

**Director Certification Process  
Draft – Released for Comment  
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Send comments to [cotobuzz@yahoo.com](mailto:cotobuzz@yahoo.com)

### **Abstract**

This document compares and contrasts managing a for profit corporation with a Homeowners Association, makes a compelling case for requiring potential homeowners association board of directors be certified and proposes a certification process.

### **Disclaimer**

Over thirty years experience with fast growing companies, including one named by Fortune Magazine the Fastest Growing Company in the World, several start ups and responsibility for a staff of over 1,000 people, and having observed the Coto de Caza HOA for over a decade, have led the author to conclude that it makes sense for potential CZ Master Board of Directors to get certified as HOA Director Worthy. This document explains the rationale behind this bold pronouncement. Although the observations are restricted to Coto de Caza, We are convinced that this is applicable across all CIDs.

### **Background**

In an article dated Saturday, April 10, 2004, Jim Wasserman of the Associated press chronicles the problems faced by the Franklin Villa HOA when they run short of cash and maintenance feel by the wayside.

He states that “ what started 35 years ago as a pleasant community run by a private homeowners association has become an object lesson in the worst that can happen when such a neighborhood starts to unravel.....Now, state and local taxpayers are paying \$80 million to turn it into a nonprofit housing complex called Phoenix Park”

This could not happen here in Coto de Caza, or anywhere else, right?

Recently in Tallahassee, according to the Sun Sentinel.Com “The Senate Regulated Industries Committee approved the bill in an 11-0 vote, the first test of the measure that would give owners the right to attend and speak up at their association meetings, prevent boards from foreclosing on their homes because they haven't paid a fine, give homeowners the right to fly the American flag at their homes and provide state-sponsored mediation and arbitration for disputes” – [click here for more](#).

- **Forces of Influence – HOA Board of Directors are exposed to special interest groups**

### **Industry**

Home Owner Associations are designed to be non-for profit and this is true up to a point: The only group that is legally bound to remain non profit is the HOA itself. The HOA industry service providers are all for profit. Some have described the HOA Boards as “free peons at the beck and call of the industry. These peons make all the big decisions and take all the risk (on behalf of title holders), yet the industry makes all the profits and is never held responsible when things blow up..”

HOA such as the CZ Masters Association in Coto de Caza are excellent potential moneymakers for service providers. Consider the Press Release issued April 6, 2004 by the Community Associations Institute (CAI) announcing new corporate members: CertainTeed Corporation, SmartStreet and Community Association Banc. "This is a win-win-win for CAI, for our members and for the product and service suppliers taking advantage of this opportunity," said CAI Chief Executive Officer Thomas M. Skiba.

According to the press release, "CAI is the only national membership organization dedicated to fostering vibrant, responsive, competent community associations. The 16,000-member organization and its chapters represent managers, community association volunteer leaders, management companies and professionals who provide products and services to association-governed communities. Close to 50 million Americans live in an estimated 250,000 association-governed communities". The takeaway here is that the industry will do all it can to influence HOA directors and community leaders to make decisions consistent with industry strategy. Community leaders who dismiss industry efforts are either idealistic, naïve, incompetent or a combination thereof.

- ***Simplification of CC&Rs***

It is unthinkable to have well articulated, common sense rules and regulations that can be used to manage a HOA. One of the main reason is that the simpler to understand they are, the less work to go around for attorney's and property management companies. Consider the old Nordstrom's Standard Operating Procedure Manual containing one page and one word: "THINK"! Something like this can be used to manage a HOA if a shared vision is there and a culture of transparency and accountability. But then, that would mean less work for the industry and that would not make too many people happy – would it?

- **Who benefits from chaos in the village?**

Every service provider, from real estate agents, the attorneys, architects, painters, furniture stores benefit from having chaos in a HOA. So the more turnover and more chaos, the better for all service providers – except the titleholders, unless property values are optimized and titleholders decide to move on their own terms.

- **State of Affairs in HOA - Expectations**

Decisions that are in the best interest of the HOA by definition will not be endorsed by 100% of the titleholders. It follows that one can expect some sort of opposition, even when the best-qualified directors are in place. It is rare to find cases (we have yet to find one) where the homeowners and HOA's board of directors live peacefully. As a candidate of a board member, one can, as a minimum, expect personal attacks and verbal abuse.

This begs the question. Why would anybody want to be on a HOA board of directors?

