



Capturing the Pulse of the HOA Industry
HOA Industry News, Articles, and Links

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Ten Tips for Better Board Meetings

No one likes a board meeting that runs on forever with no end in sight. This article offers ten tips for controlling board meetings to make sure that you both get the job done, and also do so in an efficient manner.

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Association of the Week

South Riding Proprietary



South Riding Proprietary in Virginia is a large scale association located near Dulles Airport . . .

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Borrowing For Major Repairs

Special Assessments to fund major repairs are not popular. Postponing major repairs is probably a breach of fiduciary responsibility for Board members, and probably also increases the ultimate repair cost. Loans offer a practical, attractive alternative to financing major repairs.

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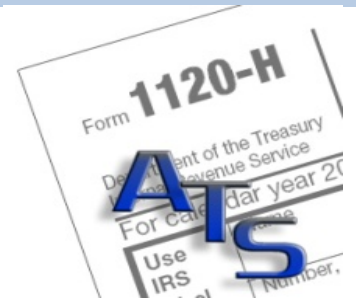
Business Spotlight

Association Tax Services

Tax Exempt HOA's Face More IRS Audits

The IRS Exempt Organization Division issued a report in mid December, 2010 about its accomplishments in 2010 and its plans for 2011. The 29-page report provided updated statistics, discussions of matters of interest for exempt organizations, as well as a preview of programs for the coming year.

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Association Tax Services, LLC provides tax preparation services to homeowners associations nationwide . . .

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Association of the Week

South Riding Proprietary



South Riding Proprietary, the Washington Metro Chapter CAI 2008 Large Scale Community Association of the Year, is a master planned development that maintains a small hometown feel while enjoying the sophistication of a Washington, D.C. suburb. A non-stock, not for profit corporation, South Riding was incorporated in January of 1995 in the Commonwealth of Virginia.

With a population of over 25,000 people, more than 6,000 homes are currently occupied with an expected total at build-out of over 6,500. An exceptionally social community, members enjoy a carefully planned, professionally produced and well attended event almost every month.

The proprietary is managed by an onsite, professional staff of 16. A nine member resident controlled Board of Directors manages the affairs of the Proprietary and active residents volunteer their time to serve on eight Proprietary committees and assist with special events.

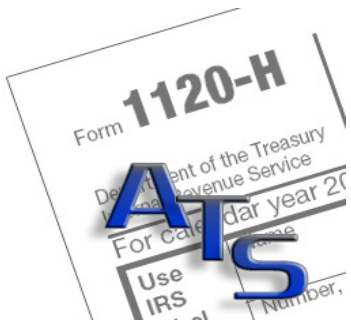
Community residents also benefit from an 18-hole championship golf course, superior public schools, and two shopping centers with restaurants, specialty stores and services.

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Business Spotlight

Association tax Services, LLC



Association Tax Services, LLC (ATS) is a firm providing nationwide tax preparation services exclusively to the homeowners' association industry. The firm offers fixed fee services for Forms 1120-H and 1120, and processes state tax returns for all states.

The tax preparation team at ATS is headed up by one of the leading CPAs in the industry, and has more than 30 years of experience with HOA tax returns.

Tax returns are processed promptly and each completed tax package includes the ATS unique “risk weighted” comparison of Form 1120-H to Form 1120.

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Ten Tips for Better Board Meetings

By Karen Bennett, PCAM, CCAM

No one likes a board meeting that runs on forever with no end in sight. This article offers ten tips for controlling board meetings to make sure that you both get the job done, and also do so in an efficient manner.

1. Time is a gift given by volunteer Board members. Cut down on paperwork. Use Executive Summaries, written Manager Recommendations, Detailed Reports in place of actual correspondence, Timed Agendas and Consent Calendars.
2. Hold the meetings in a businesslike setting. Don't meet at the pool or in a room with other activities and distractions. Have adequate space and seating for everyone.
3. Set up the room so the Board can easily talk to one another but not above or separated from the membership.
4. Always bring Agendas to hand out to meeting attendees. Let the audience follow along.
5. Start meetings earlier. Have refreshments delivered so hungry Board members will arrive earlier, be alert and stay until the end of the meeting.
6. Have committees submit executive summaries for inclusion in the Board package and be available for questions only. Reward and praise committees in the Newsletter, Award Ceremony or at the Annual Meeting, not at the monthly Board meeting.
7. Stick to the Agenda. Don't allow business to be discussed without a prior motion and a second.
8. Make it a Board policy to have experts create specifications prior to going out to bid.
9. Provide annual Board updates for training and educating each Board. Be creative and make it mandatory that Boards will attend at least one training session each contract year.
10. Adjourn each meeting before 10 pm. No one is at their best making decisions late at night.

