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*quality of neighborhood living*

[www.countryclubestateshoa.org](http://www.countryclubestateshoa.org)

## **MINUTES of the COUNTRY CLUB HOA BOARD MEETING – 7 October 2019**

President Steve Paradis called the meeting of the CCHOA Board to order at 5:35 PM on 7 October 2019 at the Ascension Lutheran Church, 2505 North Circle Drive, Colorado Springs, CO 80909.

Present: Steve Paradis, Ken Francois Janice Marie-Gallof, Sandy Gallof, David Corrow, Marty Henderson, Dorothy Hornby, Dave May, Vonney Northrop, and Vicki Tostanoski.

Steve handed out name tags and business cards for all Board members as his parting gift to the HOA.

The agenda for this meeting is provided in Attachment 1.

### MINUTES of the PREVIOUS MEETING:

- a. The minutes of the previous regular Board meeting held on 10 September 2019 were presented.. Janice motioned that the minutes be approved. Marty seconded the motion. The minutes were approved unanimously.
- b. **Sandy will send out all future minutes in both Word and pdf formats.**

### FINANCIAL REPORT (Marty Henderson):

- a. The Treasurer's Financial Reports for the period ending 30 September 2019 are provided in Attachment 2-4.
- b. Marty reported we had 3 more homes pay their 2019 dues in August, which brings us up to 53% of our HOA paying their dues. That leaves us with \$2,745.28 available funds to the board.
- c. Marty included a Budget Vs Actual report (Attachment 5). At the end of 2018, we depleted our operating money and 2019 was going to be a very tight year. We did a fantastic job this year being under budget and building up some buffer in the operating account for 2020.
- a. Thanks to Steve for doing the printing, the Newsletter only costs us \$289.33 and that was a paper mailing to everyone. Email was not used for this mailing since it including the Annual Meeting announcement.
- b. Using email for 100 or so members for the newsletter has helped as well as Steve's suggestion we print the newsletter and fold it versus stuffing in envelopes. Steve also printed 2 of the 3 newsletters which probably saved \$600 or so.
- c. Marty reported we had 2 new trash customers sign up in September which brings our total to 88.
- d. Marty expects no more than a 3% increase in our 2020 trash service costs. If this happens, then it will be reflected in the billing for 2020, which will go out in November.
- e. Marty reported he and Sandy created a service agreement for future business sponsoring advertisements (Attachment 6). We had 2 ads in the last newsletter, and Vicki has added those 2 ads on the website.

- f. Marty will track each business and their ad on a spreadsheet to know when the year is completed.
- g. Dave May motioned that the Financial Reports be approved. Vicki seconded the motion. The Reports were approved unanimously.

#### OLD BUSINESS

- a. Welcome Package
  - 1) Dorothy met with Dennis Bagenstos and agreed on getting 250 magnets
  - 2) Dorothy reported that 15-20 homes per year, on average, sold in our neighborhood..
  - 3) Dennis suggested a CCHOA Welcome Package sticker on the front cover of the Welcome Package. All agreed this would be a good idea.
  - 4) Dorothy will send out to all Board members, via email, the Welcome Package Introduction Card for review.
  - 5) Vicki asked if she should post the Welcome Package items on the Website. All agreed that this was a good idea.
- b. History Update:
  - 1) Janice reported she has received 400 copies of the History Book from the publisher.
  - 2) Janice stated she is looking at different options to distribute the book to all homeowners.
  - 3) Steve suggested handing out the Book at the end of the Annual meeting for those in attendance.
  - 4) Janice will do a History introduction at the Annual meeting, introduce/thank the History Committee members, and introduce the publisher, Don Kallus.
  - 5) The publisher will discuss the book's development, from his perspective, and the uniqueness of the book.
  - 6) Marty has provided address labels for the books.
  - 7) Janice stated that, for people who do not attend the Annual meeting, there are several possible ways to deliver the books. These include hand delivery by History Committee members to all interviewed homeowners, announcement on the Website and the next Newsletter about pickup availability, handing out book as part of the Welcome Package, and walking the neighborhood to meet and greet people.
  - 8) Sandy stated mailing the books to homeowners could be very expensive and should be used only if all other options failed
  - 9) Janice will report at the next Board meeting how many books still need to be delivered.
  - 10) Steve provided Marty a contribution check for the History Book. Marty will maintain all donor names and amounts for the record.
- c. CONO Update
  - 1) Ken attended the 12 September 2019 CONO meeting. The subject of the meeting was HOA Contracts. Ken reported the presentation was very good but was poorly attended (only 12 people).
  - 2) Ken will provide Sandy a copy of the meeting presentations for inclusion in the Board Meeting minutes. (Attachments 7-10)
  - 3) Ken will attend the 10 October CONO meeting. The subject will be Crime Prevention.
  - 4) Ken reported CONO is planning a Law Day get together on 9 November.
- d. Handling of Reported Issues/Complaints
  - 1) Steve responded to the Hansen email stating if Mr. Hansen has further concerns, he should contact Steve. Steve has not heard back from Mr. Hansen.

