

Committees of the Association

Over the past several months, we have touched on the value of committees or volunteers who assist the Board with their many duties. We would like to explore the formation and use of committees a little more in depth.

The use of committees is an effective way to conduct portions of the association's business. Whether a committee is a permanent standing committee, or a temporary advisory group, committees have the ability to provide additional assistance, recommendations and information for the association's use and benefit. The committees of the association can be placed in one of two categories. The first category is one where the committees are purely advisory and have no authority to actually carry out specific functions. These committees help analyze problems, review facts, gather information and alternatives, and submit their conclusions as recommendations to the board of directors or the president of the association.

The second category is one in which the committee is vested with authority to carry out, or to exercise a portion of the board of directors' responsibility. An executive committee is the most common example of this second type of committee. There are limits on the type of power which may be conferred upon such a committee of the board. For a committee to have the authority to act and carry out duties, the committee must be created by the articles of incorporation, the bylaws of the association or by a resolution which is adopted by a majority of the full board of directors.

Committees created under the articles of incorporation or the by-laws of the association will have specific duties and functions. An example of these committees would be an Architectural Review Committee or a Nominating Committee. When a committee is created by resolution of the board of directors, the board must identify the amount of authority being given to the committee and the limits placed on the duties and functions which can actually be performed by the committee. An example of these committees would be Maintenance Committee, Landscape Committee, Communications Committee or a Finance Committee. The well planned use of committees by the board, whether they are created by the documents or by the board itself, can contribute significantly to the entire community.

Committee Appointments

When a committee is granted the authority to exercise a portion of the duties normally exercised by the Board of Directors, the committee must be appointed by a majority of the full board. The appointed members of the committee must come from the board itself. Individuals not serving on the Board may not serve as a member of a committee where substantive authority is being exercised as an extension of the board of directors. The appointments for those committees must be made at a duly called meeting of the board and recorded in the written minutes of the meeting.

Advisory or fact finding committees may be appointed either by an officer of the association, traditionally the president, or by the board of directors. In some circumstances, the bylaws of the association impose additional restrictions and they should be consulted. Advisory committees have no power to act for the board or to bind the association. They are not necessarily created by formal provisions in the community's documents or by resolution of the board. Although formal written authority is not required for the advisory committee appointments, the better practice is to do so by written resolution of the board or by letter of authority by the appointing officer. This practice establishes specifically who the members are

and what their function will be. The function of the committee should be documented in writing, although the lack of a written resolution will not mitigate the effectiveness of the committee under most circumstances. The Board of Directors has the power to appoint committees and give them authority. The authority of the board to delegate power to the committees is not unlimited.

The fact that the board creates a committee and conveys to it powers and duties does not relieve the board of directors and the individual members of the board of their ultimate fiduciary responsibility. They must insure that the operations of the association are carried out in the best interest of the members, and ultimately they are responsible for all of the acts of the committees which they create.

Meetings of the committee

All committees of the homeowners association, whether advisory or exercising substantive authority of the board, should be open to members. The specifics of whether or not this is required will be regulated by the individual state statutes, but regardless of that requirement, the actions or discussions being had by the committee should be open to observation by the members. If required, these meetings are generally held to the same requirements as board meetings are. Notices should be posted and minutes of the proceedings taken to record the actions taken by the committee.

Committee reports

A summary of a committee's findings, conclusions and recommendations may be brought to the board or the membership either orally or in written form. It is preferable that the committee's report be in writing and that it be addressed to the secretary of the association. A summary of an oral report should be included in the minutes of the meeting at which the report is presented.

Upon the receipt of a committee report, the meeting may accept and implement the recommendations, it may modify and change the recommendations, or finally, it may simply accept them and place them in the records of the association for future action and reference.

When the report of a committee has been received at a meeting of the board of directors of the membership, it becomes a part of the permanent association records. Like other official records of the association, committee reports are open for inspection by members as provided for by document or statute.

Social Clubs

For large communities with clubhouse facilities, there are likely to be formed social clubs. Recreation committees, bridge clubs and other types of social organization are normally not thought of as a committee, nor as a formal part of the association's structure. If these clubs are exercising authority over a specific recreational function, if they are raising or spending funds, or if they are using common facilities with the approval of the board, their acts may be considered part of the association activities. Social clubs or recreational committees serve a valid function for associations and should not be discouraged, but they must be handled properly within the association's framework

The fact that social clubs may take on certain powers allowing them to make limited financial commitments on behalf of the community, or perform certain functions which may make them liable for negligence or injury occurring in the course of their events, necessitates that the board deal with them as part of the association structure. When a social club or committee assumes a permanent and regular presence in the community, the board should be prepared to confirm the presence in resolution form. Proper financial accountability and adequate insurance coverage for club activities are responsibilities of the association.