

The HOA Gravy Train

Robert Metcalf

As a result of one of my recent comments the American Homeowners Resource Center has requested that I elaborate on the phrase "HOA Gravy Train" which, I use to describe the current state of affairs with regard to the business of "servicing" Homeowner Associations.

Dictionary.com defines "gravy train" thusly:

A position in which a person or group receives excessive and unjustified money or advantages with little or no effort:

As a resident and former treasurer of my HOA, located in Chadds Ford, Pennsylvania, I am intimately familiar with how this industry functions. In a word, it is appalling.

All Aboard ... Next Stop - Your Bank Account

Servicing HOAs represent a business opportunity that, for its practitioners, is almost unique in its capacity to fleece its "customers". Where else can you find

- An extremely large client base, approximately 60,000,000, that cannot say "no", as almost all HOAs are mandatory.
- Due to the incestuous relationship between the state legislators and the legal PACs that support them, it compels individuals to abide by laws written by the same people who benefit from them.
- Is guaranteed to go on forever because of deed restrictions that "run with the land in perpetuity".

Last year my HOA decided to change management companies. During the interview with the representative of the company we did finally hire, it became apparent that we would realize a reduction in annual operating expense of about \$20,000.00, which is significant for a community of our size. I was elated, as when it was included in the proposed budget for the next fiscal year, it would translate into an \$11.00 per month reduction for the residents. Who wouldn't appreciate that? Well, the prospective manager's reaction was; "**You never give it back ...**". I was stunned. The president, an insufferable busybody with a messianic complex who judges the accomplishments of the Board by how "busy" he has been as opposed to any concrete achievement, was delighted. He now could retain funds for no apparent reason and justify it by claiming that it was recommended by a "professional". I felt my seat jerk, as we left the station...

Hey, Where Did My \$50,000,000.00 Go?

The whole issue with HOA finances is confidence. Not the board's confidence in the management company, but vice-versa; the management company's confidence in the board to follow their every suggestion on how to "properly" run their own lives. This is of paramount importance, because if the board ever realizes that maybe life would be easier without "professional management" ... you would have an **HOA Gravy Train Wreck**, and as every sycophant knows, a gravy train wreck is the worst disaster imaginable.

The CID industry really should look to P.T. Barnum as its spiritual father. By performing a proper "cold read" of an individual board member, a management representative will know just how to appeal to that director to sell him whatever it is he wants. You see, at the heart of every relationship, be it personnel or business, is the concept of give and take. I give something to you and you give something to me in return. In the HOA/management relationship the two things exchanged are ego gratification for money. In their absolutely essential book **Villa Appalling**, Donie Vanitzian and Stephen Glassman go into some detail about the psychological makeup of the "Alpha Dog" board member. One of the primary characteristics of "Alpha Dog" is his or her penchant to be on the "inside". Vico Confino in his book **The Wrath Of Condo** describes this in exquisite detail, as well he should because this is the bedrock on which the HOA Gravy Train's tracks are laid, I mean you can't separate a fool from his money if you have no fool. So how does the CID industry turn what was probably a reasonable, if internally troubled, adult into the "jackpot", as the CAI likes to call it, from which \$50,000,000,000.00 per year is extracted without apology. Here's how:

