

Boot Camp For Boards

Presented by
Mary M. Howell

Attorney Mary M. Howell is the popular speaker who presents our Boot Camp for Boards program. Typically lasting three to four hours, Mary's entertaining delivery ensures that Board members come away with a good understanding of the laws and processes that directly influence the success of a community association.

Although the program covers all the basic legal concepts, Mary can tailor the material to suit the specific needs of any association. For example, senior communities may want more information on issues relevant to the 55+ group, while associations struggling with dues delinquencies may want more information on collections or foreclosures. Boot Camps focused on special assessments, developer transition, or brand new Boards of Directors, are also possible. Boot Camp always ends with a lively Q&A session.

The program cost is \$700. Any number of Board members may attend for this flat fee. To set a date for your Boot Camp for Boards session, please contact us at (858) 527-0111.

The following topics are generally covered in the Boot Camp presentation:

Common Interest Developments

- Davis Stirling Act
- Board Meetings and Executive Sessions
- Conflicts Between Boards and Homeowners
- Maintenance Issues

Nonprofit Mutual Benefit Corporations

- Member Meetings
- Ballots/Proxies and Voting Rights

Analysis of Governing Documents

- CC&Rs and Bylaws
- Fiduciary Duties of Directors

Senior, Disability and Discrimination Issues

Insurance Issues

[Scroll to see sample of program outline](#)

Boot Camp for Boards: Association Legal Issues

Presented by
Mary M. Howell, Esq.
Epsten Grinnell & Howell

1. **The Davis-Stirling Common Interest Development Act**
2. **The Corporate Model**
3. **Member Meetings v. Board Meetings**
4. **Important Issues for Board Meetings**
 - Section 1363.05–The “Open Meetings Act”
 - How boards may legally make decisions; emails
 - Agendas
 - Limits on closed/executive sessions
 - Homeowner forum
 - Set a good example!
 - Written rules covering the purpose of homeowner forum, and time and content limits
 - Don’t invite comment from the floor during the meeting
 - Egg timer and a gavel
 - “It takes two to tango!”
 - “Give ‘em enough rope”
 - Pack the pews
 - Designated motion makers
 - The RIGHT motions
 - Executive sessions
 - To consider litigation
 - Matters relating to the formation of contracts with third parties
 - Member discipline
 - Personnel matters
 - Meeting with homeowner to discuss payment plan
 - The “lone ranger” director
 - Perception is everything-but this STILL isn’t a democracy
 - “Loose lips sink ships”
 - No anti-SLAPP protection for statements made to the public
 - Attorney-General’s suggestions (97 Ops. Atty. Gen. 410)
 - Barring the director from future closed sessions (Hamilton v. Town of Los Gatos (1989) 213 Cal.App.3d 1050)
 - Canon of ethics

- Document demands
 - Director's rights (Corp. Code §8334 and Chantiles)
 - Homeowner's rights (Civ. Code §1365.2)
 - **Members** are still **not entitled to**: attorney-client privileged information, "information reasonably likely to compromise the privacy of an individual member of the association", records of disciplinary actions and collection proceedings, executive session minutes (but executed contracts must now be produced), personnel records other than payroll records (which must be produced, with identifying information redacted).

5. Collections

- The three methods of collection

Court action

jurisdictional limits
multiple suits
problems with collection

Nonjudicial foreclosure

recording v. foreclosing liens
thresholds for foreclosure

Judicial foreclosure

when to use

- **Cannot foreclose a recorded lien for less than \$1800, or when assessments are less than 12 months delinquent.** The contents of the statutory annual notice regarding the association's collection rights have been changed. Most smaller assessments will be collected through **small claims court**, and the law has been changed to specify that an association may appear in small claims court through its manager or bookkeeper
- Before a lien can be recorded, the board must offer **IDRP**; also the **board** must **vote** on foreclosure; notice to homeowner is enlarged, and includes an itemized statement of charges, and the owner has the right to review the association's records to verify the debt. If the lien is recorded in error, the association must record a lien release within 21 days.
- Before a recorded lien may be foreclosed, **the association must participate in ADR if demanded by the owner, AND the owner gets to choose what kind of ADR.** Binding arbitration would be available except where the association intended to initiate judicial foreclosure.

- Use of debt collection agency
- Bankruptcy issues
- Death and trust issues
- Reverse foreclosure? Assignment of rents?

6. Enforcement

- Only 3 ways to do it: persuade 'em, fine 'em, sue 'em
- Lawsuits 101
 - IDRPs & ADR
- \$3,000 to sneeze in court (TRO's)
 - "Friday afternoon specials"
 - "cease and desist" letters
 - cameras and knuckle-draggers

7. Fair Housing Issues

- Familial status discrimination
- Disability issues

ADA v. FHA; both require "reasonable accommodations"; diminishing distinction re: 'who pays?'

Analysis framework–

Is the applicant disabled?

Is the accommodation necessary to effectuate an equal opportunity to use and enjoy the premises?

Is the accommodation reasonable?

Joint Statements of DOJ/HUD re accommodations, modifications

Q&A