Some of the answers we have heard include:

- We fed up with this arrogant board
- We want a more transparent and accountable board
- We are not getting our money's worth.
- We want to make a change.
- We love a new challenge
- We are curious to find out if we are cut out for politics

Reasons why people may want to be in a board that are rarely vocalized, but perhaps just as strong motivators, include

- Napoleonic delusions
- Oversize egos
- Networking
- Training grounds to fulfill other political ambitions
- Branding/name recognition

Regardless of the motivations, a director certification program should alert potential candidates about the cost-benefit of pursuing the position.

### **Differences between a corporate environment and HOA**

In a corporate environment, if customers do not like the product and service, they go elsewhere. When there are valid complaints there are a number of avenues for consumers to use, and at the same time the process typically filters out the loose cannons. Consider plaintiffs trying to sue fast food restaurants due to plaintiffs' own poor eating habits, or the lady that sue the microwave oven manufacturer because it did not dry her pet properly. In HOA environment, the board of directors must learn to live with loose cannons that sue for anything at the drop of a hat.

In corporate meetings, these are typically conducted with decorum, discipline and for the most part mounting logical arguments when presenting an opposing point of view. In a HOA environment, the arguments are quickly tossed out the window and replaced with rage, name-calling and expletives.

- **Anything you say can and will be used against you in a court of law or public opinion**

Unfortunately, because of a high number of loose cannons in a HOA environment, anything a directors says at any time, can and will be used in a court of law, or a court of public opinion.

Examples abound with the current Coto de Caza HOA Board of Directors. In one case the board's president admits to making a mistake. Because "...we are not perfect", and vows to make amends. In the next breath, the mistake turns into an "oversight", published in the local media, and the implications are that the board's actions might have been illegal.

- **Decision making in corporate environment**

It is easily shown that an incoming executive will be able to make wise decisions only after they have been on the job for at least six to nine months. Strategic decision-making can take even a longer time. On the other hand, HOA Directors are faced with decision making the first day on the job. As part of the certification process, potential directors need to be trained in handling of public relations.

Examples of this abound in the current CZ Masters Association: The board boasted of having vision, and team building skills. The first major action was to update the HOA regulations and send out "security patrols" to make sure title holders' cars were parked in their own garage without creating a safety hazard. Then it takes them over six months to document and communicate their "vision" to title holders, with security as their number one priority, then three months later they admit to no being able to do anything with regards to security. In addition, they cancel a contract with the CHP, appoint a chairperson to the Architectural Committee accused of conflict of interests, and later the board does not even want to meet with this chairman. They also release a much anticipated gate access, later known as the "gates from hell" due to the number of accidents it contributes to....you get the idea.

- **Hiring**

Before an executive is hired, it is standard operating procedure for the hiring corporation to conduct background and reference checks to verify qualifications and to make sure that there is no outstanding litigation, incidents of previous bankruptcy, fraud, embezzlement, etc. No such checks and balances are in place in a typical HOA. In an affluent community such as Coto de Caza, it is not unusual to have an unusual number of residents accused of pyramid schemes, posing as an attorney, and other white collar crimes. It is a safe bet that a convicted felon or a terminated industry leader could be elected to a HOA board of directors and no one would know. In an affluent community such as Coto de Caza, one would assume to have a higher per capita white collar “sneaker”. Good argument for background checks?

- **Diversity**

A traditional corporate environment has a built in diversity component to assure better decision making: For example, a finance domain expert, a human capital domain expert, a marketing expert, a technology expert, etc. No such diversity exists in a typical HOA. A rule of thumb is that in a corporate environment, consultants are not used, if an executive is not available that knows more than the incoming consultant, for obvious reason. In a HOA, no such diversity is designed in, and the first rule of thumb is to waste funds on consultants, with no one “in-house” able or willing to challenge the consultant’s finding. Several examples can be shown within the CZ Masters Association including a study of “traffic experts” to change the speed limits on the main thoroughfare, which went against recommendations from the County! The current board has engaged a number of consultants, some accused of potential conflict of interest.

Granted, specialized expertise is required from time to time for things such as environmental studies, toxicity studies, etc. But in general, good common business sense should be used rather than spending title holders funds to educate the unconscious?

