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***Management Case Study #1 update2 — BOD good faith conduct**

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MUST READ FOR CONCERNED MEMBERS

Disclaimer: I am not a lawyer nor work for a lawyer, and I'm not providing legal opinion or advice.

(* See Overview, page 5).

The case study developments and events

The conduct of Thursday's CHAT meeting astounded me. First, why was such important meetings held during the holiday week and on the day before New Year's Eve? Politicians hold meetings and release info after 5 on Fridays to lessen the spread of opposing views.

Second, President EG in a display of arrogance failed to take heed of the issues I have raised in this case study, dismissing Arizona statutes and his obligations under the governing document to act "*in the best interests of the members.*" And under a director's and officer's standards of conduct to "act in good faith" and "as a prudent person should."

And the directors said very little and did not call Earle to task, demonstrating a "YES man" mentality. Or believing that the BOD was their own private fiefdom to do as they please.

The following focuses on the videotaping question and open meeting statutes. The question of a director receiving compensation will be addressed in a subsequent update. Given the hard evidence of the behavior of the president and silence and refusal to act by the directors, I dread the forthcoming board elections and the application of the

recent *voter suppression* Bylaws amendment allowing this BOD to not hold a vote of the members.

SCG BOARD UNEQUIVALLY DEMONSTRATED THAT IT'S A ROGUE BOD

The tone of Thursday's CHAT meeting was clearly secretive for the Directors only and to say as little as possible for member consumption — on a “need to know basis” and the members didn't need to know. Earle came across as the man-in-charge and making statements that ignored the statutes and governing documents, misstating that the CHAT was not a legal board meeting, just a chat amongst the directors, with a few acceptable attendees allowed to speak. Obviously, I wasn't one of them.

As a thought, if I were a director I would check with my personal lawyer to discuss what potential liability I may have by remaining silent, failing to due diligence by checking my claims --- all on record as statutes — and failing to remove Earle as president. Earle was appointed and reports to the BOD. It is well known that presidents/CEOs of major corporations are fired by their boards!

BTW, as a PUD members do not have title to any of the assets of the association. SCG, as represented by its board, owns title. Members have beneficial interest, but not title to some \$22 million in revenues, \$21 million in reserve funds (cash equivalents), and \$64 million in assets as reported on its IRS 990 filing for 2019.

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Before getting down to the hard evidence contained in Thursday's CHAT, repeating a little background info is necessary that focuses on the legalities of making video recordings available to the members.

From Adam Nunez on Dec.16: The Emergency Board Meeting on December 14th was not recorded. Over a year ago, the Association stopped recording Board Meetings (except Town Hall Meetings) due to potential liability concerns. Following each meeting, minutes are provided on suncitygrand.com for residents.

My reply: I would like to view that SCG corporate document as part of my right as a member with access to SCG documents. Please forward a link to that webinar.

Earle's reply, Dec. 21:

- 1) Just because a webinar takes place does not mean it is being recorded. In fact, if a meeting is being recorded on Zoom, when an attendee logs on, there is a disclaimer on the screen that tells them it is being recorded and a voice that tells them it is being recorded. If you have ever been on one of the Zoom workshops or meetings, you will

notice that this has never appeared or been heard because the meetings are NOT being recorded.

This is grossly misleading and partially true. The HOST, the board, controls who can record the webinar. I was denied my right to record the seminar. It reveals Earle's false statements about recording the webinar, which, in addition, is understood to be a corporate document and accessible to the membership.

[CHAT transcript](#) at 13:10:19 in conjunction with [CHATA12-30.jpg](#) and [CHATb.jpg](#) showing my CHAT requests to record (running from 1:12 to 1:17; the requests were restricted to be seen only by the panel (the BOD), and informing the BOD of statute violations. It appears that the computer times are slightly off.

Saving the transcript stopped at 13:34:51 because the intent and message being sent by Earle was clear. At 13:21:25 a more detailed discussion between the directors too and revealed that Earle's opinion, in regard to my Chats not being seen by the attendees, was that "our system is not setup for chats." The dialogue continues until 13:22:51 extending the failure for all members to view the meeting. (See Chats.jpg). Unbelievable!

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5) If their intent was for all Board meetings to be video recorded, they would have used the word "require" and not "allow." So based on the AZ statute with regard to open meetings, we are in complete compliance.

Nonsensical interpretation of the statute and irrelevant reply. He misinterprets ARS 33-1804(A) regarding videotaping. "Notwithstanding any provision in the declaration, bylaws or other documents to the contrary [my emphasis], all meetings of the members' association and the board of directors, and any regularly scheduled committee meetings, are open to all members of the association or any person designated by a member in writing as the member's representative and all members or designated representatives so desiring shall be permitted to attend and speak at an appropriate time during the deliberations and proceedings."

