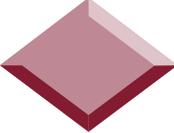


The Client Letter

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This newsletter addresses current issues and developments in the law relating to development of planned communities. It is published periodically for distribution to clients and friends of Hyatt & Stubblefield, P.C., Attorneys and Counselors. The information presented is not intended as specific legal advice to any person. Principles of law expressed in this newsletter are subject to change from time to time.



Embracing a Multicultural Community

Many American communities are becoming more diverse, with residents bringing a wide range of different customs and practices to the community. In addition, there may be a number of residents that do not speak English. Problems can occur in the community when residents do not understand the community restrictions and rules. Problems can also occur when community leaders do not understand important cultural and religious customs and practices of the residents. Therefore, it is important that community leaders acknowledge the diversity of the residents and perhaps, if necessary, create policies and procedures for addressing cultural differences within the community.

Reach out to non-English speaking residents

Associations generally do not have an obligation to communicate with their members in any language other than English. State law, however, could impose an obligation on developers that are selling homes in areas where there are a significant number of non-English speaking residents or where the developer is targeting sales

to a particular non-English speaking audience to provide marketing materials in the language spoken by the purchasers in addition to English materials.



However, even when communication in another language is not required, association leaders should consider whether it may be helpful. If residents in the community do not understand English, it may be difficult for them to understand their obligations as a member of the community. There is a perception around the world that America is the "land of the free," so it can be quite a shock for immigrant buyers to learn that alterations outside the home require association approval.

Education and understanding are the first steps toward gaining acceptance of any governance structure. Education is an ongoing process. It must start with the developer or builder's sales agents properly communicating the association governance structure to prospective purchasers. The education process, however, must continue past the sale of the lot or home. Community leaders can also try to

formulate a way to communicate key requirements to non-English speaking residents. The association may consider providing a copy of the community's governing documents to each new resident. It is not wise to rely on the seller of the home to transfer these items to the purchaser.

Translate important notices and demands for compliance

It can be very helpful for the association to send assessment notices, warning letters, violation notices, demands for compliance, and other important notices in the resident's na-

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tive language. While most people buying homes can speak and read English, going this extra mile eliminates any argument from the homeowner that they did not understand they could not paint their home without permission and similar restrictions. It also shows that community leaders are embracing them and welcoming them into the community. The non-English speaking resident is responsible for all community obligations, even if they are not aware of them or do not understand them, but translating important notices can help achieve compliance sooner. For example, a non-English speaking resident may simply ignore violation notices written in English, forcing the association to sue to obtain compliance, when the owner might have been willing to remedy the violation had they understood the nature of the violation.

It is important, however, that the association not attempt to translate the community legal documents without assistance from an attorney that speaks the language of the translation. A literal translation may not be accurate, and some words or phrases may lose their meaning in the translation, particularly key legal words and phrases. Instead, the association can create an outline in one or more foreign languages of the key requirements of the community, such as the obligation to pay assessments and to seek approval prior to making exterior modifications, or an explanation of the importance of the governing documents. In addition, a list of reliable sources where non-English speaking residents can get assistance with translation would be very helpful.

Consider the customers' lifestyles when drafting community documents

Developers should consider the lifestyles of their target audience when drafting the initial restrictions in the community documents, and association boards must also consider the makeup of their communities when enacting new rules. The same set of restrictions and rules does not work for every community across the country. For example, it is not uncommon for families from Central and Latin American to live in the same home with extended family members, including parents, grandparents, aunts, uncles, cousins, etc. A typical restriction that restricts the number of people that can live in the home would prohibit such a large extended family from living in the home. This may be the desired result in many communities, but in other parts of the country, the developer could lose a large segment of the market with this type of restriction.

Consider religious practices when drafting and enforcing rules

Community leaders should attempt to learn important religious practices and customs used in the community that could implicate the association's rules, and these practices and customs should be taken into consideration when evaluating whether to

take enforcement action against an owner. For example, Buddhists often leave their shoes at the front door before entering the home, which could violate a restriction against clutter on the front of the home. Observant Jews hang a mezuzah on the front door of the home, which may violate a restriction against decorating the front doors of a condominium or hanging things in the common area hallway. One Hindu custom involves hanging a religious flag or jhandi for the protection and well-being of the family. Many communities prohibit the installation of flags other than the U.S. flag or a state flag.

State and/or federal law may restrict an association from prohibiting the installation of items that are religious requirements. The federal Fair Housing Act prohibits discrimination in the provision of services or facilities in connection with dwellings on the basis of religion, and this law has been applied to a homeowners association's enforcement of its rules and design standards. Often, a distinction can be made between optional religious customs and practices required by particular religious. However, this is a very murky area, and association leaders should be careful when trying to make a distinction.

