



[Rebuttal of CEO President Tom Skiba's Ungated, "Build vs. Destroy", blog entry](#)

Note: Mr. Skiba's original post is in black.

Welcome to Ungated

Build vs. Destroy

by Tom Skiba at 05:35PM (EST) on February 11, 2008

As I sit here in my office on a cold, sunny Alexandria day, I am watching as two small one-story office buildings across the street are being demolished to make way for a new multi-story mixed use project. It's amazing that just three workers and a couple pieces of heavy equipment can make so much noise and reduce these buildings to rubble in just a single morning, taking apart buildings that took the cooperative efforts of dozens or even hundreds of workers and weeks to build: architects to craft the vision, engineers to design the structure, skilled craft workers to do the masonry, electrical, plumbing, and other systems, and many others who contributed to construct buildings that were a successful, thriving place of business and employment for many years.

I guess I see some ironic parallels in the community association industry.

On the one hand we have literally millions of homeowners who are working to make their communities better places to live, serving on their boards, volunteering to staff events and activities, and building community each and every day.

Why do I keep on hearing about so much apathy? And CAI lobbyists urging homeowners to get involved?

Together with management companies, professional community managers, and the many other professionals who support communities across the country, they are the builders who are committed to protecting property values, ensuring that communities serve all of their members, and giving of themselves and their time.

Professionals? Let's see CAI does have a substantial number of attorneys who could be classified as a "professionals, since the bar does indeed maintain a code of ethics that it enforces, along with other bona fide professionals like CPAs, doctors and even real estate agents. But, I haven't seen one management "professional", or attorney member, charged with violating CAI's code of ethics, and published in its Common Ground, as called for in its code of ethics.

Does CAI teach a code of ethics to CAMs in Florida as part its licensing program? Or, offer courses in agency law, since CAMs are agents of the HOA and not just another landscaper.

"Serving" and "giving themselves" to what end? Maintaining property values? At what price? The loss of liberties and freedoms, and not being subject to those same laws that protect the citizens from government abuse. James Madison wrote in *The Federalist Papers*, #51, something that CAI seems to want to ignore, "*If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.*" Our Founding Fathers saw the need for controls on governments, all forms of governments.

On the other hand, we have the folks bent on making a lot of noise and tearing down the work of others, the individuals who believe that there is no good community association, that all boards are corrupt, and that if you are happy in your community you are at best a dupe and at worst an unindicted co-conspirator in the great community association conspiracy, a conspiracy that exists only in their minds.

A conspiracy can be viewed as an unspoken alliance, and need not be in writing. Now, is there a conspiracy of silence? You bet there is! All that is needed is to have read *The Homes Association Handbook*, the "manifesto" for the mass merchandising of planned communities to understand the personal agenda of the special interests. Or ask why state agencies do not provide for warning notices or advisories to homebuyers as they do in many other areas to protect consumers from telemarketers, or other scams, or to provide info on truth in lending, truth in advertising, employee rights, etc. Not one state agency in any state provides information on the loss of rights and protections when buying into an HOA. Neither does CAI's Rights & Responsibilities address the issues of a bill of rights, or an adhesion contract, or the justification for constructive notice to permit the surrender of unspecified rights. Let's be honest here, folks! What organization has lobbying groups before every state legislature to protect the HOA industry, the income stream of its business members?

Yes, the manifesto is well thought out and well reasoned to serve the business interests of the builders, attorneys, and management firms to create authoritarian regimes that must deny homeowners the equal protection of the laws and due process in order to make legal concept work. It is the unconscionable adhesion contractual nature of these declarations that bind homeowners not by their explicit consent, but by posting to the county recorders office.

Their goal is not to make communities better, their goal is to eliminate communities, to cripple them, and to turn every homeowner into a victim.

Are these communities consistent with and subject to the laws of the land as all other forms of government within this country or state? No way! They are corporate forms of government serving the state (the HOA) objective to maintain properties values first and foremost, and not consistent with those American principles of individual rights and freedom, of justice and liberty.

They do not have a prescription for improvement, unless you call total destruction a reasonable and thoughtful prescription. Kind of like swatting a mosquito with a cruise missile.

The best way to protect and serve homeowners is to arm them with information and knowledge, to educate them on their rights and responsibilities.

Why is CAI opposed to the extension of constitutional rights to homeowners, as stated in its amicus brief to the NJ appellate court in the Twin Rivers case? Does CAI object to the Constitution as the supreme law of the land? Is CAI advocating separatism from state and municipal laws and government, as envisioned in *Private Neighborhoods*?

Why is it that CAI hides the fact that it's a business trade organization that receives tax benefits for the purpose of supporting the business interests of its members, the attorneys and management firms? Why does CAI insist on having individual homeowners, and especially board members, be part of CAI? Isn't that inducing these board members into a conflict of interest situation? Board members have a fiduciary duty to its owners, the homeowners. How can CAI, as a trade group, support the consumers of its business members, since HOAs are consumers, and still tell legislators that they are speaking for the HOA, never mind individual members? Is it because CAI needs a pretense to speak for the only true stakeholders, the homeowners?

And that is what CAI and our members are all about. Building community and consensus is not easy, but it is not something we can or should outsource to a far off State House. Successful communities are built by connecting neighbors, empowering them, informing them, and always, always communicating.

Why then are all those complaints about denying homeowners access to HOA records, resisting open meetings, failures to establish fair elections covenants, or to provide due process by independent tribunals, and the absence of penalties against board and officer violations to which we hold our public government and officials?

The siren call for greater regulation by the state, however alluring, can in the end result in disenfranchising homeowners, increasing costs, and eroding community values and sense of ownership.

Why, then, is CAI promoting and supporting the adoption of UCIOA laws across this land? Isn't that top-down regulation, contrary to CAI cries of the voice of the local community? UCIOA is based upon the same principles and objectives found in the planned community 'manifesto', *The Homes Association Handbook*.

So this vision outside my office window leads me to take a moment and express my heartfelt thanks to all of the CAI members out there who are the builders, to those who teach courses, participate in legislative initiatives, run youth programs, serve their communities, and work every day to build better and better communities.

'You' are the "thought police" training others how to live and not cause problems under the unconscionable adhesion, enforceable agreement called the declaration, who see no evil in neighbors spying on neighbors, or in getting neighbors to collateralize their homes to keep the HOA alive.

You are the ones who are making a positive difference in our industry, you are the builders. Just remember that it takes an awful lot of cooperative work by many dedicated, industrious people to fend off the efforts of the few who build nothing themselves, but seem to delight in tearing down the work of others.

This statement reeks of political propagandizing by attacking opponents by labeling them in the same terms by which CAI and planned communities are legitimately criticized.

Perhaps we should remember the wisdom of Theodore Roosevelt, who said "It behooves every man to remember that the work of the critic is of altogether secondary importance, and that in the end, progress is accomplished by the man who does things."

Maybe we should remember the words recently spoken this past Super Tuesday, as I've paraphrased appropriately:

"A house divided cannot stand. We are more than a collection of condo and homeowners associations. We are, and always will be, the United States of America. Maybe your state doesn't have to be run by lobbyists anymore. Maybe the voice of homeowners can finally be heard again. Homeowners are tired of being disappointed, and tired of being let down, and tired of hearing promises being made . . . and nothing changed. We have to choose between change and more of the same." (Barack Obama's Super Tuesday Speech).

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