



August 22, 2014

Greetings!

Over the past year, I have focused primarily on issues directly affecting the quality of life in our Community - the Lake, the Golf Course, Association Finances, HVLA Operations, Safety and Security, the Greenview Restaurant, Community Center, the Hartmann Facilities Project and other aspects of Hidden Valley Lake life.

I would like to shift attention in this eMessage to the concept of "Due Process," which is supposed to govern how an organization deals with challenges and problems.

A number of Hidden Valley Lake residents have asked that I address allegations made in recent letters and emails concerning my service as an HVLA Director.

Before doing so, I should point out that the Association already has a formal mechanism for dealing with such allegations, namely a censure hearing conducted by the Board, in which accusations against a Director are aired, discussed and voted on.

Several years ago, just such a hearing took place in a public forum. During that hearing the accused had the opportunity to present his side of the story before the Board and Association members attending. In that instance, the Board voted to censure the Director in question, but he was allowed to remain on the Board and serve out his term (there are very few reasons for which a Director can be legally removed by the Board).

The process by which that Director was censured conformed to the due process outlined in the Davis-Stirling Act (which sets out the rules by which Common Interest Developments, such as HOAs, are run in California).

If members of the Board were concerned about what I said (or summarized in written form) at the April 27th Community Forum, the appropriate action would have been to write a letter detailing their concerns. I would have then had an opportunity to respond and the Board would then have had the option to proceed with disciplinary action (or not).

Several HOA experts consulted on this matter agree. In effect, due process was not followed in this instance.

Instead, certain members of the Board made a decision

outside of normal channels (i.e., Executive Session) to ask the Association's legal counsel to write a letter that was based on inaccurate information.

Several requests for clarification of how the legal counsel's letter came to be written, who provided the information contained within it, and who ultimately authorized it have never been satisfactorily answered.

The letter from legal counsel was, for all intents and purposes, a notice of a Board Censure hearing, but lacked the 10-day notice required by law. The Board President did not grant my request for a postponement of the hearing to prepare for the hearing, nor would he provide specific details about the nature of the Executive Session other than referring to the letter from legal counsel.

My May 4th eMessage, "[HVLA Board Accusations](#)," contains the legal language of that letter, as well as my response to the allegations so will not be repeated here.

Susan Cameron, my Board colleague, requested a private meeting with me about this incident a couple of weeks later. During that meeting, she told me that she was the one who initiated the process by handing a copy of the written summary of my Community Forum remarks to the Board's President (Bill Waite) and Vice-President (Bob Cummesky) (I had put a written summary at each Director's table location during the Forum's intermission). From that point on, Susan told me, she had no knowledge of what transpired until she read my eMessage, which included the legal language portions of the letter. Apparently, the Board's President and Vice-President decided, on their own initiative, to ask legal counsel to draft the letter delivered to my doorstep on May 2nd.

Susan told me she was astonished at the letter's injunction:

".... you are hereby advised to seek legal counsel at your own cost and choosing to advise you on such matters,"

declaring that, put in my position, she would have resigned from the Board (because it is a volunteer position without compensation).

Thus, the question arises ... was the letter designed to scare me into resigning? I don't know, as no Director would answer any of my questions about the letter.

Here, I will briefly respond to the most recent allegations in a general way, but will defer a detailed rebuttal until Sunday afternoon, September 7th (save the date!), when a Town Hall style Meeting will be convened at the Community Center as an open Forum to discuss such matters and other issues that have arisen during the Recall Election. At that time, I will respond to all allegations made, as well as discuss a variety of other topics relating to the Association and Community. Details to follow.

The allegations made in several letters and emails are either erroneous or misleading. I have not violated my fiduciary duty during my time on the Board. Nor have I violated the HVLA Board Code of Conduct (it is somewhat out of date, and was supposed to be updated and revised in February/March, but never was).

Alone among my fellow Directors, I have never missed a regular (i.e., open) Board Meeting this year. This is due to my not taking a vacation during this period. Indeed, I take my Association responsibilities very seriously, spending, on average, 40 hours a week on activities related to my role as Director.

In addition, I have attended external events designed to educate Board Directors (e.g., ECHO Oakland in May, an ECHO lunch in Walnut Creek two weeks ago), and regularly consult with HOA Management, Accounting and Legal experts from Northern California. I am a member of ECHO (a Bay Area HOA educational organization) and read their monthly publication. As well, I have read several books on Board governance and HOA reserve funding.

I have worked closely with HVLA staff and fellow Board members to improve our Community. The Food and Beverage feasibility study and General Manager recruitment are two activities where I played an especially important role.

The so-called "unsubstantiated financial estimates" alleged in some recent letters to residents most likely pertain to my comments (both written and verbal) concerning the Association's Reserve Study (the written version, "[Costs versus Benefits](#)") is available [here](#).

Cindy Spears, HVLA's General Manager, agreed with my concerns about the Association's reserves, which is why she suggested an external reserve study be conducted (and soon). External HOA management experts have likewise expressed concern after examining the Association's financial reports.

Isn't a Director supposed to ensure that the Association is on a sound financial footing? Until the external reserve study is performed, the Association's financial situation remains unclear.

In my May 4th eMessage, I stated the following:

"The main charge - that I have circulated a position paper, dubbed "the Hartman Paper" in the legal notice, throughout the Community - is untrue.

This single sheet of paper was NOT circulated to "all residents at Hidden Valley Lake" nor was it ever intended to be. Moreover, I have gone to great lengths to ensure that the few copies given out (almost all of which were handed to my fellow directors on the HVLA Board) have NOT been more widely distributed. If that "position paper" is ultimately circulated throughout the Community, it will have been through actions of the HVLA Board or its agents, not myself."

The charge is as untrue today as it was then.

Other false allegations (e.g., not supporting the Golf Course or Greenview Restaurant) will be addressed in eMessages to come. Stay tuned.

Commons Committee Pot Luck Dinner at the Community Center, Saturday, August 23rd, 5-8 PM.

The August 16th Community Forum on the Hartmann Project and Associated Legal Issues - [YouTube Video now available](#).

If you would like some postcards or other campaign material supporting my retention on the Board, please contact me at steven@hvlrising.org.

eNewsletter Archive

An archive of many of the eNewsletters sent over the past year is now online. It can be accessed via the link below:

["Believe in Steve" eMessage Archive](#)

HVLaRising Website

The HVLaRising website has been revised to take into account current circumstances in our Community. It can be accessed [here](#).

Thank you for the opportunity to continue serving you!

Sincerely,

***Steve Greenberg,
HVLA Director***

[The views expressed in this eMessage are my own, and are not intended to represent those of the Hidden Valley Lake Association, its employees or its Board of Directors]

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