

ROLES AND RESPONSIBILITIES OF BOARD MEMBERS

THE PRESIDENT : Role and Responsibilities

The president of the association is vested with all the powers generally given to the chief executive officer of a corporation. While specific bylaw provisions may vary the president's duties, it is generally presumed that he will preside at all meetings of the board and the membership. He will execute contracts and other documents in the name of the association as its agent. Or this can be passed on to a hired management firm. When signing documents, the president should indicate the capacity in which he is signing to avoid any personal liability since his signature, under most circumstances, will bind the association under a doctrine of inherent powers.

The president also assumes general charge of the day-to-day administration of the association and has the authority to authorize specific actions in furtherance of the board's policies. As chief executive officer, the president serves as spokesman for the board of administration in most matters relating to general association business. Like all officers of the association, the president has an affirmative duty to carry out the responsibilities of the office in the best interest of the association. The president serves at the will of the board of administration and can be removed with or without cause at any time by majority vote of the full board.

The president cannot, without specific board approval, borrow funds in the name of the association or otherwise act beyond the scope of the authority established by the condominium documents and board. The president does have the inherent authority to appoint committees to advise him and to advise the board. The president also has the authority to appoint certain officers to assist him with his duties such as a vote teller, inspectors of elections, sergeants at arms, and a temporary secretary or recorder unless the bylaws otherwise make some provision for selection of these positions.

The Board Secretary: Roles and Responsibilities in Community Associations

An association is a business and--like any other--must preserve its history, maintain its records, and protect itself from liability. It is the association secretary who is assigned this responsibility. The secretary (or secretaries) should be efficient, well organized, and have a commitment to the future of the association. No matter how competent the secretary, there is much to be learned about keeping good corporate records. The association's first-ever secretary will wonder where to begin and how to set up a flexible and efficient recording system.

If the association is volunteer-managed, it is wise to spread the secretarial responsibilities among two or three people. However, if the association hires a manager it can request him or her to perform some of the association's secretarial tasks. When selecting a manager or management company, the board should specifically state the secretarial tasks for which the manager will be responsible. This report is designed to help new association secretaries as well as those who want to improve their procedures.

Key Points

- The secretary prepares and distributes board of director meeting notices, and records meeting minutes and resolutions.

- The secretary affixes the corporate seal to legal documents, and witnesses and verifies signatures on documents.
- The secretary accepts and verifies proxies for annual or special membership meetings.
- The secretary maintains all of the association's records and files necessary forms with state agencies.

The Board Treasurer: Roles and Responsibilities in Community Associations

You want to serve your community. You run for the board of your association and you're elected. At your first board meeting, you're appointed to the office of treasurer. You know that as treasurer you hold a critical position within the community. But you are unsure of the responsibilities of the position.

This report is written specifically for the treasurer. However, the information and guidelines on critical areas of community association financial activity that it contains will be of interest to anyone involved in community associations—managers, volunteer leaders, informed homeowners, and even the financial professionals who serve them. Some of these areas include: investments, reserves, financial statements, income taxes, budgets, borrowing, and special assessments. This report helps volunteer leaders decide what to do and who to turn to for financial advice. With this information, the treasurer and members of the finance committee can voice the financial needs of the community.

Key Points

- The treasurer is the financial voice of the board and the community.
- The treasurer is the board's liaison to the association's auditor. He or she should monitor the progress of the annual audit. Make sure that appropriate tax returns are filed on time.
- The treasurer should implement a reserve program based on an engineering study and make sure it has adequate funding.
- The treasurer should ensure the implementation of an annual operating budget.
- The treasurer should implement safeguards to protect association assets.

Chapter 1: Maintaining Association Accounts

Healthy finances are critical to the sound operation of a community association. The association treasurer is responsible for maintaining the finances and ensuring financial growth.

Association documents establish the treasurer's authority in maintaining these accounts, and bylaws outline the treasurer's responsibilities. Following is an example of bylaws that discuss what the treasurer is required to do:

The treasurer shall have the responsibility for association funds and shall be responsible for keeping and maintaining a complete set of financial and accounting records. He or she shall be responsible for the deposit of all monies in the name of the association in such depositories as designated by the

board of directors, and he or she shall, in general, perform all the duties incident to the office of treasurer of a condominium organized under the laws of the state of _____. He or she shall cause an annual audit of the association's books to be made by a certified public accountant at the completion of each fiscal year, and the treasurer shall prepare an annual budget. He or she shall receive no compensation for his or her duties as treasurer.

In addition to the responsibilities outlined above, the association's documents and bylaws specify a number of other financial requirements that the treasurer must oversee, including:

- Insurance
- Maintain financial records
- Investing funds
- Collecting assessments and delinquent accounts
- Calculating and funding reserves
- Filing all income tax returns on time

Volunteers: How Community Associations Thrive

The importance of volunteerism can't be overstated. It builds social bonds, reduces isolation, provides the satisfaction of accomplishment, decreases feelings of powerlessness, gives residents a sense of control, and makes community associations vibrant and thriving places to live. This is the foundation for building community. Associations would have a hard time existing without volunteers; they're the lifeblood of any community.