Excerpted from a speech entitled, "The Psychology of Successful Board Meetings & Board Liability." September 2003

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Borrowing for Major Repairs

By: Craig Huntington

As communities mature more and more boards are faced with the responsibility and need to do major repairs of their common areas. Often, because of unanticipated problems lack of or unfunded reserves, associations do not have sufficient funds to make necessary repairs.

Special assessments, are never popular, can create a real hardship for owners, and are often difficult or impossible to pass. Putting off necessary repairs is in clear conflict with the board's fiduciary responsibility to "preserve enhance and protect" the value of the asset, and can create additional liability for the association if questions of health and safety are involved. Spreading the work over time often will increase the overall cost of the project; lead to excessive insurance claims for repairs and can become a source of owner dissent.



Fortunately, some banks are becoming increasingly aware of the large and growing association industry and, in some cases, are willing to lend money to associations for major repairs. A few institutions have even established specialized divisions to handle association financial needs and offer special loan programs to associations.

(Note – due to length of this article, the full article is presented on our website. Sections below describe portions that are presented in full text on the website.)

ASSOCIATIONS AS BORROWERS

Associations have all of the powers and characteristics of any other corporate borrower with two important exceptions. The first is that associations are not dependent on sales, or the vagaries of the economy to produce revenue for operations and debt service. The assessment and enforcement powers of the association guarantee revenues. The fact that associations can generate revenue simply by raising assessments or by passing a special assessment will obviously be seen as a plus by a lender considering a loan to an association. The second important difference between associations and other businesses is the associations; because elected volunteers run them, do not have the continuity of management, which is typical of a business borrower. A lender looking at an association loan request will be aware that the individuals negotiating the loan may not be the same people representing the association during the life of the loan. For this reason, the lender's assessment of the general business practices as well as the financial management of the association will be a critical part of the credit decision. Association financial reports, board minutes, resolutions passed relative to the loan transaction and other association records which are in good order will help convince the lender that the association conducts its affairs in a businesslike manner. . . .

WHERE TO FIND A LENDER

When shopping for a loan, an association will clearly be better off if they can find a lending institution, which offers specialized financial services to associations. A lender who does extensive business with associations will have a better understanding of the powers of association boards, the complex responsibilities of association's directors and will be familiar with association governing documents. . . .

COLLATERAL

Lenders who understand the collection and enforcement powers of association's boards usually will secure loans with future assessment revenue. If the association has sufficient cash flow to service the debt from regular assessments, the lender will probably require a line item in future budgets for loan payments. If a special assessment is required to pay the loan, the lender may request a specific assignment of special assessment payments. As a condition of the loan, most lenders will also require a conditional assignment of the association's enforcement and collection powers. This will place the lender in the position to enforce collection of assessments should the board cease to do so and the association defaults on the loan.

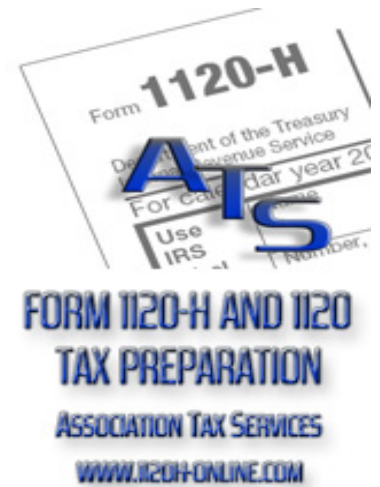
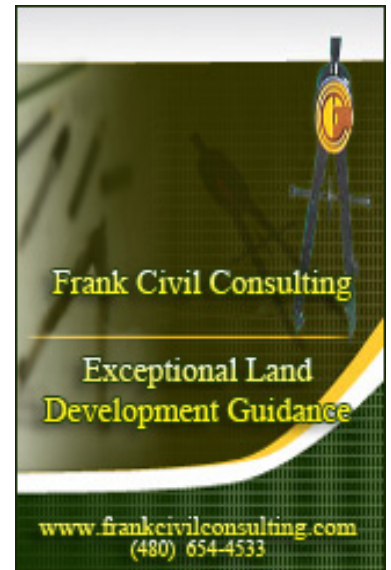
LOAN STRUCTURE

In many loan situations the exact amount of money needed to complete repairs may not be known when the project begins. This is particularly true with roofing projects, dry rot repairs and similar jobs where the full extent of work to be done sometimes cannot be determined until after the project is underway. Another variable, which can affect the amount borrowed, is the pre payment of special assessments by some owners. This will reduce the amount needed by the association from the lender.

The easiest way to manage these variables is to have the loan structured, initially, as a line of credit for the maximum amount needed. Such loans should include a provision in the loan agreement that the loan will be converted to a term loan, for a fixed period, upon completion of the project. A loan structured in this way will give the association needed flexibility and will minimize loan costs. Funds can be drawn on the line of credit as needed. During the drawdown period interest payments will be due, but only on the amount drawn, not the full amount of the loan. When the project is completed the final principal balance will be converted to a term loan and regular payments, including principal and interest, will commence. . . .