- 2) Dave Corrow asked who is responsible for the easement to the Golf course at the end of Grand View Lane. Dave May said he would check with the County Clerk.

#### NEW BUSINESS

- a. Annual Meeting: The focus of the Annual Meeting will be on building Community and Communications.
  - 1) Setup:
    - a) Steve stated we will need from the Church a microphone, podium and tables for the meeting.
    - b) Setup should start about 8:15 AM to ensure we are ready for the 8:45 start..
  - 2) Refreshments:
    - a) We will provide coffee, water, cream, sugar and cookies.
    - b) Dave May and Sandy will pick up these items at Costco before the meeting.
    - c) Steve stated we should plan refreshments for about 100 people.
  - 3) Sign in Process::
    - a) Sign in will be by addresses.
  - 4) Presentations:
    - a) Steve stated he would expand the agenda to capture all presentations.
    - b) Sandy suggested Marty present the Actual vs Budget (Attachment 5).
    - c) Steve will print out 150 copies of this presentation.
    - d) Board members will provide 3-5 minute presentations
      - I. Vicki will discuss the Website.
      - II. Dave Corrow will discuss Covenants.
      - III. Vonney will discuss the Garage Sale
      - IV. Ken will discuss CONO.
      - V. Dorothy will discuss the Welcome Package.
      - VI. Marty will discuss Financials.
    - e) Janice will introduce the History Book effort
    - f) The Book publisher will discuss the book development and his perspectives on neighborhood history.
    - g) Marty suggested an honorarium for the Church. Dave May motioned that the honorarium be last year's honorarium amount plus 10%. Dave Corrow seconded the motion. All agreed to the motion.
  - 5) Ballot Process
    - a) Sandy provided a sample ballot (Attachment 11).
    - b) Steve will print out the ballots.
    - c) Ballots will be handed out at sign in.
    - d) If no nominations are received from the floor, a hand or voice vote will be taken.
    - e) Vicki will count the ballots if required.
- b. Short Term Rentals (STRs)
  - 1) Sandy reported City Planning was to brief the City Council on 7 October 2019 on proposed amendments to the drafted ordinance on STRs.
  - 2) First amendment would limit maximum overnight occupancy to 2 occupants per bedroom plus 2 additional occupants per dwelling unit. Maximum occupancy per dwelling unit would be 16 occupants.

- 3) Second amendment would specify that no non-owner occupied STR shall be located within 500 feet of another non-owner occupied STR. There appears to be no concern about owner occupied STR density.
- 4) Third proposed change would define "Owner Occupied" as either occupied by owner for not less than 6 months of each year or owner is present on the property through the duration of the rental period.
- 5) There will be a Townhall meeting to discuss STRs on 14 October from 6-7:30 PM at the **Regional Development Center Building, 2880 International Circle.**
- 6) See <https://coloradosprings.legistar.com/Calendar.aspx> for additional details.

The meeting was adjourned at 7:00 PM.

The next regularly scheduled meeting will be: **Tuesday, 12 November 2019 at 5:30 pm at the Ascension Lutheran Church, 2505 North Circle Drive, Colorado Springs, CO 80909.**

Respectfully submitted,  
 Sanford Gallof, Secretary  
**CCHOA BOARD**

**Board Positions as of Nov 2018:**

President ..... Steve Paradis  
 Vice President .. Janice Marie-Gallof  
 Treasurer ..... Marty Henderson  
 Secretary ..... Sandy Gallof  
 At-Large ..... Dorothy Hornby  
 At-Large ..... David Corrow  
 At-Large ..... Dave May ..... Covenants  
 At-Large ..... Vicki Tostanoski ..... Chief Information Officer - Communications  
 At-Large ..... Vonney Northrop

**COMMITTEES:**

- COVENANTS/ARCHITECTURE: BOARD COORDINATOR - Dave Corrow  
 MEMBERS: **Open**
- SAFETY: BOARD COORDINATOR – Dave May  
 MEMBERS: **Open**
- HISTORY: BOARD COORDINATOR- Janice Marie-Gallof  
 MEMBERS: Deb Berwick, John Potterat, Judie Werschkey
- SOCIAL/WELCOME: BOARD COORDINATOR – Janice Marie-Gallof/Dorothy Hornby (Welcome)  
 SOCIAL MEMBERS: Open
- MEMBERSHIP: BOARD COORDINATOR – Marty Henderson (maintains database)  
 MEMBERS: **Open**
- COMMUNICATIONS: BOARD COORDINATOR - Vicki Tostanoski  
 MEMBERS: Susan Henderson (Newsletter), Susan Hoover (Facebook)

