Year Award to Hemmingway cluster.

Pictured from Left to Right

Hemingway Board Members: Todd Shea, Ronald Walker, Diane Tyler, John Haycock and Gerry Dargis.

RNAC Corner

Reston Neighborhood Advisory Committee

Membership Drive

Do you believe when you voice an opinion you are truly heard? Do you want to be involved with creating educational yet enjoyable activities for Reston's board members? If the answer is yes to either of those questions, consider joining other committed residents for one hour once a month on the Reston Neighborhood Advisory Committee (RNAC).

We know everyone is busy and any spare time is basically shared with family or friends but consider sharing your time to make your cluster, condo or single-family community one of the best by working with RNAC. We invite you to come by and observe our committee in action and then consider joining.

The Reston Neighborhood Advisory Committee meets the first Thursday of every month at 7:30 p.m. in the covenants administration conference room. If you are interested in joining our committee please contact staff liaison Arlene Whittick, neighborhood outreach specialist at 703-435-6503 or via e-mail at Arlene@reston.org.

Winter Social

Mark your calendars - Wednesday, Jan. 13, 2010 is the date of the Annual Winter Social for cluster, condo and single family board members. This year's theme is "Coming Home". We bring the celebration back to RA headquarters, where we will recall 2009 and look ahead to the new year and the move of the RA headquarters. The event begins at 7 p.m. in the main conference room of Reston Association headquarters.

The special annual award for the exemplary Cluster or Condominium of the Year will be presented during the event.

The Advisor

The Advisor is a quarterly online newsletter for cluster, condo and single family homeowners in Reston. It is created by the Reston Association Neighborhood Outreach Division.

COVENANTS ADMINISTRATION DEPARTMENT

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JT McConnell/Barbara Ramey/Connie Waters

Neighborhood Outreach Specialist

Arlene Whittick

Covenants Advisors

Kim Dobbin/Adrienne Helms/Julie Loy
Sarah Marsden/Eddie McEver/ Patti Picciano

Covenants Assistants

Lisa Mohrweiss /Michelle Parlier/ Lucy Renault

Administrative Assistant

Charlotte Allen

We are always looking for new ideas and articles for *The Advisor*. Please let us know what is important to you. Contact Arlene Whittick via e-mail at Arlene@reston.org. For more information visit the Reston Association Web site at www.reston.org

www.reston.org



PLEASE RECYCLE

Newsletter Designer: Samantha Pallo