- **Accountability**

Lawyers and property managers draw the same salary whether the Home Owner’s Association is managed to a budget or not. In a corporate environment, there are key business indicators (KBI) that executive management uses to determine how well the corporation is doing. No such process usually exists within a HOA. We posit that as a minimum, a board of directors needs to be concerned with managing the Triple Constraint. Refer to Managing the Triple Constraint section:

- **Common sense trumps legal counsel**

If you have never worried about meeting payroll, you have no place being in a HOA Board of Directors. It follows that common business sense and grounded ethical decision-making trumps dogmatic and legalistic modus operandi so common in HOAs. Competent leaders create a culture of accountability and transparency, then instruct attorneys to do their job by making sure they keep up with industry regulations not for permission to do that, which makes business sense.

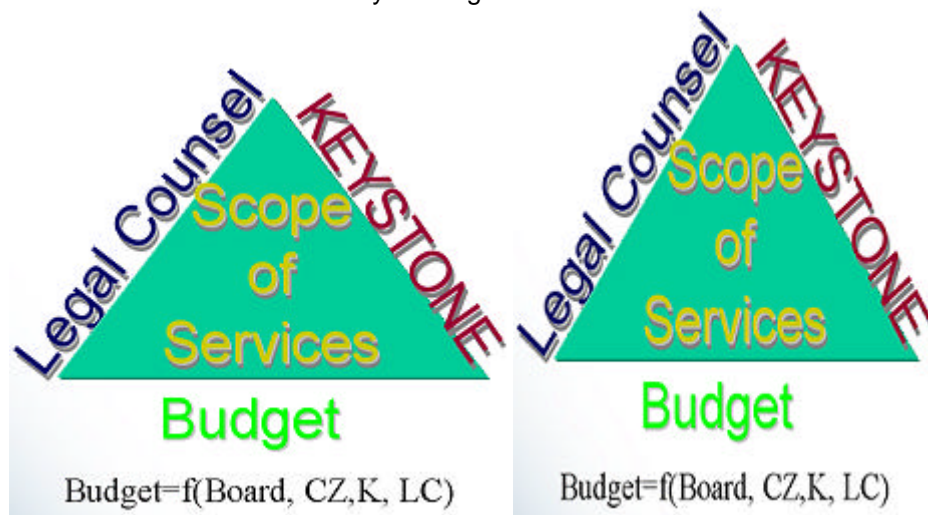
Is it any wonder that the CZ Masters Association CC&Rs have yet to be made available in electronic format and why they are written so only attorneys can understand them?

Refer to the section on Forces of Influence in this document for additional details.

- **Managing the Triple Constraint**

Common business sense dictates that effective HOA and community leaders must develop key business indicators to manage the HOA triple constraint: Budget, Legal Counsel and the Property Management Company, as the scope and quality of the services renders is a function of the triple constraint. In general, legal counsel and pacific property costs are either fixed or always

increasing, while the scope and quality of the services decrease, and potentially an increase in homeowner's dues to cover any shortages.



**Fig.1 - Managing the triple constraint – scope of services is a function of the budget, the board's competence and service providers**

It may come as a surprise for many titleholders, but the property management company and the legal counsel draw a salary even when the scope and quality of services is inadequate for any reason (refer to the triple constraint figure). The budget may shrink, but not compensation for the service providers. In a corporate setting, if you do not meet your Key Business Indicators, you may take a pay cut, take a demotion, be reprimanded, be terminated or all of the above.

In a HOA the concept of a Learning or Agile Organization does not exist. If it is restricted and only benefits the service providers, not the titleholders. It only makes good business sense for the service providers to have titleholders elect the most unqualified board. So all the knowledge accumulated over the years is not kept with the association, unless the board makeup remains the same for decades, which is hardly the case.

- **Perception:**

The title of Board of Directors is a gross misnomer. It implies that the body focuses on strategic management, un-structured decisions with forward-looking, ad hoc information characteristics. In reality, it is more an operational function with a focus on being efficient and doing things right.

### **Certification Process**

It should be clear that a certification process is not only necessary, but mandatory for all future HOA directors and leaders. It is recommended that before a potential director is approved, the candidate must be certified to:

1. Pass a background check to confirm qualifications and assure there are no concerns with regards to litigation, fraud, embezzlement or any other criminal record. Background check should clearly indicate leadership and organizational effectiveness skills.
2. Public relations 101 – how to communicate with title holders and the media.
3. Decision-making framework, decision making models and decision making tools
4. Have a thorough understanding of the forces of influence at play
5. Have a thorough understanding of the Triple Constraint and how to manage it

6. Qualifications should indicate transferable skills. For example, if the HOA annual budget is \$8 million/year, previous experience should indicate that the candidate has had P&L responsibility for a comparable budget