ATTACHMENT 1

**Board Meeting Agenda  
7 October 2019**

**Ascension Lutheran Church, 2505 North Circle Drive,  
Colorado Springs, CO 80909**

1. Convene **5:30 pm**
2. Roll Call
3. Reading and Approval of Minutes of Previous Meeting
4. Approval of Financial Report
5. Old Business (matters previously introduced which have come over from the preceding meeting)
  - a) Welcome Package Update
  - b) History Update
  - c) CONO Update
  - d) Covenants Issue
6. New Business
  - a) Annual Meeting
    - 1) Set Up
    - 2) Refreshments
    - 3) Sign In Process
    - 4) Presentations
    - 5) Ballot Process
7. Adjourn

**ATTACHMENT 2  
TREASURER'S REPORT: CCHOA FINANCIAL STATUS**

<b>As of September 30 2019</b>			
<b>Sources</b>	<b>Number</b>	<b>\$ Amount</b>	
2019 Dues Paid USPS	157	\$4,710.00	3 more than August
2019 Dues Paid via PayPal	11	\$317.13	Same as August
2019 Dues Paid Extra	0	\$14.00	
Totals for 2019	168	\$5,041.13	
% of 315 Homes that Paid 2019 Dues	53.33%		
2020 Dues Paid USPS	0	\$0.00	
2020 Dues Paid via PayPal	0	\$0.00	
Totals for 2020	0	\$0.00	
% of 315 Homes that Paid 2020 Dues	0.00%		
Operating Checking Account Balance		\$5,542.48	
Commitment to Waste Connection		\$3,158.00	
Operating Balance		\$2,384.48	
Reserve Account Balance		\$360.80	
Total Available HOA Funds		\$2,745.28	

**ATTACHMENT 3**  
**TREASURER'S REPORT: RESERVE RECONCILIATION SUMMARY**

9:32 AM  
10/02/19

Country Club Homeowners Association  
Reconciliation Summary  
US Bank -Reserve, Period Ending 09/30/2019

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	Sep 30, 19
Beginning Balance	360.80
Cleared Balance	360.80
Register Balance as of 09/30/2019	360.80
Ending Balance	360.80

**ATTACHMENT 4**  
**TREASURER'S REPORT: OPERATING RECONCILIATION DETAIL**

9:47 AM  
10/02/19

Country Club Homeowners Association  
**Reconciliation Detail**  
US Bank –Operating, Period Ending 09/30/2019

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						6,529.26
Cleared Transactions						
Checks and Payments –6 items						
Check	08/01/2019	427	Wechgelaer Steven	X	-56.00	-56.00
Bill Pmt -Check	09/05/2019	EFT	Waste Connections	X	-1,070.50	-1,126.50
Check	09/19/2019	429	Rhyolite Press LLC	X	-1,681.92	-2,808.42
Check	09/19/2019	Debit	USPS	X	-165.00	-2,973.42
Check	09/24/2019	EFT	Staples	X	-66.00	-3,039.42
Check	09/28/2019	Debit	UPS	X	-58.33	-3,097.75
Total Checks and Payments					-3,097.75	-3,097.75
Deposits and Credits –5 items						
Deposit	09/11/2019			X	41.00	41.00
Deposit	09/11/2019			X	86.00	127.00
Deposit	09/13/2019			X	200.00	327.00
Deposit	09/17/2019			X	102.00	429.00
Deposit	09/19/2019			X	1,681.97	2,110.97
Total Deposits and Credits					2,110.97	2,110.97
Total Cleared Transactions					-986.78	-986.78
Cleared Balance					-986.78	5,542.48
Register Balance as of 09/30/2019					-986.78	5,542.48
New Transactions						
Checks and Payments –1 item						
Bill Pmt -Check	10/01/2019	EFT	Waste Connections		-1,101.50	-1,101.50
Total Checks and Payments					-1,101.50	-1,101.50
Total New Transactions					-1,101.50	-1,101.50
Ending Balance					-2,088.28	4,440.98