THE APPLICATION PROCESS

Associations are well advised to involve their attorney at the early stages of loan negotiations. Before proceeding with a loan application, most lenders may require a written statement from the association's attorney certifying the association's authority to borrow and pledge assets as collateral. The lender may also request that the association's attorney statement also include verification that the borrowing resolution, certified by the secretary, was passed in accordance with the governing documents and applicable law. . .



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LOAN DOCUMENTS

Loan documents will vary from lender to lender. In every case, however, association officers will be asked to sign a note, which is the association's promise to pay. . . .

In addition to the standard loan documents, some lenders may draft a special loan agreement to be executed by the association. . . .

LOAN CONDITIONS

Many association loans will be approved subject to conditions required by the lender. Specific conditions are subject to negotiation between the lender and the association and can include virtually anything mutually agreed upon which is lawful and not in conflict with the association governing documents. . . .

Obviously, a decision to seek a loan to finance major repairs can have a major impact on the association board and the community as a whole. No one likes to borrow money, however, associations like any other business, often have legitimate needs and responsibilities which can best be addressed through prudent borrowing. An association board, faced with major repairs and a funding shortage, will be meeting its responsibilities and serving its community well if. In addition to the more traditional alternatives, it also considers the feasibility of financing repairs with a loan.

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Tax Exempt HOA's Face Increased Prospects for IRS Audits

By: John C. Knobelsdorf II

The IRS Exempt Organization Division issued a report in mid December, 2010 about its accomplishments in 2010 and its plans for 2011. The 29-page report provided updated statistics, discussions of matters of interest for exempt organizations, as well as a preview of programs for the coming year.

The IRS activities and programs in the Exempt Organizations Division are a topic of interest for homeowner associations that have qualified to be treated as tax exempt "Social Welfare Organizations" under Code subsection 501(c)(4).

Tax exempt organizations in general can feel like the IRS will be watching them more closely in the future this new report from the Exempt Organizations Division indicates.

The Division Director Lois Lerner outlines accomplishments and previews plans for 2011 in the 29-page report. Below are some highlights.

- Monitoring will increase. The statistics show that IRS has stepped up its efforts to check on charity compliance. For example:

Audits of exempt organizations increased from 7,861 in FY 2008 to 10,187 in FY 2009 (a 30 percent rise) and to 11,449 in FY 2010 (another 12 percent).

- Compliance checks (in which Exempt Organization Division asks about a specific item on a Form 990 or for more information on an organization's operations) are also being used extensively—they require fewer resources and, as the report restates, these enable the IRS to "touch more organizations than by using an exclusively exam-based strategy."

- Collaborations with the Social Security Administration and the states also allowed Exempt Organization Division to identify more effectively nonfilers and noncompliant organizations so that the cases selected for exams were more likely to result in finding significant issues.

More Specific Indication of Audits Coming.

More growth is coming in Exempt Organization Division Staff. One reason for the increased enforcement is more EO staff—the total has grown from 837 positions in FY 2008 to 910 in FY 2009, with another increase to 942 in FY 2010. Even more telling, 100 of these new positions over the two-year period were in the Examinations area. In contrast, staffing in all other major areas have only small increases.

Without speaking directly to the activities of homeowner associations, the report does discuss plans for the organizations that File Form 990 and are qualified to be treated as tax exempt organizations under Code subsection 501(c)(4) Social Welfare Organizations. The Division Director's report states:



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“Section 501(c)(4), (5) and (6) Organizations. In recent years, our examination program has concentrated on section 501(c)(3) organizations. Beginning in FY 2011, we are increasing our focus on section 501(c)(4), (5) and (6) organizations. With the additional information available on the new Form 990, we will look at issues including political activity, inurement and the extent of compliance with the requirements for tax exemption by organizations that self-identified themselves as a section 501(c)(4), (5) or (6) organization.”

This indicates that section 501(c)(4) tax-exempt homeowner associations are facing an increase prospect for audit examinations.

What Nonprofits Should Do

The IRS will be continuing its efforts to ensure that the nonprofit sector complies with the requirements that come with being a tax-exempt organization. Nonprofits can take some simple steps to lessen the likelihood of receiving an inquiry from the IRS in the coming year.

Make sure that what's reported in compensation on Form 990 matches what is reported to other federal agencies.

Confirm that income taxes and other payments related to employees, such as Social Security and unemployment compensation (if required), are correctly reported and transmitted to the appropriate agencies.

Consider and hire an independent professional to review operations and reports.

