

Best Practices For Homeowner Association Directors and Boards

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Approximately 74.1 million Americans reside in a subdivision, condominium complex, or other planned community that is administered by a community association.

Community associations are governed by a board of directors, which is typically comprised of volunteers from the community who are elected by their fellow owners. The board of directors manages the corporate affairs of the association, and as a result, it can often become a lightning rod for dissatisfied owners. This can lead to individual board members being sued for alleged failure to fulfill their fiduciary responsibilities to the community association. The threat of becoming involved in legal actions can often deter owners from being willing to serve on their community association board.

Board members that follow best practices, can avoid many problems, including becoming involved in legal actions. Best practices benefit not only the board and its members, but the community association as a whole.

Below are the most helpful best practices for community association board of directors to utilize.

Be Transparent and Accessible

Communicating effectively with other directors, owners, and professionals hired by the association to help manage the community is essential. Each board should develop a communication strategy containing, at a minimum, the following elements:

- Publicizing board and member meeting agendas well in advance to all owners and encouraging owners to attend.
- Communicating with owners about current board projects and progress, including the association's financial health on a regular basis.
- Providing owners information addressing the issues important to owners and how the board intends to address those issues.
- Consistent director attendance at all meetings, with full discussion of all matters on the agenda, and votes, whether in favor or against, on each decision that requires a vote of the directors.
- Posting minutes of the board and membership meetings in a timely manner.

- Providing a method for owners to contact the board outside of meetings.

Communication methods can include personal contact, informational meetings, printed newsletters, email, or a website. Transparency garners trust, which is the key to solid communication.

Be Ethical and Above Reproach

Directors should strive to be above reproach and affirmatively avoid actions and comments that might create an appearance of unethical behavior. Each board member should strive to:

- Avoid personal agendas, and apply the provisions of the community's governing documents consistently.
- Use sound judgment to make decisions that are in the best interests of the association, taking into consideration all available information, circumstances, and resources.
- Avoid conflicts of interests or even the appearance of a conflict. A conflict of interest occurs when a director has a direct or indirect interest, not shared by all board members, in a transaction conducted with the association.
 - A director has a direct interest in a transaction with the association when the director, or a member of the director's immediate family, has either a material financial interest in the transaction or a relationship with other parties to the transaction that reasonably might be expected to affect the director's judgment in a manner adverse to the association and its members as a whole.
 - A director has an indirect interest in a transaction with the association when an entity in which the director has a personal and material financial interest, or in which the director is a director, officer, or trustee, is a party to the transaction.
 - If a director is uncertain if a conflict exists, the director should present all of the relevant information and facts to the other directors, and be prepared to refrain from participating in the discussion of the issue being considered or voting on it.
- Be thoroughly familiar with the laws, rules, regulations, and recorded documents that govern the association. The director should not advocate or support any action or activity that is inconsistent with the rules, regulations, or terms of the governing documents.

By exhibiting sound ethics and integrity, a director can help build the membership's trust in the board.

Be Reasonable

A director should always take the director's responsibilities to the association seriously, exercise sound judgment, and not hesitate to rely on simple common sense. Discussions with owners and other directors should be respectful even if the individuals disagree with one another; and, importantly, but difficult, even when an owner or another director acts with disrespect.

Sound judgment is essential and is perhaps one of the most crucial assets required of a director. Exercising sound judgment requires a director to think about things clearly, calmly, and in an orderly fashion so that a good decision can be made.

Most importantly, a director should consider all the facts and opinions so that each decision is fair and reasonable under the circumstances. If a topic needs more investigation, research, or discussion, the director must recognize the need and advocate for it, including involving professionals on matters that are outside of the board's expertise.

In other words, directors should apply their own experience and general knowledge to each situation in order to make the best decision under the circumstances, but also recognize their limitations and bring in experts to supplement as needed.

Be Fiscally Responsible

Financial stability is essential to the success of an association. A director should always seek to establish sound fiscal policies, help develop a workable budget, and continually look for ways to carry out the purposes of the association in a responsible manner.

A director should seek the advice of professionals such as community association managers, legal professionals, accountants, and financial advisors. The right professionals can assist the board to develop accounting controls to protect the association's assets, realistic budgets which ensure that operating funds are sufficient to cover ordinary expenses of the association, and detailed reserve studies to provide sufficient capital for any future, or unexpected, expenses.

Owners typically do not like increased assessments and demand the board look for ways to cut costs and effectively budget. However, sometimes increased assessments are unavoidable, and if the board can increase assessments gradually and have robust reserves for when inevitable expenses and replacement costs arise, many of these issues can be avoided.

Conclusion

Directors of community associations play a very important role in the successful administration, management, and operation of the association. A successful director will be open and honest, ethical, reasonable, and financially prudent.

Ward and Smith has a dedicated Community Associations Practice Group with attorneys experienced in representing associations and developers in all matters related to the creation and operation of community associations. We are happy to speak with you regarding best practices or other topics regarding the operation of your association.

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