**ATTACHMENT 5  
BUDGET VS/ EXPENSE**

	<u>Jan - Dec 19</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
<b>Income</b>				
<b>Ads Income</b>				
<b>Sponsor-Res Both</b>	350.00			
<b>Total Ads Income</b>	350.00			
<b>HOA Dues Income</b>				
<b>Dues 2019-12/31</b>	5,041.13	6,000.00	-958.87	84.02%
<b>Total HOA Dues Income</b>	5,041.13	6,000.00	-958.87	84.02%
<b>Total Income</b>	5,391.13	6,000.00	-608.87	89.85%
<b>Gross Profit</b>	5,391.13	6,000.00	-608.87	89.85%
<b>Expense</b>				
<b>Board Activity</b>				
<b>Meetings</b>	0.00	100.00	-100.00	0.0%
<b>Total Board Activity</b>	0.00	100.00	-100.00	0.0%
<b>Communications</b>				
<b>Newsletter</b>	595.09	1,050.00	-454.91	56.68%
<b>Website</b>				
<b>Web-stie Access</b>	179.88	185.00	-5.12	97.23%
<b>Total Website</b>	179.88	185.00	-5.12	97.23%
<b>Welcome Committee</b>	0.00	500.00	-500.00	0.0%
<b>Total Communications</b>	774.97	1,735.00	-960.03	44.67%
<b>Covenants Compliance Committee</b>	98.00	500.00	-402.00	19.6%
<b>History Committee</b>	0.00			
<b>HOA Meetings</b>				
<b>Block Party</b>	274.74	400.00	-125.26	68.69%
<b>Meeting Mailers</b>	51.98	700.00	-648.02	7.43%
<b>Meeting Rental and Services</b>	0.00	300.00	-300.00	0.0%
<b>Refreshments</b>	0.00	300.00	-300.00	0.0%
<b>Total HOA Meetings</b>	326.72	1,700.00	-1,373.28	19.22%
<b>Insurance-Bus Key-317, D&amp;O-11</b>	886.00	900.00	-14.00	98.44%
<b>Office Supplies</b>	0.00	50.00	-50.00	0.0%
<b>Postage &amp; Mail</b>	0.00	150.00	-150.00	0.0%
<b>Professional Fees</b>				
<b>Annual Corp Report</b>	0.00	20.00	-20.00	0.0%
<b>C O N O Dues</b>	125.00	50.00	75.00	250.0%
<b>Professional Fees - Other</b>	-50.00			
<b>Total Professional Fees</b>	75.00	70.00	5.00	107.14%

	<b>Treasurer</b>				
	<b>Dues Invoicing Postage</b>	<u>110.00</u>			
	<b>Total Treasurer</b>	<u>110.00</u>			
	<b>Total Expense</b>	<u>2,270.69</u>	<u>5,205.00</u>	<u>-2,934.31</u>	<u>43.63%</u>
<b>Net Income</b>		<u><b>3,120.44</b></u>	<u><b>795.00</b></u>	<u><b>2,325.44</b></u>	<u><b>392.51%</b></u>

ATTACHMENT 6

## Country Club 2019 CCHOA Advertisement Service Agreement

### Overview

The Country Club Homeowners Association (CCHOA), provides members and non-members the option to place advertisements in our newsletters and/or our website. We plan on producing 3 newsletters a year and our website is [www.countryclubestateshoa.org](http://www.countryclubestateshoa.org). There are 315 homes in our HOA including the Ascension Lutheran Church on the corner of N. Circle and Holiday Lane. There are different rates for members of the HOA, and non-members, businesses outside of our HOA who wish to advertise to the homeowners in our HOA.

The advertisements should be in business card size and in JPEG format. If you wish to place a larger ad, please contact Marty Henderson at 719-377-8003 or [mghenderson55@gmail.com](mailto:mghenderson55@gmail.com).

### Terms and Conditions

1. Conditions of Service: You must have paid your HOA dues, which are \$30 per year, and live in a home within HOA geographical boundaries to qualify for the member rates.
2. Indemnification of CCHOA: The below-named responsible party below agrees the CCHOA shall be indemnified and held harmless from all claims of any kind arising from services provided by the business being advertised. In the event that any claim arising from a customer of the business being advertised is brought against CCHOA, the below-named party agrees to pay any and all costs incurred by the CCHOA in defense of itself against the customer's claim, including attorney fees.
3. This agreement does not provide an endorsement of the business by the CCHOA. The CCHOA does not research or evaluate the services provided by the business being advertised.
4. Term of Agreement: This agreement shall remain in force for 1 year after the advertisement begins in either the website or Newsletter, whichever is applicable.

How to submit an advertisement to the CCHOA.

- 1) Complete this form below and enclose check made out to CCHOA.
- 2) Mail it to:  
Marty Henderson  
3132 Lees LN  
Colorado Springs, CO 80909
- 3) Or drop it in the secure mailbox at the same location.

The CCHOA Advertisement Program is currently being managed by the Treasurer who can be contacted via email at [mghenderson55@gmail.com](mailto:mghenderson55@gmail.com).