1. Trumpet your "professionalism" with endless acronyms and alphabet soup. Just imagine how impressed Alpha Dog will be if you roll in and announce; "Hi, I'm Joe Manager CMCA, AMS, PCAM, LSM from MANCO. I have passed my M-100 and completed my PMDP program from NBC-CAM and I'm here to help you get your lawn mowed." Who wouldn't be impressed with that? I wouldn't. These "certifications" cost between \$45.00 and \$295.00 a piece and can be purchased on the Internet.
2. Make Alpha Dog immediately believe that he or she is on the "inside", and is special in your eyes. Alpha Dog, because of his' or hers' outrageously distended ego, will instantly fail to see the forest for the trees, and will accept whatever you say without even questioning it. Why? Because to question it would indicate that Alpha Dog was on the "outside" and **everyone** who is on the "inside" knows what you're saying is the truth.
3. Lay the groundwork to leverage the "**Fatal Flaw**" to your advantage. History has proven time and time again that the personal acrimony resulting from neighbor ruling over neighbor is your biggest potential payday. Since the currency of trade at the board/resident level is ego, you will always be assured of a certain amount of insanity because of it, especially with Alpha Dog at the helm. Be sure to stress how important "covenant violations" are, even though probably until you bring them up as a result of one of your "inspections", nobody would even be aware of them. Of course, you'll get 20% of any fines assessed.
4. Make sure you don't take responsibility for anything, that way if something goes wrong you can just walk away. Tell Alpha Dog that you are the HOA's **Agent**. That will impress the hell out of him or her, I mean only movie stars and professional athletes have agents, right?
5. Finally, make sure that each board member is aware of their "**fiduciary responsibility**". Alpha Dog will muse to himself. "Jeez, I have a fiduciary responsibility, I must be important ... Maybe if I do real good with this I can get appointed to the Supreme Court!" Your success in this overrides everything, because this "fiduciary responsibility" is what will convince the board to have allegiance to the legal fiction that is an HOA, as opposed to real people. This is what will empower Alpha Dog to commit the most heinous, unconscionable acts against his neighbors conceivable, and do so with a self-righteous certitude that George Bush would be proud of. In short, it turns the "**HOA Gravy Train**" into the "**Poor House Express**".

Attention, Attention ... Poor House Express Leaving On Track 9

One day, Alpha Dog was sitting around, trying to figure out how to aggrandize himself when the phone rang. It was one his "subjects" who posed a very important and serious question; "Does 2 plus 2 really equal 4?" Alpha Dog was at a loss. He thought he knew the answer, but given weighty nature of the question he decided to call Joe Manager for some "professional advice". After all, Joe had stressed to him how vital it was to take advantage of his "experience". He made the call.

When Joe finally got back to Alpha Dog, some days later, he replied,

"Hmmm ... do 2 plus 2 equal 4? That's a tough one. I better pass this on to our accounting division. They will be able to get you an answer."

A week later, Alpha Dog gets a reply from Joe.

"Our accounting department believes the answer is yes, BUT, because we are only your "agent" we're reticent to commit to a resolution. I think just to be on the safe side we better call in an expert. It's going to cost you \$250.00 per hour, plus travel expense, but it will be worth it, believe me."

Alpha Dog couldn't believe his ears. He had achieved a level of prestige that not he, in all his puffed up glory, could have imagined. He needed consultants!

At the next board meeting Joe Manager brought I. C. Profit with him. Mr. Profit had been doing "Community Association" work for 20 years. Who could blame him? At \$250.00 per hour, plus expenses, he had hopped on the HOA Gravy Train years ago and never gotten off. Answering questions that really anybody with a high school education would be capable of, had they not been enfeebled by the incessant ranting of MANCO, was just fine with him.

Alpha Dog: "We appreciate you taking time from your busy schedule to helps us. What did you find out?"

Mr. Profit: "Well, according to GAP (Generally Accepted Accounting Principles), 2 plus 2 does equal 4. HOWEVER, really the answer depends on what your documents say about the matter. To really be sure you should consult an attorney who specializes in CID law. This is something that has to be clarified before I can commit to the position I have stated".

Alpha Dog was euphoric. It was just like what the CAI had had described at their most recent "round table", which he had attended, at the expense of \$65.00 to the homeowners. "An HOA is a business – run it like one". Everybody knows that real corporations have lawyers, legions of them, and now "The Reserves At Beige Meadows, INC." was going to have some too.

Joe Manager recommended the firm of "Stealing, Fleece, and Loot". I. M. Stealing, one of the principals of the firm, had been instrumental in creating the state's "Planned Community Act". Through his membership in the CAI, he had been able to successfully lobby the state legislature on behalf of "all the residents who live in community associations" about a variety of issues. Joe suggested that Alpha Dog call Mr. Stealing for an "initial consultation". Alpha Dog's heart started to race in anticipation.

