

HOA's: Fundamental Flaws

-- They Serve Many Others, But Not Owners!

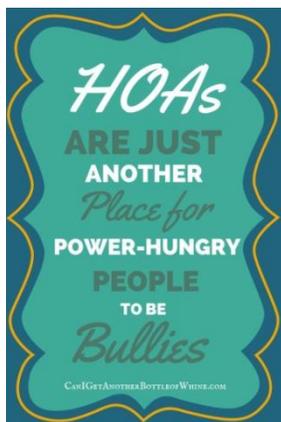
1. Imbalance of Power

California laws (and most other State HOA laws) that govern HOA's give a decided power-advantage to Boards over Homeowners. In CA the State Attorney General has responsibility for overseeing HOA's in certain basic realms (e.g., must notify members of Assn. meetings). However, this oversight is so general that it provides owners no real, meaningful ways to counteract typical HOA problems. No CA State Agency is willing to take significant, meaningful action when homeowners are wronged. If an owner lodges a complaint with the CA State Attorney General, they often automatically send notification to the owner's Assn. of the complaint. The CA Bureau of Real Estate has responsibility for oversight of how HOA's market themselves to buyers, but it puts the burden of proof of any wrong-doing on anyone who registers a complaint. Despite the fact that purchase of a home/house is one of the most major events in the lives of most people, the CA Dept. of Consumer Affairs has absolutely no interest in the experiences of consumers in their dealings with HOA's (based on my direct experience).

Developers and contractors, County governments, attorneys, politicians, the RE Industry and the HOA-Service Industry all benefit hugely from HOA's Statewide (Nationwide, too!).

Because HOA's laws are virtually unregulated, heavily favor Boards and are written in rather vague ways, homeowners are at a severe disadvantage. Several Land-Mark Scientific Studies ([Stanford Prison Experiment](#); [Milgram Obedience Experiment](#)), plus the long-history of scientific study of the social-psychological dynamics of groups and communities, have shown that when one group of individuals is given this kind of power over others, abuse-of-power is the inevitable outcome.

The majority of problems within HOA's stem from this basic dynamic. Indeed, the entire HOA "system" is a "set-up" to produce it. One common remark illustrates this well ----



2. Ignoring “Human Nature”

Along with the “Imbalance of Power”, which completely ignores typical power-dynamics in human communities, HOA laws and the current usual functioning of most HOA’s seem to ignore other basic aspects of human-nature.

Private Inurement Temptation – HOA’s also create a powerful inducement for “Private Inurement”, or self-dealing. Individuals, who are most prone to self-dealing, tend to either get directly involved in governance or in becoming a vendor to an HOA. One of the most invasive forms this can take is one where one such person gets onto the board while another becomes a vendor, and the former acts so as to insure that contracts for certain services to the HOA go to the other person (vendor).

Despite the fact that almost all HOA laws contain some prohibition against self inurement, it is a widespread and deeply ingrained phenomenon in many HOA’s.

Collective Narcissism – This is a dynamic that was first observed in human-communities long ago. Essentially, it involves the gravitating together of certain community members who tend to have pronounced traits of self-centeredness, superiority and entitlement. One common example in HOA’s are those who were part of the initial formation of the HOA and/or those who became owners very early in the life of the HOA, who view themselves as the “original”, “established”, and, therefore, the most-important, even superior owners. As a result, this group(s) also tends to believe that they have an entitlement that exceeds other owners, i.e., an entitlement to have their wishes granted or their opinions given priority.

Pressure To Conform – With the emphasis on their CC&R’s, Environmental Control Rules and other governance structures, HOA’s tend to expect, or even demand, CONFORMITY. Again, as with nearly all human-groups, this desire for conformity can become excessive, too lax and/or inconsistent. But there is nothing that recognizes this inevitable cycle let alone that aims to balance it!

3. Illusions of Control

An “illusion-of-control” is also created by the HOA “system.” This includes what are called “CC&R’s” (Covenants, Conditions and Restrictions) that pertain to the various “Environmental Control Rules.” This is the notion that an HOA is a “private” community, that it may be a “gated” community, that its various facilities are called “amenities” that a for members-only (sort of) and the really elusive and slippery concept that an HOA somehow enhances property values.

CC&R’s and Environmental Control Rules – These are typically rather long, legalistic documents that few owners actually read and fewer yet actually understand. They “legally bind” the owner to abide by numerous rules covering how he keeps his house, land, autos, boats, RV’s, his overall conduct, finable offenses, etc. They give the “illusion” of a more structured, regulated, ordered community, when, in fact, their application depends totally upon those in-

charge. Within this realm, problems in most HOA's derive from over-enforcement, under-enforcement or inconsistent enforcement.

"Private" Community - Since HOA's began as a method of circumventing others' civil-rights and catering to a sense of exclusivity, this initial mind-set has persisted over the years. Even though Federal laws have virtually eliminated the use of either of these two perspectives to keep-out certain groups, the idea of an HOA as a "private" community occasionally still comes up. Most State laws and ALL Federal laws apply to ALL HOA's.

"Gated" Community - A rather thin "illusion" of security. Outsiders still routinely get in!