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

By signing, you acknowledge you have read and accept the terms and conditions of the 2019 CCHOA Advertisement Service Agreement.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

<b>Choose one of the options below</b>	<b>Newsletter Only</b>	<b>CCHOA Website Only</b>	<b>Both Newsletter and Website</b>	<b>Payment to CCHOA</b>
Member	\$100	\$100	\$150	
Non-Member	\$150	\$150	\$250	

**Please attach proposed ad in JPEG format**

## ATTACHMENT 7

### CONO PRESENTATION 1

<https://altitude.law/resources/newsletter/dos-and-donts-of-association-contracts/>

## DO'S AND DO NOT'S OF ASSOCIATION CONTRACTS

FILED UNDER [Governance](#), [Misc](#)

POSTED September 22, 2011

In my practice of community association law, I often encounter situations where I am asked to undo a mistake or get the association out of a jam. To some extent this is the nature of the practice of law in general. However, it seems to happen even more often when it comes to contractual relationships between associations and third party vendors or contractors. Inevitably, when these situations occur, I am asked to review a contract for the first time and to figure out how to make it work in the favor of the association. Too often, the results of my review are delivered in the form of bitter medicine that is hard to swallow.

How can these situations be avoided? The following is a brief set of “Do’s and Don’ts” about contracts that will help boards avoid common problems.

**Do** – Seek the advice of legal counsel before entering into any contract that is of significant value or time frame to the association. Is there a specific monetary value you can use as a rule of thumb to determine whether the association should spend the money to have an attorney review it? The answer depends on your individual association, the size of its budget and other risk factors. If your association has a million dollar annual budget, a \$10,000 contract may not be significant in value. If your association has a much smaller budget, it may be worth spending a few hundred on legal fees to have that \$10,000 contract reviewed.

With regard to time frame, long term service contracts can provide trouble down the road if the provider fails to perform as expected or otherwise falls into disfavor with the association. Any association, at the very least, should probably have any contract with a year term or longer reviewed by an attorney to be sure there is an adequate escape or termination available.

**Don’t** – Make any “handshake” deals. As my law professor used to say, an “oral contract is worth the paper it is written on”. What are the terms and conditions of the association’s oral contract with the landscaper? If they are not in writing, the terms are whatever either party can convince the judge they are. Why take the chance of having the other side lie and attempt to fabricate the terms of the deal? And why risk confusion if the manager who entered into the deal moves on? It is not that difficult to put the terms into writing, and in most cases the performance of the work can wait a few days for the writing to be completed and signed by both parties.

**Do** – Hold out for the revisions and/or contract provisions that are important to the association. If the contractor or vendor is motivated enough for the work it will find a way to accommodate the association in whatever it’s asking for, as long as the requests are reasonable and fairly common contract provisions. If the contractor or vendor is not motivated enough to agree to reasonable revisions, then there is a good chance the lack of motivation may be reflected in the quality of the work performed.

file: HOA Meeting Minutes-19/10/07

<http://www.countryclubestateshoa.org>

**Don't** – Sign off on any “proposal”, “work request”, “offer”, or “quote” on behalf of the association and think that it is okay because it is not called a “contract” or “agreement”. Depending upon the language in the document in question, it may effectively create a contract once signed no matter what it is called. If the essential terms are stated in the document, it may bind the association to a relationship with the other party, and the terms may not be favorable to the association. Have these types of documents reviewed by legal counsel before signing them, if they meet the standards of significance in money or length of time discussed above.

**Do** – Make certain, if you decide not to pay for an attorney’s review, that the agreement or contract has at a minimum the following provisions to protect the association:

- A definite term (number of years or months) that it will be in effect.
- Clearly state the amount to be paid by the association, to whom, and by when.
- No ability to increase the amount paid without the written approval of the association.
- Specify how the contractor will protect the association, by some combination of a hold harmless clause, an indemnity clause, and/or insurance coverage.
- A way to terminate the relationship, preferably without cause.
- The association can recover attorney fees in the event of breach by the contractor.
- The document should not give the contractor the authority to bind the association in any way to any other agreements or duties.

There are many other terms and conditions that we typically recommend to protect an association from harm. We can provide a more complete list upon request, but recognizing whether a particular clause is written correctly or provides adequate protection is really the job of a qualified attorney.

**Don't** – Assume that mediation or arbitration is always a good thing. Depending upon the subject matter of the contract, mediation or arbitration could simply prove to be a costly and time consuming impediment to being able to effectively “go after” a contractor who has failed to perform. On the other hand, mediation or arbitration can help resolve broken relationships that an association may want to keep intact, and can create solutions that are a win for both parties. Keep in mind whether a quick path to the courtroom is a good thing in any potential contractual relationship.

