

Board Member Roles and Responsibilities

Board of Directors: The governing body of the Association

- Elected by the members
- No one Director has more power or rights than any other Director
- Directors are still bound by the governing documents and applicable laws

Board Governance

- Ensure Board democracy, where all directors have equal power and rights
- Ensure transparent majority vote determines decisions
- Ensure work is balanced among all directors
- Ensure committees are fully staffed
- Establish Board priorities and follow-up until completion
- Monitor the performance of the contractors/vendors hired by the association
- Recruit new members
- Conduct orientation for new members
- Work with new members to get up to speed quickly
- Review all directors potential conflicts of interest with service providers

Duties and Responsibilities of Directors

- Maintain community physical assets in good condition
- Enforce Association rules and regulations
- Ensure sound Financial Management
 - Maintain internal control procedures to protect financial assets
 - Set and collect annual home-owners dues
 - Approve all expense and reserve fund spending
 - Maintain adequate reserve savings
 - Invest reserve savings
 - Maintain insurance
 - Approve annual financial budget
 - Review reserve study annually
 - Approve all third party contracts
- Supervise officers, committees, agents and employees of the Association
- Keep record of decisions and allow inspection of the same
- Issue home resale disclosure packages

Duty of Reasonable Care

- Directors must act in good faith
- Directors must read and know the governing documents and laws and follow them
- Directors must support all board resolutions & decisions, even if they were a dissenter
- Courts are very quick to invalidate action when the Board fails to follow its own rules & regulations

Fiduciary Duty

- Fiduciary: A person to whom property or power is entrusted for the benefit of another
- The Board is responsible to:
 - Current Owners
 - Future Owners
 - Purchasers

- The Board is legally responsible for the finance condition of the Association
 - Maintain property values
 - Protect Association funds
 - Ensure the financial health of the Association
- Business Judgement Rule: the Board must act in good faith and the best interest of the Association should guide their decisions and actions as a director
 - Setting the annual dues assessment
 - Selecting contractors
 - Contributing to reserves
- Avoid conflicts of interest and self-dealing
 - Personality conflicts with owners/Board members
 - Vote against a rule because you personally don't want to do it
 - Voting on something that they personally stand to benefit from (ex: hiring a contractor who is a relative) It's best to recuse oneself from the vote.

Duty of Loyalty to the Board

- Majority vote determines Board decisions
- Deliberate, decide and do not undermine Board decisions
- Just because you don't like it doesn't mean you don't have to support Board decisions
- Respect the decisions of the Board
 - If you don't like a decision, respectfully bring your reasons to the Board

Governance: The Governance of the Association is guided by the governing documents, local, state & federal laws as well as case laws

- The powers of the governing documents are arranged in the following hierarchical order:
 - Articles of Incorporation
 - Declaration of Covenants, Conditions & Restrictions and all amendments
 - Bylaws and all amendments
 - Resolutions
- The Board must also follow the laws such as:
 - The Virginia Property Owners Act (Title 55)
 - Fairfax County Ordinances
 - The Virginia Nonstock Corporation Act (Code of Virginia, Title 13.1 Corporations)
 - Case laws (Case laws establish precedent)
- When in doubt or unsure of the way forward, the Board should consult with the Association's attorney or other professionals to ensure they are following governance protocol

Financial Reserves: Funds set aside for the major repair and/or replacement of specific items that deteriorate over a period longer than the threshold number of cycles the budget can support and are of a cost that would be prohibitive in the normal operating budget.

- A reserve study is required by law at least every 5 years
- The reserve study is performed by a professional trained in evaluation of the remaining useful life of the Association's assets, the future costs of those assets, and formulating a savings plan for their eventual repair/replacement
- The reserve study should be consulted, updated, reviewed at least once a year by the Board.
- It is the best tool for long-term planning of cash needs
- The study must be provided to potential purchasers as well as the current reserve account balances. The study must also be provided to owners if requested.

Home Resale Disclosure Packages: A set of documents including, but not limited to, the Association's governing documents, financials, & specific information relating to the individual home which will be purchased.

- The seller is required by law to obtain these documents from the Association and provide them to the buyer
- The law dictates specifically what should be in the resale disclosure
- The law sets the price of the resale package
- A resale inspection of the seller's property is a part of this process

Association Rule Enforcement

- One of the duties of the Board is the enforcement of the governance, rules & regulations of the Association.
- The Board cannot selectively enforce subsets of rules.
- The Board should have established processes in place:
 - Allows for fair and equal treatment of all owners, committee & Board members
 - Everyone is subject to following the rules, no favoritism
 - The Board should always follow the established policies for enforcement
- Due Process:
 - Established set of procedures which help ensure fairness, allow owners the opportunity to be heard and address the Board directly.
 - Examples: Found in the ARC Guidelines, Association Complaint Policy Resolution

Board Meetings

- By law, meetings must be announced and open to the membership
- An agenda should be established beforehand
- There should always be time set aside for homeowners to address the Board 'Homeowner Open Forum'
- It is best practice to use Parliamentary Procedure ie. Roberts Rules of Order
 - Making motions, discussing motions, seconding motions and voting
 - See the attachment to this document for additional information on Parliamentary Procedure
- Minutes should be taken at each meeting and approved (typically at the next meeting) by the Board

Closed/Executive Sessions: A portion of the meeting which is closed to the membership

Virginia Property Owner's Act 55-510 (C) dictates which topics may be discussed in executive session. All other topics must be discussed in open session.

- Personnel matters relating to specific, identified persons or a person's medical records
- Contracts in negotiation
- Pending or probable litigation
- Communications with legal counsel
- Minutes of executive session meetings
- Documents prepared for executive session
- Individual lot files or collections
- No voting can take place in executive/closed session

Special Meetings:

- Are typically defined in the Association's governing documents
- The quorum requirement is also established in the governing documents
- Often gives the membership the opportunity to call a meeting

Annual Meeting:

- Are typically defined in the Association's governing documents

- The quorum requirement is also established in the governing documents
- Is the meeting in which the election of the Board members occurs

Additional Sources of Information and Guidance

- Community Association's Institute www.caionline.org
 - Website provides resources and information
 - They also offer free or reduced rate classes to Board members
- Rees Broome, PC
 - Offer monthly newsletter and online articles www.reesbroome.com/newsroom.php
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