The next day Alpha Dog called Mr. Stealing. Even though Mr. Stealing's fee was \$600.00 per hour, Alpha Dog knew it would be worth it. After some initial niceties, which lasted 45 minutes, Alpha Dog discovered that Mr. Stealing lived in the exclusive neighborhood of "Old Town" where the homes start at a \$2,000,000.00 and there is no HOA. How odd. Then they got down to business.

Alpha Dog: "Well Mr. Stealing, I know Joe Manager has alerted you to our problem, what do you think?"

Mr. Stealing: "Well Alpha, before I can give you an answer I will have to study your documents. Can you get a copy to me? The law is very complicated when it comes to common interest developments. They are all different and require a considerable amount of effort to understand."

Alpha Dog: "Yea, I know what you mean. I hope **my** residents appreciate what people like you and Mr. Profit do for them. We would be lost without you."

Well, of course it's complicated, Mr. Stealing wrote the law and paid good money to see that it got passed.

A couple of weeks, and 4.6 billable hours later, Alpha Dog received a reply from Mr. Stealing. There was a problem. According to Mr. Stealing, the developer had failed to define "2" in the declaration. This meant that before Mr. Stealing could provide an answer the declaration would require an amendment to define "2". Alpha Dog fell silent. What do we do now? Mr. Stealing consoled him. "Don't worry, I can help you. **It happens all the time.** I've got a lot of experience dealing with issues such as this." Alpha Dog felt a wave of relief course through his body.

Six weeks later, Alpha Dog received the phone call he had been waiting for. Mr. Stealing announced that he had constructed a proposed amendment to the declaration to define 2, and that with the board's approval, he would consult with Joe Manager, from MANCO, about setting up a community meeting to adopt it. Alpha Dog requested a copy of the proposed amendment.

Article 1 Section 2 "Definitions":
The addition of the following:

2: The cardinal number that is the sum of one and one or a numeral representing this number.

Mr. Stealing then related to Alpha Dog that it had take 12.3 hours to prepare the amendment and that, along with the previous 4.6 hours would bring his total fee to \$10,140.00. Alpha Dog acknowledged that he wasn't surprised, given how complicated all of this was.

Of course there was quite a bit of preliminary work to be done, but MANCO assured Alpha Dog that they would take care of it. Joe Manager produced a list of items for the board to consider:

- We have to notify all the first mortgagees, as their approval is necessary for any changes to the declaration. Estimated cost, postage and time: \$235.00
- We have to notify all the residents of the meeting concerning this. We could do it through the mail, but a meeting is so much better. Estimated cost, postage and printing: \$175.00
- Of course, Joe Manager must attend. Estimated Cost: \$125.00

- Also, it would be foolish not to have Mr. Stealing there to answer any questions about the amendment. Estimated Cost: \$1,200.00.
- I also think that since this is an accounting matter it might be a good idea to include Mr. Profit, as it is finally his opinion that will make the difference. Estimated Cost: \$500.00.
- Finally, if the amendment is approved, we will have to record it at the county courthouse. Estimated Cost: \$100.00.

Alpha Dog totaled the bill:

1. Mr. Profit: \$1,032.00
2. Stealing, Fleece, and Loot: \$11,340.00
3. MANCO: \$535.00
4. Recording Fee: \$100.00

Total Cost: \$13,007.00

Alpha Dog thought to himself, "Not so bad when you consider the kind of high-powered talent required to correct such a serious problem, and besides, we can just levy a "special assessment" to pay for it. The community will understand when they realize how important this is, I mean anything that costs \$13,000.00 has got to be important, Joe taught me that".

Well, the night of the big meeting arrived. It was to be held in the community room at the local mall. In attendance along with the Board, Mr. Stealing, Mr. Profit, and Joe Manager were ... wait a minute, what happened? They outnumbered the residents 2 to 1. That's right, only 4 residents showed up. How could that happen? Don't they know the amount of work we have all put in to this?

Joe Manager comforted Alpha Dog. "Don't worry, I see this all the time. We'll take care of it another way, by mail or in person." Alpha Dog felt better. Joe knew what he was talking about and had never led Alpha Dog astray in the past.

