

WELL HELLOOOOOO OUT THERE  
I THINK I SAW YOU ONLINE

EDUCATION SESSION – APRIL 13, 2016 HOAs & SOCIAL MEDIA

EASTERN PANHANDLE ORGANIZATION OF HOMEOWNERS ASSOCIATIONS, INC.



# DEFINITION

- Social Media: applications that enable users to participate in social networking, (FaceBook, Twitter, Pinterst, etc.).
- Website: a collection of related web pages (text, documents, files), including multimedia content, (images) typically identified with a common domain name, (RougfortHOA.org) and published on at least one web server (GoDaddy, Hostgator, etc.).

# RESERVE A NAME

Roquefort HOA can be reserved in many ways by the Board.

- Create a free FaceBook, Twitter, Pinterest, etc. name. Activation is the choice of the Board.
  1. RoquefortHomeowners
  2. RoquefortHOA
  3. RoquefortMembers
- Create one or more fee-for-service domain names. Activation is the choice of the Board.
  1. RoquefortHomeowners.net, .com, .org
  2. RoquefortHOA.net, .com, .org
  3. RoquefortMembers.net, .com, .org



## CONSEQUENCES OF WHAT YOU ARE SAYING

*"Roquefort HOA is a no good dirty rotten place to buy a home and I'm gonna make sure the world knows it on my FaceBook page too!"*

- **Netiquette** is network etiquette, the do's and don'ts of online communication.
- **Netiquette** covers both common courtesy online and the informal "rules of the road" of cyberspace.

**THINK:**

**CONSIDER PROPERTY VALUE, FUTURE SALES, EXISTING MEMBERS OF YOUR HOA  
and UNINTENDED CONSEQUENCES**

# SOCIAL MEDIA POLICY

Individual e.g. FaceBook, Twitter, etc. and the HOA's own website ([Roquefort.HOA.org](http://Roquefort.HOA.org))

THE BASICS – keeping it together:

- Purpose
- Resource Requirements
- Responsibilities
- Rules of Etiquette (all who have access)
- Trademark, Copyright and/or Corporate Seal
- Protection, Insurance and License

# **WHAT — I NEED A POLICY?**



Yes! Social Media can be a positive or a negative action either by your individual members or by your Board of Directors. Your HOA insurance will be important.

A policy developed by the Board of Directors and the HOA Members, all in agreement, will be a major step in being sanctioned by your HOA.

HOA Social Media policy should also be included with your HOA's fiduciary responsibilities to be transferred each year to your new Board of Directors.

# PURPOSE

The purpose of online media participation is to promote the activities occurring within the Roquefort Homeowners Association, Inc. and to inform members and other interested individuals about the activities and issues within the homeowner association itself.

This policy outlines the responsibilities of all members of the Roquefort Homeowners Association regarding the professional use of social media. The intention of this policy is to provide all members with basic guidance around the use of social media.

# RESOURCE REQUIREMENTS

1. The content of a social media site, such as FaceBook, Twitter and a host of others, or an HOA website must be updated and monitored regularly to be of value to its members and visitors.
2. The HOA must make specific plans and commitment to keep the social media and/or website maintained and updated by allocating appropriate time and resources.

# BASIC RESPONSIBILITIES

## Board of Directors

- Budgeted line item for social media or website, e.g. resource requirement.
- Treasurer must maintain monthly expense record(s)
- User name(s) & password(s) must be recorded with the Treasurer & Secretary
- Social media and website(s) must be sanctioned.