Amenities – Facilities and services within an HOA are usually for-members-only. However, there are many examples of HOA's having bent this concept so that it can apply to open-to-the-public, for-profit-businesses! Go figure!

Enhanced Property Value – This is a concept often used by HOA's in an attempt to make owners, buyers and outsiders believe that the HOA's mere existence enhances the value of all the properties within it. It's a Half-Truth! The reality is whether any HOA enhances property values depends directly upon how well that HOA is run. A poorly run HOA can actually depress property values.

4. Impaired Leadership

Many HOA's suffer significantly due to impaired leadership. Within HOA Boards, this stems directly from the fundamental assumption that a Board comprised of **any** association members can effectively run that assn. as long as they adhere to commonly accepted practices. This is a highly significant factor about which very little has been said, written or studied.

Most if not all HOA Boards are "Volunteer" Boards made up of members who have run-for-election to become voted onto the Board. They are unpaid, often given little or no training for this highly responsible position and usually greatly over-worked. Consider this: An HOA of 6,000 or more residents with a budget of \$10-15 Million run by 7 people with little or no experience in that exact role. Some Directors do have significant formal education, some do have prior training and/or work experience in the business world, however, as most ex-Directors will tell you, they felt wholly unprepared for what they had to deal with. On top of that, consider the fact that many HOA's do little vetting of Directorial candidates and many provide little or no training in the duties, responsibilities or skills involved in being an HOA Director. Another "set-up" for serious problems!

A few additional and significant factors:

- Many HOA's provide no regular administrative support to Directors, e.g., clerical or research support. Yet folks are often "surprised" when Directors get "burned-out."
- Many HOA Directors come from the Baby-Boomer generation or older. Many in this group are suffering from age-related cognitive impairments. Few will admit this to

themselves. Few will point this out to another. Their involvement in governance can cause a variety of serious problems.

- Some of this group (20% at least) are suffering from life-long, unidentified learning difficulties that escaped detection due to the fact that identification of such difficulties didn't begin in the public school system until the mid-1970's. Again, a potential source of significant difficulties.

Managers: Inadequately Educated and Trained

Training for HOA Managers is provided and regulated within the HOA Industry by the California Association of Community Managers (CACM), the Community Associations Institute (CAI), and the Community Association Managers International Certification Board (CAMICB).

The problem with these training programs is that the prerequisites are a joke: "...the applicant must be at least 18 years of age and have a high school diploma or equivalent. The applicant also must have six months of community management experience..."

Even though these "Managers" can potentially become "General Managers" of HOA's the size of small towns, **no college background is required**. Contrast this with almost all "City Managers" who typically have completed a bachelor's degree but have also attained an MPA (Masters in Public Administration) - usually 5-6 years of course work plus professional supervision.

The courses offered by CACM, CAI and CAMICB should be termed "technical" courses, i.e., they educate the potential "manager" in the technical aspects of specific "community management" subjects. They are obviously a "quickie" route for someone with minimal formal education and minimal "community management" experience to become a "Certified Community Association Manager" - 36 hours of course work, 7 online exams, 3 recommendation letters and payment of over \$400 in fees (in addition to course costs). Again, contrast this with the "City Manager" with an MPA, who has spent 10-12 semesters (about 3 months each) doing coursework+exams for every one of those semesters! Though a longer educational process does not necessarily guarantee a better "Community Manager", the "quickie" programs provided by CACM, CAI and CAMICB cannot possibly produce the knowledge and skill levels required to effectively run especially large, complex HOA's.

Given the fact that people who are "credentialed" by CACM, CAI and CMICB become managers of communities of hundreds or thousands of residents, it's like putting the lives of all those residents in the hands of "managers" who are marginally trained -- like going to a paralegal for help with something really requiring an attorney -- like expecting a nurse-practitioner or physician-assistant to handle your child's cancer just as well as a pediatric oncologist. A nice little system these organizations have for making lots of money for themselves and their "trainees", but at what cost to homeowners?

WORST-OF-ALL

5. A Fear-Based Community

Hopefully, it has by now dawned on you that HOA's can be very unpleasant, if not downright stressful communities to live in. In fact one writer has coined the term, "[HOA Syndrome](#)", to describe a type of "Post-Traumatic Stress Disorder" resulting directly from the dynamics noted herein.

In addition to the various Power-Dynamics noted above, all creating their own problematic community interactions, there's another one with even more devastating effects: Bully-Sub-Groups. These folks can operate at various levels within HOA's: board, staff, committees, online social media, established cliques, etc. They can also range from small, unorganized, but nonetheless scary groups to well-organized, long-established, clandestine groups that control boards, staff and vendors and have connections with local "independent" media and politicians. One general manager of a large CA HOA had to seek refuge in a State victim-witness program in order to escape harassment from certain members of that HOA!

BOTTOM LINE: Whenever any community of people is allowed to function mostly independently and separately from the legal and business norms of the land, the aspects of human-nature noted above will inevitably take hold and create a marginally livable setting. HOA's are structured just in this way. Sooner or later they develop serious problems that are harmful to their inhabitants. HOA's need to be radically modified to counteract these problems, or they should be eliminated!