**Do** – Closely review, or have an attorney closely review, any termination provisions in the document before attempting to terminate the relationship. Certain termination clauses may contain very specific timing and notice requirements that, if not followed closely, will make an attempted termination invalid. Chances are you are terminating a contract because the relationship with the contractor has already gone sour. An ineffective termination could further sour the relationship and lead to costly litigation.

With the foregoing Do’s and Don’ts in mind, your association hopefully can avoid having to attempt “undo” something that shouldn’t have been “done” in the first place.

**ATTACHMENT 8**  
**CONO PRESENTATION 2**

**CONTRACTS COMPETENCE: A CONTRACT CHECKLIST -**

<https://altitude.law/contracts-competence-a-contract-checklist/>

You're finally ready to close the deal! You have agreed upon the critical deal points and only one obstacle remains in the way to a rewarding new business venture: signing the contract. Below is a checklist designed to help you evaluate a contract or identify gaps in your term sheet or letter of intent. Although the checklist is geared toward a services agreement, many of the checklist items are relevant to virtually any type of contract. For any significant contract, at a minimum, you'll want to consider the issues set forth below. Be aware that under certain circumstances courts may imply missing contract terms so it is critical to ensure that your contract is complete.

- Date of the Agreement
- Name of the Parties
- Recitals evidencing the purpose and intent of the Agreement
- Scope of Services
  - Milestones or timetable for delivery or performance
  - Change orders or modifications
  - Responsibility for providing materials and equipment
- Compensation Structure
  - Fees for Services
  - Reimbursement for costs
  - Payment due dates and billing method
  - Responsibility for taxes
- Warranties, Representations, Guarantees, Standard of Care
- Term and Termination
  - Minimum initial term
  - Permissive termination
  - Events of default
  - Termination for breach or default
  - Rights and remedies upon default
- Confidentiality and ownership of intellectual property
  - Scope of license
- Indemnification and Insurance
  - Circumstances for indemnification
  - Insurance requirements and proof of insurance
- General Provisions
  - Entire Agreement
  - Attorneys' Fees
  - Alternative Dispute Resolution
  - Notice
  - Successors and Assigns
  - Governing Law
  - Jurisdiction and Venue
- Signatures, Titles, and Date

## ATTACHMENT 9

### CONO PRESENTATION 3

<https://www.echo-ca.org/article/7-common-mistakes-approving-hoa-contracts>

## 7 Common Mistakes In Approving HOA Contracts

Reviewing and accepting contracts is a regular and important requirement for homeowner associations boards. However I see many boards that make mistakes in awarding contracts for work on association complexes. This article identifies some of the most common mistakes I see—and believe me, I see these every day.

### Failure To Check Out Free Information

Boards and managers often forego checking out a contractor. For construction contracts, the California State Contractor's License Board ([www.cslb.ca.gov](http://www.cslb.ca.gov) (link is external)) has a wealth of information on: protections, the vendor's principals, bonding information, insurability, complaints, claims, laws protecting the consumer, and licenses that are required and are held. And another source of free cross check information is references. Certainly, contractors and vendors will be loathe to give out names of persons who would give poor references; however, this is one way to find out if a contractor has worked for many associations. This information may prove to be very valuable, as you will see further along in the article.

### Acceptance of Fuzzy Terms

Boards and managers often respond on the basis of bid or proposal forms provided by the contractor rather than considering a "negotiated" or more balanced contract. Proposals and form contracts provided by contractors or vendors are always favorable to them, not to their association clients. Such documents are often one-page forms with handwritten notes on the front page and a reverse side that has another 20-30 terms printed in light-colored ink using very small, crammed-together type font that is rather hard to read. The bid offered may be vague to non-specific as to time, place, manner, phased work, and protections. What is emphasized is the price. This means the association's obligation is clear, but the contractor's is not. And it is as important to read the back side of such forms as it is the front.

### Ignoring Limitations on Authority

Many homeowner association governing documents have limitations on contracts. Entering into a contract that has a term of more than one year is a common prohibition, although laundry equipment, cable, and management contracts are some that are commonly listed in the exceptions to this rule. Some documents also require owner approval for certain contracted work (an example might be for capital improvements that exceed 5 percent of the budgeted gross expenses for the fiscal year or for borrowing that requires collateral). Ignoring the limitations does not automatically void a contract, but it does make a board and its manager look bad and such practices could lead to a claim for breach of fiduciary duty.

### No Way Out

Many contracts are very vague or non-committal about termination provisions. In other words, it's easy to get in but not easy to get out. And if the contract encompasses a lot of work or the term is for a long period of time finding a graceful way out can become very important if the association finds that it is unhappy with the contractor's work, conduct or reliability. A poor working relationship is hard on all the parties. Specifics on



incremental evaluation, assessment of work (such as a phased contract), and/or the ability to terminate the contract with or without cause on reasonable notice can become extremely important.