And president Earle also misinterprets ARS 33-1804(F). "It is the policy of this state as reflected in this section that all meetings of a planned community, whether meetings of the members' association or meetings of the board of directors of the association, be conducted openly Toward this end, any person or entity that is charged with the interpretation of these provisions, including members of the board of directors and any community manager, shall take into account this declaration of policy and shall construe any provision of this section in favor of open meetings."

How can a person with an MBA misread the statute? His response #4 informs me that he is acting without expert legal advice. "*we do not receive legal counsel from CAI.*"

6) If you have a problem with the HOA laws in Arizona, I would suggest you contact the state legislators.

Much to the arrogance and naiveté of Earle and the directors I have had over 10 years dealing with Arizona legislature, proposing bills, and testifying for HOA reforms. I played an important role in the establishment of OAH hearing HOA member complaints, vehemently opposed by CAI. The SCG “clique” has some 13 CAI members, former and current. (See further reading)

Maybe the board should have done some due diligence and checked my background out. Too late now. They are burying themselves, sinking down in the vortex of no return; damaging the carefully nurture image and reputation of SCG. And like Facebook, changing the association’s name is their solution.

7) There is no need for further discussion. It says it all!

Questions to be addressed and answered

Can the directors be held liable? What should the directors do? Has the president violated his duties and obligations and should be terminated forthwith? If terminated, should the BOD then re-address resolutions and issues raised and promoted by Earle and rescind them?

Will the BOD inbreeding, the development of a clique over the years, be felt in the January elections?

Further reading -- HOA constitutionality issues:

Gelb v. DFBLs, CV 10-0371-PR (pro se amicus curiae)

Tim Tarter et al vs Douglas Bendt et al, CV-21-0049-PR (pro se amicus curiae)

Staropoli v. the State of Arizona, CV 2013-009991 (represented and won by Tim Hogan, ACLPI)

Truth in HOAs Act, (March 2011): *“Therefore . . . the CC&Rs or Declaration for any planned community, condominium association or homeowners association shall state that, “The association hereby waives and surrenders any rights or claims it may have, and herewith unconditionally and irrevocably agrees to be bound by the US and State Constitutions and laws of the State as if it were a local public government entity.”*

A Plan Toward Restructuring the HOA Model of Governance.

HOA Case Study Overview

Simply put, the case method is a discussion of real-life situations that business executives face. IT IS AN EDUCATIONAL PROCESS FOR ALL HOA MEMBERS and will help in becoming a more meaningful, relevant, and productive participant in the governance of your HOA. It is members only and independent of any HOA approval or regulations.

If properly conducted, the outcome should provide your BOD with a solution[s] that has much more merit than listening to the views gathered at focus groups or Q & A sessions (workshops, fireside chats, meet the board, etc.).

The method consists of being presented with a real event or issue, the case, facing an executive – president, BOD, committee chair – and asked a question or two regarding what you would decide. As you review each case, you'll put yourself in the shoes of the key decision maker, analyze the situation, and decide what you would do to address the challenges. Importantly, there is the requirement to present your views or opinions before the study group (online participants), and after a discussion with other group participants you will be asked to volunteer your decision and reasons why.

If you feel that your decision[s] have merit you can present them to the president or BOD as you feel comfortable. It would be appropriate to indicate the basis for your recommendations, the **HOA Case Study Group** that you participated in.

How to participate in a meaningful and instructive manner. YOU are the decision maker! What to do? (Harvard Business School, Executive Education).

Here's your chance to deal effectively with HOA issues and resolve the problems in a practical manner. No unsupported opinions, feelings, likes/hates, etc.

- What are the most important issues being raised?
- Each case begins with a text description followed by exhibits. Ask yourself: What is the case generally about, and what information do I need to analyze?

- Put yourself in the shoes of the case protagonist, and own that person's problems. Ask yourself: What basic problem is this executive trying to resolve?
- What recommendations should I make based on my case data analysis?

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Focus Group methodology stands in sharp contrast to the *Case Study* approach, which is a top-down, managerial process, while focus groups are a bottoms-up approach to provide guidance to decision-makers. The key aspect here is how does the researcher use the data gathered, which is dependent on the depth and quality of its analysis. Or, on the negative side, focus groups can be used to advance personal agendas.

[WHY ARE FOCUS GROUPS USED?](#) (Copley Focus Centers)

‘Focus Groups are generally used to gather people’s opinions, ideas, and beliefs on a certain topic or product. While surveys or questionnaires can be useful, they can not capture what a person is thinking or feeling. This is where a focus group will come into play. . . . The main purpose of focus group research is to draw upon respondents’ attitudes, feelings, beliefs, experiences and reactions in a way where other methods are not applicable.

“Focus Groups are generally used when there is little or no knowledge about the target market. Most commonly Focus Groups are used when a new . . . service is being developed and the company is not sure how the public will react. In this instance, a Focus Group is conducted to get opinions, ideas, suggestions, and reactions before the product or service is available to the public. Once the information is gathered, changes may be applied to the service or product to make sure that it will be received well by the target audience.”