

The Role Of Today's HOA Board Of Directors

To be effective, a homeowners association needs a strong board of directors that understands its role and pursues it with passion and a concise mission in mind. The following outline provides an overview of board roles and responsibilities.

To form an effective board, directors must have a clear understanding of the strengths and weaknesses of the association, its history and what is to be accomplished. Every homeowner association should have responsibility for its assets as well as its operation in accordance with standards established by state and federal law, local ordinances, and the governing documents upon which the entity itself was created. To the extent that the association has such authority and control, it is the board of directors that makes certain these responsibilities are fulfilled.

Understanding the homeowners association concept: The homeowners association is the cornerstone of a planned residential community. It brings continuity and order to the community, it preserves the architectural integrity and it maintains the common elements. Properly run, the association promotes the concept of "community" and protects the neighborhood's property values. In many cases, it collectively makes available recreational and other facilities that might not otherwise be affordable or available to homeowners and residents on an individual basis.

Deed-initiated homeowners associations have become an essential part of the overall concept of residential property ownership in today's marketplace. Purchase of a home or lot often brings with it mandatory membership in an association which then provides the structure for operation and management of the residential development. With membership comes certain maintenance obligations, financial responsibilities, and a commitment to abide by use restrictions and other rules of the association. **To a degree, it necessitates individual conformity for the good of the whole.**

The association's responsibilities may be limited to basic maintenance functions or they may be expanded to include sophisticated and extensive upkeep of the property as well as delivery of special services to individual homes (e.g. back door trash pickup). To be successful, its officers and directors must uniformly and fairly govern the community,

and it must have a reasonable level of participation by each of its members over time.

Board of Directors The association has responsibility for its common elements as well as the management and operation of the association's business affairs - - all in accordance with standards established by the governing documents created when the community was first developed. To the extent that an association (typically a non-profit corporation) has such authority and control, it is its board of directors that carries out these duties and responsibilities.

Members of the board of directors of an association serve without compensation unless the bylaws of the association provide to the contrary. The board's authority includes all of the powers and duties enumerated in general law, as long as these powers are not inconsistent with the provisions of the documents governing the association.

Fiduciary Relationship and Responsibility The members of the board of directors and each officer of the association have a fiduciary relationship with the members of the association. This fiduciary relationship imposes obligations of trust and confidence in favor of the corporation and its members. It requires the members of the board to act in good faith and in the best interests of the members of the association. It means that board members must exercise due care and diligence when acting for the community, and it requires them to act within the scope of their authority.

The fact that the association is a not-for-profit corporation, or that the members of the board are volunteers and unpaid, does not relieve them from the high standards of trust and responsibility that the fiduciary relationship requires. When a member accepts a position on the board of directors, he or she is presumed to have knowledge of the duties and responsibilities of a board member. Board members cannot be excused from improper action on the grounds of ignorance or inexperience and liability of board members for negligence and mismanagement exists in favor of the association and the property owners.

Each board member must recognize the fiduciary relationship and the responsibilities that the board has to the association and each of its members. The board's duties must be performed with the care and responsibility that an ordinary prudent person would exercise under similar circumstances, and the ultimate responsibilities of these unique

positions cannot be delegated to a manager, a management company or other third party.

A Recap of the Board Member's Role: Acting through the board as a whole, a board member should:

- Enforce the documents
- Establish sound fiscal policies and maintain accurate records
- Develop a workable budget, keeping in mind the needs, requirements and expectations of the community
- Establish reserve funds
- Act on budget items and determine assessment rates
- Collect assessments
- Establish, publicize, and enforce rules and penalties
- Authorize legal action against owners who do not comply with the rules
- Review local laws before passing rules or sending bylaws to membership for approval
- Appoint committees and delegate authority to them
- Select an attorney, an auditor, insurance agent and other professionals for the association
- Provide adequate insurance coverage, as required by the bylaws and local governmental agencies
- Inform board members of all business items that require their vote
- Inform members of important board decisions and transactions
- See that the association is protected for the acts of all parties with fiscal responsibilities
- Attend and participate at meetings

Operating a homeowner association carries with it many of the very same duties and responsibilities as overseeing any other business. Serving as a board member is a valuable and rewarding experience that should be undertaken by those who see it as an opportunity to serve their fellow neighbors while protecting and enhancing the assets of the community. It is serious business, but also a task worth doing well in order to safeguard the investments of all.

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