

# **Compilation of Feedback from the NRC on BCA Code of Ethics and Standards of Conduct (Ver. 09-01-10)**

September 23, 2010

It is the understanding of all NRC Reps that the BCA Code of Ethics and Standards of Conduct was designed to be applicable and legally binding to all BCA volunteers. The primary question raised is “is this document legally enforceable?” It is recommended that the BCA Board of Directors seek legal counsel to determine if such a document is legal for homeowner associations and in particular, its volunteers. Many Reps who responded in part or in whole to this document stated that they would not sign the document in its present form. There were three Reps out of the 19 respondents who said they thought version 09-01-10 of the document was fine as presented.

Additional feedback from NRC Reps as of the date above is as follows.

## **§1.0 Purpose**

- The word “Staff” in line 3 needs to be better clarified. For example, does the use of the word “Staff” include paid consultants?

## **§2.0 General Consideration**

- Based on definition in §1.0, Item 2.1 would be more clearly stated if “A member of the Board, Committees or Staff of the BCA” is replaced with “BCA Personnel”.
- Item 2.3, last sentence. “... will enhance the reputations, safety and property values of the members of the entire Community”. Will Personnel always be able to make decisions that “... will enhance ... of the ENTIRE Community”?
- Item 2.4. “... or cause embarrassment to the Association, member of the Community, or to the entire Community.” Who decides what is embarrassing and what criteria is used to determine “embarrassment”? Is the recent resident uproar about the new mailbox unit design an embarrassment? If it so, who “caused” it? The NRC suggests that there could be multiple answers to these questions.
- Item 2.7. “Violations of the Ethics Code should be dealt with reasonably, equitably and promptly.” In what manner will they be dealt? It is felt that at least another sentence is needed for this item, even if it is to reference the four Ethics Code components.

## **§3.0 Conflict of Interest, Gifts, Entertainment and Other Tangible Favors**

- Item 3.1, second sentence. “They shall recuse themselves from discussions and voting on any issue if they, or any member of their immediate or extended family, may be perceived to have a personal or financial interest in the outcome of an issue that is distinct from other members of the Community.” This implies that every shoreline property owner needs to recuse themselves from buffer policy discussions and voting because it is suspected that they each have a “personal and financial interest” (e.g., selling of their homes) in that area.
- Item 3.2, second sentence. One NRC Rep suggested that \$50 may be too high.

- Item 3.3. “BCA Personnel shall not accept goods, services, entertainment, trips or other considerations from members of the Community if action is proposed or pending that would place the BCA ...” How does this paragraph impact a Committee member who wants to give a \$35 birthday gift to a Staff member, while an action proposed by the Committee is pending?
- Item 3.4, second sentence. “They shall not use information, or influence, resulting from their position, to gain special advantage over a competitor as a vendor, supplier or customer of the Community.” It is unreasonable to think that a “paid consultant” would not use his/her knowledge to acquire a competitive edge. Besides, how would you validate or not validate that claim?

#### **§4.0 Confidentiality**

- First paragraph, last sentence. “However, there are exceptions to the principle of transparency that shall be adhered to because of conflicts between this principle and other overriding principles of the Ethics Code as defined in Sections 2.1 through 2.4.” What does this sentence mean?
- Item 4.1 is acceptable to most NRC Reps, provided 4.1.a through 4.1.h does not restrict further rights and privileges of homeowners as defined by the VPOAA.
- Item 4.2 as written leaves a “tattle-tail” effect on the reader. Is this the intent of this item?

“If appropriate action is not taken promptly, it is the responsibility ...” “Appropriate action” has not yet been defined. Why should it be that the “... responsibility of the BCA Personnel to make the information known to the members of the Board, then to the Community at large, if appropriate.” This poses a potential conflict with Item 2.4 to not “embarrass” the Association.

#### **§5.0 General Conduct**

- Item 5.5 is deemed by most responding NRC Reps to be unreasonable and unconstitutional.
- Item 5.6 would be hard to enforce, if at all enforceable.
- Item 5.7 (remark made only by NRC Chair McNeal as a member of MPOC) could possibly inhibit MPOC members from creating, monitoring, and executing master plan projects.
- Does Item 5.8 amend job descriptions of Community Manager and President of the BCA Board? Minimally, the responsibilities of the President of the requires a BCA By-Law change.

#### **§4.0 Consequences of Violations of the Ethics Code**

- Respondents found these consequences to be harsh and arbitrary for volunteers, especially since it is at solely the discretion of the BCA Board of Directors.