Instead, the better practice is to try to understand the customs and practices of the community's residents, whether those customs and practices are mandated by particular religions or simply the choice of the residents. The purpose of restrictions and rules is to make the community a place where everyone can live in peace and harmony with one another, but the restrictions and rules should also reflect the values of the particular community.

Welcome all residents

Finally, encourage all residents to attend association meetings and functions. Take the time to talk to new residents and follow up with them a few weeks later to see if they have any questions about the community. If a bilingual owner lives in the community, the association could ask this person to serve as a liaison with non-English speaking residents. Any new resident, whether English speaking or not, that is made to feel welcome and a part of the community is more likely to make an effort to understand their obligations and seek assistance on learning the community rules if necessary. The resident made to feel welcome is also more likely to make an effort to confirm permission to install religious items and to try to explain the particular religious custom or mandate to the association board before simply deciding that the rule does not apply to them.

We would be pleased to send **The Client Letter** to friends and business associates who you feel would benefit from receiving it. Just send our office a note with their names and addresses or give us a call at 404-659-6600.

Board Training 101

*He who has never learned to obey
cannot be a good commander.*
Aristotle

Too often homeowners elect people to the board of directors who have little or none of the experience needed for the job. Many of them know nothing about the responsibilities of the positions to which they have been elected. Associations and property managers should consider implementing a board orientation program for newly elected directors and officers to familiarize them with their roles and responsibilities.

The orientation can be conducted by experienced directors or the association's property manager or management company. Training programs may also be offered in your area by state or local authorities, the Community Associations Institute (www.caionline.org), or by other local nonprofit organizations. Industry experts can also be brought in to provide additional specialized training, such as attorneys specializing in commu-

nity association law, insurance agents with experience writing policies for condominium or homeowners associations, and accountants specializing in accounting for nonprofit organizations. There are also a wide variety of publications that can help you create an appropriate program.

At a minimum, an orientation program should:

- Provide copies of the documents governing the community to participants and provide an overview of those documents;
- Teach how to read financial statements;
- Educate about the duties of officers and directors; and
- Inform about parliamentary procedure and other requirements for calling and conducting a meeting.

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Run for Justice

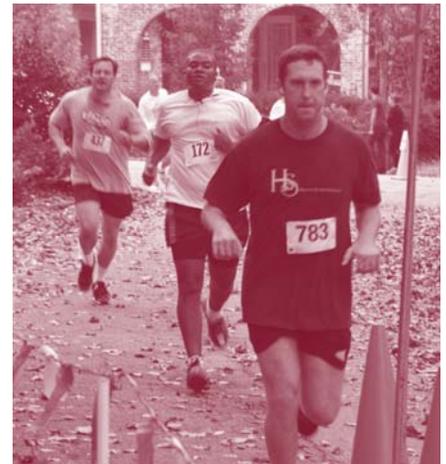
On November 11, 2006, Hyatt & Stubblefield sponsored the Atlanta Legal Aid Society 2006 Run for Justice and the attorneys, staff, and their families who participated in the event. The Run for Justice raised almost \$20,000 to help the Atlanta Legal Aid Society continue to ensure that there is justice for all in our community. Kudos to Neal Stubblefield, who won first place in the Masters Male category for all men over 40.



Pictured first row left to right: Ryan Smith, Jan Bozeman, Julia Adair, and Mashirika Haire. Second row left to right: Kristi Smith, Neal Stubblefield, Wayne Hyatt, Jo Anne Stubblefield, Shayne Adair, Thad Woody, and Ashley Smith.



Wayne Hyatt, David Herrigel, Willie Herrigel, and Sam Herrigel after the race. Not pictured: Carol Lipinski Herrigel.



Thad Woody at the finish line.

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Board training can take whatever form your board members find convenient and comfortable, from informal self-study to more formal classroom style instruction, and some of both may be appropriate to adequately cover the information community leaders need at the outset of their tenures as officers or directors.

You might also consider inviting all residents to the training sessions to help them grasp the intricacies of running an association. Understanding the role a board member plays might eliminate people's reluctance to run for the board in the future, or at least make them more sympathetic to the board's responsibility. You should not attempt to educate officers and directors on all aspects of community association governance, but providing an overview of the governing documents and the board's governing authority and providing informational materials and resources from which the officer or director can draw as questions arise during his or her tenure will go a long way in preventing an officer or director from overstepping his or her authority or failing to act on issues that could have serious ramifications.



Inside News

- Jo Anne Stubblefield is a faculty member for the American Law Institute-American Bar Association advanced course of study on Drafting Documents for Residential and Mixed-Use Condominiums and Planned Communities being held February 22-24, 2007 in Scottsdale, Arizona.
- Congratulations to Jo Anne Stubblefield for being named in *Who's Who Legal: Georgia 2007, Georgia's Leading Business Lawyers*.

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