## Failure to Treat Insurance Requirements, Indemnification and Other Protections Properly

Associations need to be concerned about insurance protections; many assume that asking contractors if they have insurance (liability, bonding, workers compensation, etc.) is enough. It's not. If the HOA contract does not require by its terms that the contractor carry specific types and levels of insurance, does not require that the HOA be named as an additional insured when possible, does not require a contractor to carry workers compensation insurance, and does not require the contractor to carry and provide proof of a proper endorsement that provides protection for working in an HOA (for construction contracts – this is critical), there is little recourse to terminate the contract if the Contractor stops paying for the insurance and it lapses, or they lose their license and it lapses. And, it is critical to understand the indemnification provisions so as to make sure that the HOA cannot be held responsible for the contractor's mistakes or negligence. (See more on this below under Legal Review.)

## Failure to Keep Owners “In The Loop”

HOAs that find themselves under the “microscope” with owners may have failed in these areas: failure to seek multiple bids (to give a fair comparison of what terms, experience, offerings, and contractors are available), failure to keep owners sufficiently informed to garner trust, failure to respond well to those who raise questions, failure to recognize the importance of consensus building. It is especially important with regard to a very large contract that will require owner participation (such as approval of a special assessment) to provide the owners sufficient information as the process moves forward to build trust and confidence so that these things do not happen: (1) Owners demand copies of bids claiming they can find contractors who charge less, (2) Owners actively raise opposition in response to a proposal because they do not have a full understanding of the necessity of the work, the competence of the contractors, the trust in the board in choosing the right “team” geared for successful execution of the contract.

## Failure to Seek Legal Review

There are many things an experienced attorney will look for in a contract that a board or management may miss. The points listed in this article are just some of the things that attorneys are trained to spot and get corrected on behalf of the board and association.

## ATTACHMENT 10

### CONO PRESENTATION 4

<https://www.upcounsel.com/contract-checklist>

## **Contract Checklist: Everything You Need to Know**

A contract checklist helps you organize a contract's key parts before finalizing it which helps to reduce miscommunication and set expectations.

### **What Is a Contract Checklist?**

A contract checklist is a step-by-step list that helps you organize a contract's key parts before finalizing it. This helps reduce miscommunication, set expectations, and make sure both parties are on the same page.

### **Why Is a Contract Checklist Important?**

Contract disputes are common issues that require legal action to resolve. If one party doesn't hold up its end of a bargain, it might face a breach of contract lawsuit. A contract checklist tries to reduce the chance of this happening. It covers every aspect of the contract to make sure it's airtight. It removes vagueness and focuses on concrete terms that describe every aspect of the contract. Without a contract checklist, contracts might become problematic for one or both parties.

Because there are many types of contracts, a checklist becomes even more important. Many people don't realize that even a warranty, consulting agreements, noncompete clauses, or a bill of sale are all types of contracts.

### **What Should I Include on My Contract Checklist?**

Checklists should contain several items, including:

- Offer
- Acceptance
- Parties Involved
- Lawful Subject Matter
- Mutuality of Obligation
- Mutuality of Agreement
- Valuable Consideration

A comprehensive breakdown of the contract checklist should include:

- Identifying the Parties ◦Name of each business or individual.
- The type of businesses (sole proprietorship, partnership, corporation, limited liability corporation).
- Names of persons signing for each business.
- Official title of signer that designates his or her authority to sign a contract.
- Addresses of Each Party

- Underlying Assumptions - This is what is expected of each party within the contract.
- Purpose of Contract
- Terms - General terms. This is also known as an entirety clause.
- Force Majeure considerations. This outlines what would happen if something out of each party's control causes delays.
- Rights of each party. Parties should have the right to inspect the other's work for quality. If the work isn't up to a certain level, a clause should outline the timeframe to bring the work up to that level.
- Quality levels that aren't met might result in termination. It might also allow for a replacement of the supplier.
- Who covers the cost of delays and remedies of work?
- Duties of each party. This is either an absolute or assumed obligation to use reasonable skill and care.
- Enforceability clause. This gives each party the right to enforce terms of the contract when they see fit.
- Assignment provisions. This forbids one party from outsourcing part or all of the contract without the other party's permission.
- Notice clauses, which specify how notice should be given under the contract.
- Relevant quantities, dates, and prices. Dates should include a start and end, as well as a term. This should also include a detailed list of all the materials each party needs.
- Payment terms. Lump sum, installments, cash on delivery in the relevant type of currency.
- Payment terms should also consider whether one party can deduct payments for flawed work.
- Payment Dates. A payment schedule should come attached to the contract. Common payment dates include a specific day or number of days after receiving an invoice. The time period should be reasonable. It should also include any payment based on contingency.
- Taxes. Details who is responsible for paying taxes at federal, state, and local levels.
- Late fees. A late fee for underpayment or lack of payment agreed on by both parties.
- Interest. Determines if late payments are subject to interest.
- Disclaimers
- Applicable state law considerations
- Warranties
- Venue of any lawsuits involving the contract
- Liquidated Damages - Here you should mention any party's right to intellectual property.
  - This should also include how damages are calculated.
- Liability Limitations ○This caps the amount of damages one type can sue for in case of bankruptcy.

