

Statement by Paul Raveling

Please be aware that I am not a candidate. This statement concerns choice of whether to re-elect some of the 2011 directors. It is also the sole result of an Internal Dispute Resolution (IDR) process, "resolved" only by publication of this minimal rebuttal to the many false, defamatory, and misleading claims made about the 2010 board members in January's recall election. That part of this lengthy but still *very* abbreviated statement is for the public record.

It is very troubling that so many Waterford Owners believed the false claims and spin in the recall campaign. If we in the 2010 board had acted as claimed, we would have violated my own personal principles of morality, Waterford's governing documents, and laws of California. *That did not occur*: The 2010 board acted with integrity, in compliance with our CC&Rs and relevant law, and in loyalty to the expressed desires and values of Waterford Owners as a whole. The directors named for recall served Waterford faithfully and competently for a combined total of 3 decades: We understood the issues and the legal environment in depth, our critics had much to learn.

For the IDR process I submitted factual evidence digitally, about 300 files totaling just over 100 megabytes. These included scanned Association Records and email received and sent by me as a Waterford director. Some of the more significant Association Records are budget documents, meeting minutes, all invoices for legal services in 2010, draft copies of updated governing documents, and a portion of my past research into the roofing issue. Almost all of these documents originated in open public processes. I asked the 2011 board for permission to share them publicly, subject to any redactions or other limitations specified by the board. This 2011 board declined that request.

Recall advocates alleged that the 2010 board mismanaged Association funds, diverting substantial amounts to "personal agendas" and violating fiduciary duties. **That was simply false: Association Records show no such diversions.** The expense reality was that **our 2010 board experienced exceptional costs of \$23,776, 12% of annual budget, which were operationally necessary but which the 2010 board did not desire, budget, or approve by vote of the board. Despite this, we finished 2010 with a deficit of only \$1,046, 1/2% of budget.** Top-level fiscal performance details were:

- The Association's combined assets at the end of 2010 were \$110,764, up 15% (\$14,809) from 2009.
- The Reserve Fund finished 2010 at \$70,773, \$4,494 more than the amount required by our Reserve Study.
- The Operating Fund finished 2010 at \$39,991. This was a rebuilt level, nearly double its low point in 2009, when revenue had been eroded by the economic downturn. Delinquent dues and bad debt writeoff resulted from many Owners' financial stresses: Unemployment, foreclosures, underwater mortgages, and the like.

This level of rebuilding cash in the operating fund is a legacy to the 2011 board: Look for either a dues decrease or investment in capital improvements at the Sheffield entrance, such as those discussed by the recalled board before the downturn.

The group responsible for the recall forced clearly documented HOA expenditures of \$15,332.

- \$11,155 consisted of emergency legal costs, incurred as necessary operating expenses. This was without prior debate and without specific consideration or authorization in meetings of the board. A key factor was Ray Myers' retention of an attorney at a time when this strongly appeared to be a step toward litigation.
- \$4,177 went to the board recall election, which was legally forced by submission of a recall petition with sufficient valid signatures. By law that compels a short chain of "due process" actions by the Association on a strictly limited schedule, culminating in the recall election.

All of those costs, and especially the divisive recall, ostensibly followed from one seminal false premise asserted by the recallers: That use of a particular class of roofing materials in Waterford would harm property values. No one has yet produced direct objective evidence that such an effect exists. My own past research included published economic research and tracking of local property values from sale results, as well as several other sources. This was the core of a

body of evidence that roofing of the debated *type* does not affect property property values. Even the generally expected influence of roofing *condition* among Waterford's aging wood shake roofs is not yet confirmable by statistical correlation from home sales in the last 2½ years.

The 2011 board incurred one unrelated major unplanned cost on its watch: Our attorney had an overrun of \$8,444 for drafting restated governing documents. In authorizing this process we accepted her quote of \$6,500, but the ultimate total billing was \$14,944. After inspecting all corresponding invoices my main conclusion was that our legally-adept attorney seemed naive as a project manager. Her quote was fairly good for the cost of producing the first-draft documents, but it failed to recognize that finishing details would consume just over half of the project's ultimate cost.

Ray Myers suggested in the recall election that his Master Association (LFOA) board demonstrated a good standard of fiscal performance through its 18% reduction in LFOA dues, and that Waterford's 2010 performance was inferior. LFOA dues are the largest line item in Waterford's budget, ranging from about 37% to 42% in recent years.

