

Common Pitfalls of Inexperienced Board Members

The operation of an association is one of our purest forms of democratic government. The owners nominate and elect fellow residents to represent their interests on the Board of Directors/Administration in order to govern their association according to the Declaration, Articles, By-laws and the applicable state statutes (if any).

The individuals who serve their association do so on a voluntary basis and, in an elected capacity, represent a broad cross section of experiences and backgrounds. Some will have extensive business experience, others will have no experience except life experience and a strong desire to serve their community, but all will have a learning experience by serving on the Board as it is a totally unique business. Unlike most businesses, you will be dealing with friends, neighbors and a wide variety of personalities who all have an intense interest and investment in this business. For the inexperienced there are common mistakes that can be made in the administration of an association, even for the experienced, mistakes can be made.

Here are a few of the most common issues that directors face:

1. Not being familiar with the association documents. Many owners may be aware of the rules and regulations, but not the Declaration, Articles and By-laws. These documents have a hierarchy and set forth how your association will be governed and act as a guide.
2. Being unfamiliar with statutory requirements imposed by the state. Some states are far more regulated than others and as with all, if your documents do not specifically address a certain issue, the laws will prevail.
3. Personal liability while serving on the Board. Certain actions and decisions by the Board can result in litigation and the Board may be held accountable on a personal basis. Being aware of this may help some to act more judiciously. As a director you have a fiduciary responsibility to all of the owners. Rely on legal counsel who specializes in association law to guide you.
4. Selective enforcement of rules against some and ignoring others who may be violating the same or different rules, is not only unfair but it can result in action against the Board.
5. The function and contractual obligation of the manager and management company to the Association. Being unaware can create friction and may hinder everyone from performing their job efficiently. The Board should meet with their manager, review the job responsibilities and discuss the way in which the Board would like to interface with them and the firm.
6. Election to the Board for personal gain or specific agenda or to right some wrong they feel has been done in the past.
7. Officer's duties and job descriptions as it pertains to your responsibility as a board member. The By-laws of the association provide this outline.
8. Inability to devote sufficient time due to other commitments. This is not fair to the owners nor the other board members, who will have to make up for your lack of time spent with them.
9. Directors who overstep their bounds of responsibility and may be in conflict with the documents. This will disrupt the workings of the association.
10. Unfamiliarity with the current contracts the community has, the existing specifications, leases, and the bidding process.

11. Some Board members may be unfamiliar with the requirements for reserves for repair and the calculations of same. Also, directors who are unwilling to make tough decisions with regards to preventative maintenance expenditures for fear of criticism.
12. Lack of preparation for emergencies or the unexpected, either from a physical standpoint of not having vendors lined up and pre-committed to respond after an emergency, a plan for clean up and restoration or a budgeting standpoint so the association has the funds to make these decisions.
13. Being unfamiliar with the accounting for the Association and the standard practices and procedures of the industry. Allow someone with knowledge in this area to take responsibility to guide the board.
14. Being unprepared.

This list contains only some of the most common problems that can be encountered by an inexperienced Board member or Board. Allow your manager and management company to help guide you. Along with your legal counsel and CPA and experienced vendors, you can form a team that will serve your association well in the present and in the future.