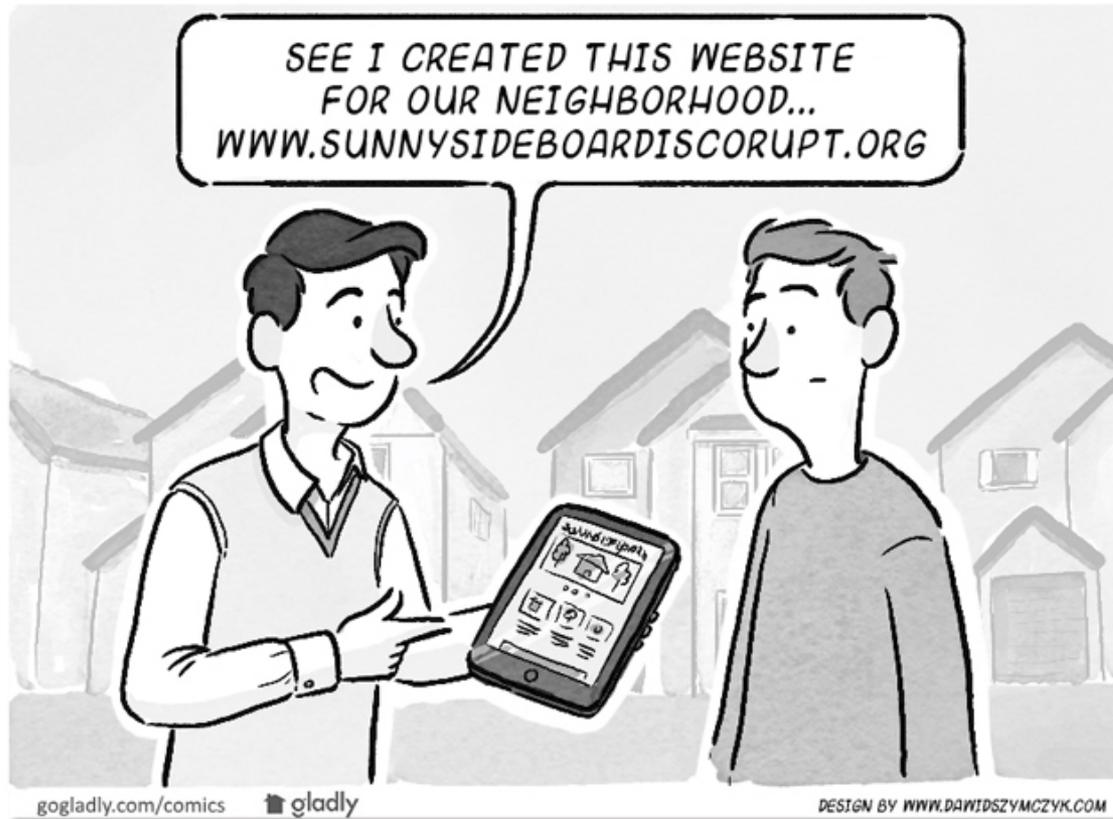
# BASIC RESPONSIBILITIES

## Social Media Committee

- Initiation
- Operation
- Content Authority (Board of Directors)
- Name & Password
- Contributing Content (members, the public, no-one)

# DISGRUNTLED MEMBERS

Gaining approval from like minded homeowners does not qualify for board sanctioned social media or website. These two members are asking for trouble, thereby at minimum, decreasing property values.



# ACTUAL



**Keith N** — 2★ Both the indoor pool and jacuzzi were out of service the other day. Neither had any water in them, and the outdoor pool did not open until 5 p.m. Service should be way better for the \$ that people pay to live here!  
Like · Comment ·

**Daniel K** — 1★ This place is a run down infested high class project  
Like · Comment ·

**Keith N** I was just there on Thursday. Great pool, but alot of snobs living there!  
Like · Reply · 1

**Daniel K** replied · 1 Reply

**Anthony R** I have lived here 10 years (moved out and came back once). If you ask most unit owners they love it. My brother has owned his unit for about 12 years or so. My parents just moved in 3 months ago and they love it. Water shut downs do happen but that's n... See More  
Like · Reply · 1

Unintended Consequence- this HOA is located within a high sales area

# EMBARRASMENT



When you comment on Social Media or a Website you are an ambassador of and represent your HOA to the outside world.

In online social networks, the lines between public and private, personal and professional are blurred.

As a member of your HOA, you are creating perceptions about your HOA, its business partners, managers, homeowners, and the general public, and YOU too.

Be sure that all content associated with you is consistent with the HOA's values and professional standards.

# SECURITY

- **HOA – LIMITED CONTROL**

Policy & Conduct is in place, approved exposure, protected access

- **YOU – MEMBERS – EVERYONE ON THE WORLD WIDE WEB  
UNLIMITED CONTROL IS EVERYONE'S MOUSE TRAP OF DETAILS**

Is using social media making your community less safe? Before you dismiss the question, consider just how much your limited control really is on Facebook, Twitter, and other social media sites actually reveal.

By revealing so many details of our personal lives and locations where we have limited control over who can see them, it is possible that you are putting your security at risk.

# DEFENCES BEFORE LITIGATION

- It is far better to have policies in place to avoid being sued in the first place.
- Policies for web-based communication platforms would include items that define and limit who has access to the sites.
- For example: on websites or Facebook pages, only Board members (or those they designate) can post; the association members have “read only” access.

# DEFENCES AFTER LITIGATION

- Federal Law provides some limited protections for the operators of social media sites. The Communications Decency Act eliminates liability for information posted by third parties.

**(47 U.S. Code § 230 - Protection for private blocking and screening of offensive material)**

- The Digital Millennium Copyright Act of 1998 eliminates liability for copyright infringement claims involving content posted by third parties.

# INSURANCE

- Before embarking upon the creation of the open media platform the Board should carefully review with their insurance agent whether their policy has appropriate coverage.
- When considering the use of a web-based social media platform, you can always contact an attorney to discuss the various policies that the Board should consider before taking the plunge.

# THINK FIRST

- If the association has an online open forum for discussion, then content standards should be established which, for example, prohibit disparaging, confidential, or embarrassing information about anyone.
- The policies would enable the Board to remove any content that violates the policies.
- The Association's Board should carefully consider the purpose of the social media platform they are considering. Policies would support the intended purpose.

# PROACTIVE



- A publically available frequently asked questions section to answer the most commonly asked questions (reduces many of the calls and e-mails).
- A members-only section dedicated to posting concerns and suggestions from homeowners.
- Being proactive ensures homeowners get the information they need to follow rules and understand living in the HOA.
- **CAUTION:** there are no personal feelings in answering homeowner questions.