What Ray Myers did *not* say is that LFOA's cut was rollback of an 18% dues increase adopted in 2008 by the prior LFOA board. That increase was to begin funding a major capital improvement program to relandscape the Francisco corridor. The later rollback was *not* simply a reduction of 18% in operating expenses. The full Francisco relandscaping was suspended promptly when Ray Myers and two others replaced the prior LFOA board in 2009. That postponed the relandscaping and left LFOA with a windfall cash surplus from the one year of +18% revenues.

Waterford Owners should also know that our recalled board did not pass on the entire LFOA 18% dues increase to our Owners in 2009. We absorbed the additional cost to Waterford through a balance of cost cuts and only a 5% Waterford dues increase, \$2 per month per Owner.

A very serious claim in the recall was that the 2010 board overrode the opinions and desires of a majority of owners to advance board members' personal agendas. **That claim was false.**

We did not exercise "personal agendas". In addition to written and verbal comments and questions from Owners, we had two very good quantitative samples of Waterford Owners' opinion on the issue in question, the roofing issue. We addressed it in response to requests from Owners that started in 2004 and rose in frequency over time. Our first quantitative sample was from one survey question in 2007. By 2010 the 2009 vote had shown 74% of votes cast in favor, 26% opposed. Mathematics predicts from that sample that results from all of our 393 Owners would show 291 ± 13 supporting the amendment, 102 ± 13 opposed. In public opinion polling this level of support usually is considered to be a commanding majority; the recallers considered it a minority. The amendment failed for lack of enough total votes to reach the CC&R requirement for an Absolute Majority, 197 "Yes" votes, instead of a Simple Majority of a quorum. The actual vote count was 160 in favor, 56 opposed.

Economics of the roofing issue are directly relevant in California law. Research showed, and continues to show, that prohibition of products such as Presidential TL produces no economic benefit (\$0) to the Association as a whole through property values. In contrast, that prohibition produces an ultimate total cost burden to individual homeowners that can be broadly estimated to be between \$50,000 and \$500,000. This quantitative balance supports a finding under California Civil Code §1354 that the prohibition is unreasonable, and therefore is unenforceable.

That comparison of private burden versus public benefit is one of four legal arguments supporting the 2010 board's decision to grant the CC&R variance in question. One of those arguments is based on CC&R §5.11, three more on Civil Code §1354, and the benefit/burden comparison was specifically identified by the California Supreme Court in its landmark 1994 case law decision in *Nahrstedt v. Lakeside Villas Condominium Association*.

The specific roofing issue in question has been addressed repeatedly for 4 years, where in the past similar processes led from creation of an advisory committee to passage of a CC&R amendment in about most half a year. This dragged on because of objections by Ray Myers and Robert George at every step, beginning with trying to prevent bringing the issue to a vote of the Membership. For the most part communication was futile; this was the worst deadlock and standoff of my 13 years on the board.

In earlier years I was able to resolve two out of two exceptionally difficult cases in which communication with owners was so problematic that I was the sole communication link: The only person in the Association who would talk with those owners, and the only person in the Association who those owners would talk with. The most visible of those was the house on Sheffield that had no front door for 2 years, the other was the situation whose awkward resolution led Ray Myers and two others to resign from the ARC in 2004. (They were reinstated in 2008). That second problem included threat of litigation and still deserves a permanent solution better than the then-achievable solution.

My summary for Ray Myers and Rob George in roofing issue processes was a line adapted from the Borg in Star Trek, "Communication is futile". Communication is the most important tool for resolving problems, not only in an HOA but generally everywhere.

The 2011 board has failed to recognize this. My personal example is that they notified me by certified mail that I was requested to avoid communicating with HOA directors and that any communications from me would be "read only", to be considered only in executive session. That is in fact illegal under Civil Code §1363.05, the Common Interest Development Open Meeting Act.

Candidates

Four recall supporters were elected to the 2011 board. The brief reviews below cover each on the assumption that each will run for re-election.

I recommend against re-electing Ray Myers, the leader of the recall. His candidate's statement by far had highest number of false and misleading statements about 2010 board members, and its overall tone is consistent with two main possibilities: Malice or extremely strong confirmation bias, also called "myside bias". (Wikipedia's summary of that bias is copied at the end of this note.) Otherwise, Ray Myers' past history has a mix of worthy service on the ARC, some problems in ARC matters, and two notable precursors to the 2011 rebellion by recall. The first involved resignation from the ARC to protest a board decision that was an awkward resolution for a problem involving an owner who was difficult to work with and who threatened litigation. The second was essentially a rebellion against the Master Association (LFOA) board in 2008 and 2009, which replaced the Master Association board in a regular election.