Six months later, after an intensive personal contact initiative the amendment passed and was recorded, at an additional cost of \$575.00. Mr. Stealing and Mr. Profit submitted their opinion: **2 plus 2 does in fact equal 4.**

As Alpha Dog eased back in his chair with that deep sense of satisfaction that only a "job well done" can elicit, a thought came to him; Isn't it ironic that now, since it has been established that 2 plus 2 does equal 4, that would be the exact amount left in the "Reserves At Beige Meadows" operating fund, on deposit with The Community Association Banc (Banc with a "c", just like in James Bond movies). Alpha Dog just smiled, "those guys really know what they're doing, they even managed to stay within our budget."

This Train Don't Stop For Nobody

The real money to be made from the HOA Gravy Train is from legal fees and foreclosures. In most legal actions, both parties have something to loose. Again, due to the perverse sense of justice, endemic to the HOA universe, this is not the case. When I was a director of my HOA I was protected by a \$3,000,000.00 insurance policy. No matter what I did, short of an outright criminal act, could I be held

personally responsible for my actions. When you combine that with a rapacious HOA legal firm, the kinds of things that result truly staggers the imagination.

If you were a board member, could you ever, ever in your wildest dreams actually foreclose on one of your neighbors? I don't think if you asked anyone that question they would say yes. If that's the case, how does it happen?

I love the History Channel. Every now and then they do shows about the concentration camps in Germany during World War II. One of the most famous pieces of footage is where you see about 100 prisoners digging their own graves and when they have finished the German soldiers shoot them dead where they stand. The question I always had was, who are those soldiers? When you look at the film they look like young kids, 18, 19, maybe 20 years old. How could they do that? Furthermore, if 2 or 3 or 4 years before that incident, you asked any one of them whether he could see himself participating in something like that, how many would answer yes? I don't think any of them would. So how do things like that happen?

I think that as they often do, Hollywood provides an answer. In the 1974 movie, Chinatown, when Jake Gittes (Jack Nicholson) confronts Noah Cross (John Houston) about him fathering his own granddaughter, Noah Cross replies:

"See, Mr. Gittes, most people never have to face the fact that, at the right time and the right place, they're capable of... anything!"

I think the same holds true for the board of a HOA. All the managers, service providers, and legal firms **need** the board to believe in this fraudulent "fiduciary responsibility" to the association, which itself is nothing more than a legal specter, whose sole reason for existence is to enable the HOA Gravy Train to remain on schedule. Any possible consideration for the actual human beings who live in a community governed by one of these aberrations has long since evaporated into nothing, leaving behind only the scavengers to pick at the bones.

This "fiduciary responsibility" has to become a religion, because without that blind conviction on the part of the board, the HOA Gravy Train will derail and the money will stop flowing. That can never be allowed to happen.

What about the resident who says, "I like the rules, they keep up property values". Cardinal Richelieu once said, "If you give me six lines written by the hand of the most honest of men, I will find something in them which will hang him". In a HOA everybody is guilty, of something. It's only a matter of time before a confluence of events places virtually everyone in the crosshairs, and then the CID industry starts to work its magic.

Is it a conspiracy? No, I think "Grand Falloon" would be a closer description. A grand falloon is a collection of people or groups that have no prior knowledge of, or relationship with each other, yet act in cooperation to achieve a shared goal. Think of it as the crew who runs the HOA Gravy Train.

Here is an example of this phenomenon. My community is located in Chadds Ford, PA. The CAI has a local chapter with a website, <http://www.cai-padelval.org>. Up until the end of last year we were managed by Mid-Atlantic Management Company, <http://www.mamc.com> that is owned by Associa, <http://www.associaonline.com> who's CEO is John J. Carona

<http://www.associaonline.com/Corp/About/Leadership/jcarona.htm> who just happened to have "served three terms as a member of the Texas House of Representatives and currently holds the office of Texas State Senator, to which he was elected in 1996. He has also served the community as a bank director and as the personal advisor for the real estate departments of several area financial institutions. In 1999, Mr. Carona was named "Legislator of the Year" by the Texas Chapters of the Community Associations Institute, and in both 1999 and 2001 he was named to the "Legislative Hall of Fame" by the Texas Association of Realtors." Gee, do you think there might be a conflict of interest?