- Indemnification Agreement - A statement of who is held accountable if there's damage to any goods during the contract.
  - The indemnification agreement also details that each party is responsible for claims, liabilities, injuries, suits, demands, and expenses that occur due to oversight or neglect.
- If another entity sues both parties, this agreement might help with their legal defense as long as it's in the best interest of each side.
- Arbitration Clause ◦This should note if disputes automatically go to arbitration.
  - It should appoint an authority that both parties agree upon.
  - Location of the arbitration hearings.
- Governing Law - This determines what state law governs the contract.
- Confidentiality Provisions ◦If one party gives the other sensitive documents, the confidentiality provisions protect the giving party against the receiving party selling or leaking the documents.
- Statement that assures that the contract constitutes an agreement
- Individual provision severability clause
- Signatures of authorized persons
- Notarization
- Checking for inconsistencies between the contract and supporting documents
- Statement that outlines terms regarding termination of contract. If possible, it should also discuss if either party can suspend the contract permanently or temporarily.
- Common reasons for contract termination include: Prolonged delay, Prolonged Force Majeure, Insolvency by one party, Convenience, Contractor's breach of satisfactory products
- Specification of who owns certain equipment or other assets at the end of the contract
- Any other documents of significance to the contract
- Renewability provisions
- Insurance - Making sure the deductibles and coverage are appropriate for both parties.
- Criminal background checks
- Performance criteria and test to check for expertise and completion. If performance is not met, this should outline whether it results in a remedy or termination of contract.
- Responsibility of Licenses and Permits
- Mechanics Lien ◦This protects your party if the supplier doesn't pay its raw materials provider.
- Evergreen Clause ◦This clause automatically renews the contract after the specified terms end. This only applies if the supplier receives no notice of the contract's termination.
- Alternative Dispute Resolution (ADR). These are helpful provisions that speed up any disputes during the contract.

After going through your checklist, it's still important to have your legal departments or an attorney review the contract. Once you sign, keep several copies of the agreement for your records.

### **Provision and Language to Avoid Checklist**

On top of all the main information, it's also important to strike down damaging provisions and language by including:

- Vague words and descriptions.
- Attorney's fees.
- Using the word "agrees" instead of "warrants."
- An agreement for a state entity to provide insurance or become the agent for one of the parties.
- Exclusivity agreements, unless wanted.
- Statement of assumption for personal liability.

### Questions About Contract Checklists

1. How do I document payments? -  
Pay by check and get a receipt. This gives you a paper trail proving you paid the right amount on time. Thirty percent is a reasonable down payment if required.
2. How do I protect myself from bad contracts?  
Always have a professional review the contract before signing. You should also do your own research on the other party in the contract. If they must have permits and licenses, ask to see them. You should also look for an Escalator Clause. These clauses automatically raise your payments to vendors each year. Always sign and put contract changes in writing, but do not sign an incomplete contract.

Contracts are confusing parts of your business. That's why it's important to trust the right attorney to review your contract and offer advice.

**ATTACHMENT 11**  
**DRAFT BALLOT 2 November 2019 Annual Homeowners Meeting**

**President (Vote for one)**

- Vonney Northrop
- Write – In \_\_\_\_\_

**Vice President (Vote for one)**

- Janice Marie-Gallof
- Write – In \_\_\_\_\_

**Treasurer (Vote for one)**

- Marty Henderson
- Write – In \_\_\_\_\_

**Secretary (Vote for one)**

- Sandy Gallof
- Write – In \_\_\_\_\_

**Directors at Large (Vote for one)**

- Ken Francois
- Write – In \_\_\_\_\_

**Covenants Compliance Committee (Vote for up to three)**

- Dave Corrow - Chairman
- Dave May
- Rich Northrop
- Write – In \_\_\_\_\_
- Write – In \_\_\_\_\_
- Write – In \_\_\_\_\_

**Owner (Print Name):** \_\_\_\_\_

**Owner (Signature):** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Proxies (Attach):** \_\_\_\_\_