

Update on Sexual Harassment Issue at Columbia Association

By Gregg M. Schwind, Board of Directors, Columbia Association

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In late August 2018 I wrote an open letter to residents informing the community of a 2017 complaint by a young lifeguard of sexual harassment by fellow CA employees, along with my unsuccessful efforts to get more information on CA's policies and its response to the complaint. As I stated in that letter, the harassment complaint was well founded. I also learned that CA, albeit belatedly, revised its policy on sexual harassment to reflect a "zero tolerance" policy for any harassing, intimidating, or discriminatory conduct, and issued guidelines to employees on the proper use of social media and electronic communications.

I also stated that I had grave concerns with respect to CA's response to the sexual harassment complaint, noting CA senior staff's repeated refusals to explain its response in 2017 or its rationale for its near lack of action with respect to one of the offending employees (that employee was subsequently promoted). Senior management also refused my request that CA hire an outside firm to conduct a review on the state of sexual harassment at CA to assess the extent of harassment within the organization, whether CA enforces its policies, whether we encourage complaints, and whether our employees have confidence in their managers and leaders to handle allegations appropriately.

My conclusion from management's behavior was that it is more probable than not that management is hiding facts that it knows reflect poorly on the organization, and I have little confidence in the Columbia Association's commitment to preventing sexual harassment, enforcing our policies, or creating an environment where victims are comfortable coming forward.

Since that time, the following has occurred. On August 27, 2018, within days of my open letter, the CA Board chair called a special meeting of the Board to discuss the letter. The chair – who has supported management's obfuscation at every step – unilaterally declared the meeting closed; as no Board vote to close the meeting was ever taken, however, the meeting was not closed. The result of the meeting was that management agreed to provide statistics and other information related to sexual harassment within CA. We asked for two years' worth of information on the number of complaints per month broken out by type of employee, the method used to make the complaint, and the outcome of complaint. We asked if complaints are assigned a severity, and how CA classifies different offensive behaviors. We asked how often CA employees are retrained on CA sexual harassment policies, both regularly and in response to specific incidents. Finally, we asked for more information on CA's sexual harassment policy, how that policy, its enforcement, and the complaint process is communicated to employees. We asked for no employee-specific information.

On November 1, 2018, the Board received a memorandum in response to the Board's questions. The memorandum is not from the CA president or the head of human resources, as one might expect, but from CA's general counsel. Moreover, the memorandum is designated "Attorney-Client Privileged," which means I cannot show residents the memorandum or otherwise divulge its contents.

The bottom line is that nothing has changed. I still do not have information I have requested on the 2017 harassment incidents. As for the November 1, 2018 memorandum, my opinion is that the memorandum was signed by the CA general counsel for the sole purpose of concealing its contents from the public. None of the questions requested legal advice and none of the answers provided legal advice. Hiding the memorandum behind legal privilege, in my view, was not done in good faith and goes against any definition of organizational transparency.

Given CA senior management's continuing efforts to conceal its actions, I continue to believe that it is more probable than not that management is hiding facts that it knows reflect poorly on the organization, and I continue to have little confidence in the organization's commitment to preventing sexual harassment, enforcing our policies, or creating an environment where victims are comfortable coming forward.