The CAI-PADELVAL website is unremarkable, however, every time you access the home page a new banner ad appears at the top. Mid-Atlantic is one of those ads. Now lets look at my HOA's "service providers".

- Insurance: We use Smith Insurance Co. They have an ad.
- Banking: We use Community Association Banc. They have an ad.
- Attorney: We were going to use Steven L. Sugarman, however the issue resolved itself. He has an ad.
- Reserve Study: We use The Falcon Group. They have an ad.
- Our Audit: We use Andrew Kellock. He has an ad.
- Landscaping: We use Shearon Environmental. They are listed in the business directory.

Mid-Atlantic Management Co recommended all of these vendors. The real lesson here is that our board followed every suggestion that Mid-Atlantic proposed. Once the HOA Gravy Train hits the "mainline" and starts to "highball" no one can get off.

The "HOA Gravy Train" Theory Of Relativity: $E = mc^2$

Einstein's Theory Of Relativity states, among other things, that matter and energy have equivalence. Energy = Mass x Speed Of Light (the limit of speed) squared. I propose a new theory:

$$E \text{ (Equity)} = M \text{ (Money)} \times C \text{ (CAI members greed, also a universal maximum)} \text{ Squared}$$

For the HOA legal firms, who are at the apex of the HOA food chain, the above equation takes on a special meaning. Unlike the service providers who convert equity into money at a controlled rate, much like a nuclear power plant, the law firms do it quickly, and with devastating effect, much like an atomic bomb. Anyone who has ever read about some of the horrific cases involving foreclosures or "reasonable" legal fees that sometimes run into six figures are witnessing the HOA version of nuclear war. Much like launching an ICBM, once a case is turned over to an HOA legal firm, it is impossible to recall. The process of converting the hapless property owner's equity into money has begun, and even the board cannot stop it. All of the constant harping on the part of the management company about the board's "fiduciary responsibility" comes into play as the board "inserts their launch keys" and turns them on the management company's "mark". This is the **"Equity Powered Runaway HOA Gravy Train"** powered by the conversion of equity into money. Once this happens in a community it can never be the same. Everyone who lives there, whether they want to admit it or not, will have in the back of their minds that yes, you can lose your house over how many rose bushes you planted.

How Can The HOA Gravy Train Be Stopped

This country was built on the idea of individual strength combined with a **voluntary** sense of community. The fact that we find ourselves in the present situation should not surprise anyone, as the existence of other corporately controlled "gravy trains" is as old as this country. All one has to do is to look at the various stock market "combinations" that span time from the 1800s all the way up to the present day. For all the CAI's pompous articulations about being "the new way to responsible community living", in the end they are just another bunch of con artists, plying their trade on an unsuspecting public, to put money in their pockets. It's no more glamorous than that. For our part, here are a few ideas on how to at least slow down if not stop the HOA Gravy Train.

- If there is a dispute in your community, insist that a sense of charity reign supreme. Every week people soliciting for various charities approach me. This is the embodiment of what it means to be an American citizen. Why not adopt a similar attitude towards your own neighbors. Everyone who lives in an HOA should have at least one year to clear up any debt, before any action is taken.
- If an action at law must be taken, use small claims court. You'll never here the CAI recommend this. NO LAWYERS ALLOWED, hence, no outrageous, ruinous attorney fees which, by the way, the HOA never sees.
- Finally, never, never, never, never, initiate a foreclosure action on one of your neighbors. THIS IS A LIFE DESTROYING EVENT, THE FRUITS OF WHICH WILL GO ALMOST ENTIRELY TO THE LAW FIRMS.
- LIVE BY THE GOLDEN RULE.

The next time you hear one of your self-absorbed board members start to talk about his or her "fiduciary responsibility" just remember, that's the management company talking, that's the CAI talking, that's the legal firms talking, all to keep the HOA Gravy Train on the track and on schedule, at your expense of course.

Robert Metcalf
Chadds Ford, PA