Successful communities—those where residents are united by common goals and interests—are created by a broad base of active volunteers. This broad volunteer base brings essential diversity to the association—viewpoints, opinions, ideas, talents, and contributions. The greater the number of people who participate in the community, the better the decision making, the smaller the workload for each, and the less likely people are to burn out.

Finding volunteers, motivating them, directing them, and maintaining their interest are challenging tasks for community association leaders and managers. Assigning association responsibilities to the right people, asking them to accomplish realistic tasks, and making them glad they did add to the challenge. Many community associations have achieved success and shown that it can be done. The reward is a well-functioning community where residents are involved and the quality of life is notable.

Successful larger community associations also recognize the value of the partnership between volunteers and a professional manager or management company. The role of the manager in this

partnership is to facilitate, support, and encourage the work of the volunteers. Paid staff is often essential, but it's the responsibility of residents to build community. Indeed, volunteers are sometimes more effective than staff—government representatives, for example, will be more likely to listen to residents' opinions about their community than to nonresident staff who are paid to represent the community.

Whether you're a manager working with community associations or a volunteer leader yourself, successfully recruiting and working with volunteers in the community is an ongoing challenge—one that can be met with help from this guide.

Key Points

- Residents volunteer for many reasons that benefit themselves and the community association.
- Many people will volunteer just because they're asked. Use every means and contact every resident with a meaningful request for service.
- Community associations must motivate residents to act and move them in an appropriate direction. Understanding volunteers' needs and supporting their efforts keep them working effectively on the community's behalf.
- Recognizing volunteers for their contributions is critical to an association's ongoing recruitment efforts.
- Committees are the backbone of many successful community associations. Organizing and supporting committees is an essential role of the board.

Conflicts of Interest: How Community Association Leaders Honor Their Duties

As American society becomes more litigious, the individuals who serve on community association boards face increased risks of personal liability for improperly performing their duties. While attorneys and accountants have professional codes that govern their conduct, few state or private regulations exist to help directors and managers of community associations perform their duties properly.

This report will help the board and the manager to perform their duties and avoid conflicts of interest. It highlights areas of community association activity in which actual or potential conflicts of interest may arise, discusses ethical considerations in conflict situations, and includes suggestions for addressing these conflicts.

Key Points

- A conflict of interest is a situation in which an individual's duty to one leads to the disregard of a duty to another.
- An association's manager owes a fiduciary duty to the association—that includes a duty of care, loyalty, and honesty.
- Managers owe a duty of confidentiality to the associations that they represent. The duty of confidentiality continues after the client relationship has ended.
- Managers should not generally accept gifts or other favors from vendors who provide supplies to their clients.

- Members of the association's board owe the association the same duty of loyalty, care, and confidentiality as the manager. Board members may be held personally liable for the violation of these duties.
- Boards must enforce the association's covenants and rules and regulations consistently. Board members should never make exceptions for other board members or for friends.

CHAPTER 1--Recognizing Conflicts of Interest

Board members volunteer their services for any number of reasons, ranging from a desire to participate in decisions affecting their community, to a more personal need for a new challenge. However, many of them accept these positions without a real appreciation of the nature of the responsibility they have undertaken. Board members owe the association both a duty of loyalty and a duty of care; a violation of either of those duties could lead to personal liability for a director. While directors and officers liability insurance, personal liability insurance, and indemnification provisions in many association legal documents offer some protection, it is vital that board members and community managers be able to identify conflicts of interest and deal with them as they arise.

A conflict of interest is a situation in which an individual's duty to one leads to the disregard of a duty to another. *U.S. v. Miller*, 463 F. 2d 600 (1st Cir. 1972). In other words, a conflict of interest exists when an outside influence affects one's ability to make an unimpeded, independent decision or when an individual owes duties to separate entities with conflicting interests. Whether or not a specific situation constitutes a conflict of interest is a factual question that must be answered on a case-by-case basis.

A conflict of interest does not automatically create personal liability. A manager or a board member may incur personal liability only when he or she fails to recognize and properly address a conflict of interest. In recognizing the existence of a conflict of interest, a manager or director must be able to distinguish between *potential* and *actual* conflicts of interest.

A *potential* conflict of interest occurs when an individual has interests that may conflict at some point. For example, a director who has a financial interest in a landscaping company has a potential conflict of interest if the landscaping company is not seeking the association's business. This potential conflict becomes an *actual* conflict if the landscaping company and association enter into a business relationship. At that point, the director has two competing interests. It would be in the director's personal financial interest to see that the landscaping company gets the business at the highest price possible. However, it also is the director's duty to the association to consider all landscaping companies and to obtain the best service at the best price.