**MEAN WHAT YOU SAY —**

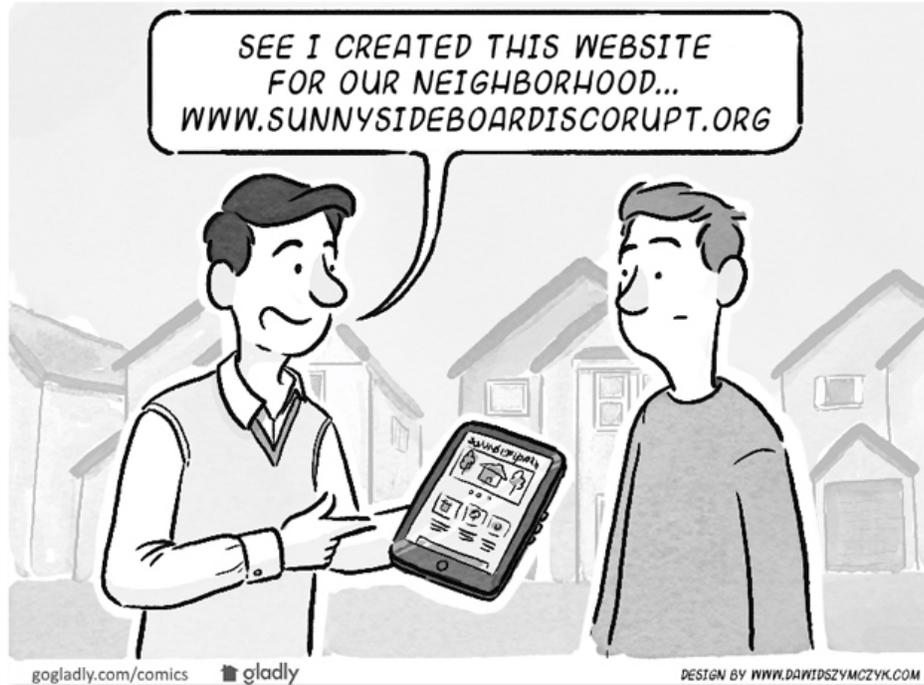
**SAY WHAT YOU MEAN**

**ONLY YOU  
HAVE CONTROL OF  
THE MOUSE**



# Dissident HOA Websites: Is free speech really free?

Thursday March 31st, 2016 By Kevin Hirzel



While technology has many advantages, the internet and social media has led to a decline in human interaction between neighbors. For as little as \$0.99, anyone can create their own website. Many homeowners associations are behind the times and have not yet created a website, let alone registered for a website domain name. Accordingly, when neighbors are not neighborly, and tempers flare, the creation of a dissident website using the name of the homeowners association is becoming an increasing popular way for members to voice their dissatisfaction. What should a homeowners association do when this happens?

## Do Association Members have free speech rights in a HOA?

Upset co-owners typically resort to the First Amendment as a basis for allowing a dissident website. The prevailing view is that the First Amendment only applies to government actors and not private homeowners association. However, this is not always the case as some courts have determined that homeowner associations are “quasi-governmental” entities. Accordingly, a board should check with its legal counsel to determine whether the First Amendment applies to private community associations in their state.

## Does free speech have its limits?

Even if the First Amendment is applicable, a dissident website frequently uses the name of the homeowners association, a domain name that includes the name of the homeowners association and, for all intents and purposes, gives the appearance of an “official” association website. While each case is fact specific, a homeowners association has federal and states trademark rights in its own name. Similarly, defamation claims can be made for statements that are not factually true. In short, free speech rights do not necessarily give a member of a community a right to utilize the association’s name and to say whatever they please without consequence.

## How to prevent your Association’s website from being hijacked?

- If the state does not apply the First Amendment to the Homeowners Association, the Association should look into adopting bylaws and/or rules and regulations that regulate “gripe” websites.
- Register the name of the Association as a trademark.
- Purchase all domain names that utilize the Association’s name.

## What to do when the line is crossed?

- Send a cease and desist letter.
- File a complaint with the website provider.
- Sue for injunctive relief to remove the website.
- Sue for damages caused by the improper website.

## ABOUT THE AUTHOR:

Kevin Hirzel is a Michigan Condominium Attorney and the Partner at Cummings, McClorey, Davis & Acho, PLC that chairs the Community Association and Real Estate Practice Group. He focuses his practice on community association law, condominium law, construction law and real estate law. Mr. Hirzel is the Chairman of the Michigan CAI Legislative Action Committee and is actively involved in rewriting the Michigan Condominium Act.

<http://gogladly.com/blog/author/khirzel/>

# REFERENCES

EASTERN PANHANDLE ORGANIZATION OF HOMEOWNERS ASSOCIATIONS, INC.  
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- Community Associations Institute (CAI)
- Digital Millennium Copyright Act
- United States Federal Code(s)
- Point Pest Control (images: mice/mouse)
- Social Media Icons, ICONION
- GoGladly HOA Social Media & Websites (cartoon & printout)
- The New York Times
- The Washington Post
- HOA Advisor