Robert George is the second director who I recommend not be re-elected. His public campaign statement was more moderate than that of Ray Myers and conveys no sense of malice, but his past personal communications and comments in a communication were similar to those of Ray Myers. In my opinion Robert George's intentions are good and he could be an asset to the Association if not for what is most briefly summarized as certain biases. The major one on record involves blindness to an actual conflict of interest on roofing issues. To his credit Robert George has not been publicly hostile, but nevertheless communication with him has been difficult to impossible. He was in fact the first person ever to refuse to communicate directly with me, and that refusal came when we were both directors on the same board.

Sean Hansen was third in order by the number of false and deceptive statements in his candidate's statement. Except for that, my opinion is that he is the best-qualified of the directors who supported the recall. His professional resume includes a credible note suggesting that he is adept at managing 6-sigma processes, but his support for the recall was a counter-example to 6-sigma disciplines. He and others needed to begin with requirements analysis and to exercise fact-checking for apparently-omitted quality assurance checks before signing on to support the recall. This looks like an oversight rather than a personal flaw. He has demonstrated good intelligence and better communication skills than other 2011 board members. I will vote for him, I can also respect the opposite decision.

Gabriele Guest had the by far the lowest number of false and misleading statements in her candidate's statement, but she has also demonstrated communication problems. She is the second person ever to refuse to talk with me. My main

sources of information about are the fact that she supported the recall and the content of the note that she and her husband, Chad, distributed to Waterford homes last fall. That note included several errors of fact, the most remarkable being a claim that no villages in our area permit composition roofs when in fact several do. Lakehills Estates alone has about 200 composition roofs. I will not vote for her because of the absence of communication but can respect the opposite vote from anyone with appropriate personal knowledge.

On the current board Director Robert Hoffman was not among those who supported the recall. I support his candidacy based on my past conversation with him.

Confirmation bias

This is a direct quote of the Wikipedia summary of confirmation bias, which I cited especially in connection with Ray Myers. However, no human is immune to it; this is why it's important to understand it and *always check facts carefully*.

Confirmation bias (also called **confirmatory bias** or **myside bias**) is a tendency for people to favor information that confirms their preconceptions or [hypotheses](#) regardless of whether the information is true.^{[[Note](#) [1](#)][[1](#)][[1](#)]} As a result, people gather evidence and recall information from memory selectively, and interpret it in a [biased way](#). The biases appear in particular for emotionally significant issues and for established beliefs. For example, in reading about [gun control](#), people usually prefer sources that affirm their existing attitudes. They also tend to interpret ambiguous evidence as supporting their existing position. Biased search, interpretation and/or recall have been invoked to explain [attitude polarization](#) (when a disagreement becomes more extreme even though the different parties are exposed to the same evidence), belief perseverance (when beliefs persist after the evidence for them is shown to be false), the irrational primacy effect (a stronger weighting for data encountered early in an arbitrary series) and [illusory correlation](#) (in which people falsely perceive an association between two events or situations).

A series of experiments in the 1960s suggested that people are biased towards confirming their existing beliefs. Later work explained these results in terms of a tendency to test ideas in a one-sided way, focusing on one possibility and ignoring alternatives. In combination with other effects, this strategy can bias the conclusions that are reached. Explanations for the observed biases include [wishful thinking](#) and the limited human capacity to process information. Another proposal is that people show confirmation bias because they are pragmatically assessing the costs of being wrong, rather than investigating in a neutral, scientific way.

Confirmation biases contribute to [overconfidence](#) in personal beliefs and can maintain or strengthen beliefs in the face of contrary evidence. Hence they can lead to disastrous [decisions](#), especially in organizational, military, political and social contexts.

A related reference for overconfidence is to the Dunning-Kruger Effect, also described in its own Wikipedia page. Researchers (Dunning and Kruger) found by experiment that individuals with the highest competence are the most likely to underestimate and question their own competence, while those who are least competent are the most likely to overestimate their competence. Those who most overestimate their competence tend not to question it but rather to simply believe in it.

This emphasizes further the need to *check facts carefully*. One reason is that making mistakes is an inherently human trait, we all do it.

A second is that if different individuals can agree on a set of facts as being objectively real, it provides a foundation for building at least agreement, sometimes consensus. A major tactic for resolving HOA issues by agreement is to *identify a mutually agreed base of facts and principles, then build on it*. A major adversarial process such as board recall does no such thing: It only creates winners and losers, when what we need is partners.