

Comments for CAI's UnGated Blog, May 22nd entry, *Critical Mass*.

The latest response to advocates' criticism of the Common Ground article, Critical Mass, and of CAI and HOAs in general, comes in another Tom Skiba, CEO of CAI, BLOG entry.

In this May 22nd entry in "Welcome to Ungated", CAI's non-restricted BLOG, Mr. Skiba ignores those who see HOAs as a defective product. So, allow this humble advocate who, in Mr. Skiba's words, "revolt[s] at democracy at its most local form" to shed some light on these "word games" -- you know, It depends on what the meaning of "Is", is.

For example, democracy is freedom, but HOAs are compulsory and government mandated housing. Homeowners are not free to negotiate the CC&Rs provisions, nor are they fully informed of the consequences of HOA living to a make voluntary and freely exercised consent to these restrictions. Homeowners are not even told that the democratic principles of government cease when you take possession of your deed restricted HOA home. Democracy is not simply voting rights. If so, Cuba and China would be declared democracies.

The CEO goes on to make contradictory statements, not talking about democratic governance, but about corporate government and the declaration that associations are businesses, pure and simple. Everyone knows that Civics 101 or Government 101 do not talk about corporate governance, but public governance.

What we cannot support are situations that compromise the financial health and well-being of associations, place an undue regulatory burden and cost on associations, or treat associations differently than any other type of business entity. Because that is what associations are - businesses.

They aren't governments, they aren't personal private clubs, and they certainly aren't fascist states created to deprive poor, unsuspecting homeowners of their rights. They are businesses that need to be run in a professional and business-like manner.

Now he calls HOAs a business, but makes no mention that, as such, HOAs would be subject to UCC provisions for bona fide contracts, fraud, debt collection, etc. And yet, CAI supports legislation that makes the HOA more like a governmental entity with protections for the HOA, but without a citizen-member bill of rights. You just can't have it your way all the time, and that's being reasonable. Nor does he accept the fact that a mismanaged or poorly thought out business model should not be propped up by state laws in order to make it work, preventing free market forces to determine what businesses succeed and what businesses fail.

CAI does not want to recognize, and has objected to the application of constitutional restraints on HOAs as if they were, indeed, true principalities subject only to their own private constitutions, the CC&Rs. Why then the statements about democracy and the will of the people as stated in the BLOG? Because CAI needs the statutes and support of the legislators to sanction the unconscionable provisions of these CC&Rs; and for the enforcement of these contracts that are not understood by many homeowners, who are not asked to even initial no less sign them as must occur in a bona fide contract; and many other reasons, some mentioned here, and too many to list here.

Mr. Skiba offers valid reason or justification for the restriction of fundamental freedoms and liberties, except to coerce compliance with the "laws" of defective, authoritarian regimes that are corporate businesses. He offers no reason why this very important fact is absent from any of CAI's literature that explains and describes to potential HOA buyers that they are not buying a home, or carefree community, but a business. Yet, with this material information being withheld from buyers, CAI dares to proclaim the truth of its surveys on HOA satisfaction.

I have listed below a number of summer reading sources for CAI members to read and try and comprehend. Mr. Skiba should be aware that they are full of authoritative sources and not "the vindictive, hateful, and petty behavior" that is "counter-productive to making communities better" as he attempts to discredit those not following the CAI path of authoritarian, corporate governance. This I see as the first step toward the "open exchange of ideas" that Mr. Skiba has put forth in his blog, and his acceptance that "Criticism is healthy for any industry that takes itself seriously."

1. *Common Interest Communities: Private Government and the Public Interest*, Barton & Silverman, eds. Univ. of California, Berkeley 1994).
2. *Community Associations: The Emergence and Acceptance of a Quiet Innovation in Housing*, Donald R. Stabile (Greenwood Press, 2000).
3. *The Constitution & Private Govt*, Steven Siegel, William & Mary Bill of Rights Journal (Summer 1998).
4. *Neighborhood Politics: Residential Community Associations in American Governance*, Robert Jay Dilger (New York University 1992).
5. *Privatopia: Homeowner Associations and the Rise of Residential Private Governments*, Evan McKenzie (Yale University 1994).
6. *Technical Bulletin No. 50, The Homes Association Handbook*, The Urban Land Institute, 1964.
6. *Villa Appalling! Destroying the Myth of Affordable Community Living*, Vanitzian & Glassman, 2002.
7. George K. Staropoli, *The Case Against State Protection of Homeowners Associations*, (Infinity Publishing 2003) ISBN 0741416204.
8. -- *And the Land Shall Be Made Good Again: a poem*,
http://pvtgov.org/pvtgov/downloads/the_land.pdf.
9. -- *National Lobbyist for HOA Principalities*,
<http://pvtgov.org/pvtgov/downloads/politburo.pdf>.
10. -- *Commentaries on Private Neighborhoods*,
http://pvtgov.org/pvtgov/downloads/private_hoods.pdf. (review of the 2005 Robert H. Nelson book).
11. -- *Community Associations: A View by a Homeowner Rights Advocate*,
<http://pvtgov.org/pvtgov/ca.pdf> (review of *Community Associations*).
12. -- *Somewhere Over the Rainbow*, StarMan Publishing 2005 (DVD) (Arizona foreclosure legislation in 2004). ISBN 0974448826.

13. -- *Homeowner Rights Advocacy: The Arizona 2006 Legislative Campaign*, Vol. One, Parts 1 & 2, StarMan Publishing 2006 (DVD). (Arizona substantive legislation in 2006).
14. -- *Homeowner Rights Advocacy: The Texas 2006 Legislative Campaign*, Vol. Two, Parts 1 & 2, StarMan Publishing 2006 (DVD). (Texas hearing on TUPCA).

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