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Disclosure Pursuant to Treasury Regulations in Circular 230: To ensure compliance with requirements imposed by the Internal Revenue Service, we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter(s) addressed herein.

| <u>Title</u> | <u>Summary</u> | <u>State</u> |
|---|--|---------------------|
| <u>Lights, neighbors, community action in Marana</u> | HOA encourages holiday decorations by holding a fundraiser/contest for its residents. Winners with the best decorations receive Target gift cards. | Arizona |
| <u>Gregg's Landing residents criticize look of solar panels</u> | Resident of HOA shares with Board of Directors that effective January 1, HOAs may not deter residents from using solar energy. | Illinois |
| <u>Homeowners and golfers are hopeful better times are coming for Adobe Creek</u> | Homeowners hope a buyer will be found for the golf course in their community | California |
| <u>Panel hears testimony against condo at surf spot</u> | A plan to build a condominium at a Kona surf spot is greatly opposed by Hawaiian residents. | Hawaii |
| <u>HOA Advisor: Are individual security cameras allowed?</u> | Security issues are addressed along with the use of security cameras | California |
| <u>Driveway battle hits roadblock in Edmond</u> | Condominium owners are in a battle for a driveway they thought they owned. | Oklahoma |
| <u>Need-to-knows when buying a home at auction</u> | Home won at auction has an occupant. How does owner get home appraised when occupant won't allow appraiser on the property? | Illinois |
| <u>Why lenders are scrutinizing condo HOAs</u> | Lenders are reviewing budgets and minutes of HOAs before loan approval | California |
| <u>Miller Pond faces deadline for Rock Hill annexation</u> | Residents have 10 days to turn in their petition for annexation or their property can be seized | South Carolina |
| <u>Attention: It's HOA 'meeting season'</u> | Proxys and ballots are different forms used in elections | North Carolina |
| <u>Legislature joins HOA feud</u> | State Senator aims to push bill to restrict fees charged by collection companies | Nevada |
| <u>Another lawsuit filed over HOA debt collection fees</u> | Two homeowners filed a lawsuit against debt collectors for fees collection companies are charging homeowners | Nevada |
| <u>How should HOA handle palm tree height restrictions?</u> | Height restrictions on palm trees are discussed | Nevada |
| <u>Retaining wall collapses at Sunrise Condo</u> | Condominium residents are evacuated after their backyard fell into the canal | Florida |
| <u>Villages at Queen Creek HOA election proceeds amid controversy</u> | Election protocol is questioned | Arizona |
| <u>Budgeting for the deadbeats</u> | Budgeting, unpaid dues and bylaws are the issues of discussion | Florida |
| <u>Full reserve funding is required</u> | A Treasurer of a Condominium Association asks about adopting a new budget and reserve requirements | Florida |
| <u>Boca Del Mar board votes against plan to redevelop golf course</u> | Boca Del Mar's HOA does not support the development of defunct golf course | Florida |
| <u>Who controls your HOA?</u> | Advice is offered on questions you should ask before buying into a Homeowners Association. | Tennessee |

| | | |
|---|---|----------------|
| New owners need close look at long-term lease | Owners who purchased a home in foreclosure wonder whether renters have rights to three year lease signed prior to sale. | Illinois |
| Ex-director ponders suing over board's alleged fraud | Former board member suspects fraudulent behavior by board members | California |
| My Turn: Making progress toward a healthy Lake Tahoe | Tahoe Lakefront HOA partners with The League to Save Lake Tahoe, to provide funding to protect Lake Tahoe from invasive species. | California |
| Fort Myers HOA cuts residents \$100 checks | HOA carefully budgets its 2011 funds and gets itself out of debt. Surplus is given to residents. | Florida |
| Trappers wrangle 9-foot gator | Heather Glen HOA has to give Fish and Wildlife permission to help rid their community pond of a menacing gator | Florida |
| Mystery water leak an elusive problem in Greene | Boil-water order precaution as Mountain Lakes Water System tries to find water leak that is causing water shortage and poor water pressure to area community. | Virginia |
| Tax deduction for mortgage interest could be on he chopping block | Mortgage interest tax deduction is facing elimination | Illinois |
| Fire Marshal accused by condo group of extortion | Condominium association claims a local fire marshall threatened to seek a court order to shut down their building if they did not install a new fire alarm system. He then proceeded to recommend his wife's business to do the work. | Connecticut |
| How do you feel about your HOA? A new survey wants to know! | CAN's Florida Association Management Survey is polling residents of HOAs for their opinions on community association management practices statewide | Florida |
| Mothballed Idaho ski resort lives again | Tamarack HOA is subleasing a closed ski resort to attract buyers. | Idaho |
| Judge: Fairfield Harbour can't buy golf course with dues proceeds | Judge rules that Fairfield Harbour Property Owners Association, Inc. could not buy golf course property and pay for it with HOA dues | North Carolina |
| Florida limits condo owner rights to speak | Law limits discussion at meetings to agenda items only | Florida |

