

THE COMMUNITY BUILDER

Balancing Fiduciary Responsibility with Neighborly Compassion

More and more frequently, Community Managers are asked to provide guidance to Boards when they want to help a homeowner who has fallen on hard times.

Take as an example, a long-time homeowner who is suffering from a serious medical issue. Perhaps this homeowner was once active as a volunteer, has always paid assessments on time and has kept the property in good order. The medical issue has depleted his financial resources and he has fallen behind on assessment payments.



Or, perhaps a mother who has recently lost her spouse and co-parent, and the income that helped to support their home. While she struggles to make ends meet and attend to her children's needs, home maintenance items begin to go unaddressed.

Is it fair, advisable, or even allowable, to decide not to follow a collections policy for the man with the medical issue, or to fail to enforce maintenance rules on the mother who is struggling to keep her children in their home? Considering that others may be facing similar hardships privately, would it be reasonable to be lenient with those who let their struggles be known, while others don't receive the same consideration? And beyond fair, are those choices within the Board's authority?

In most cases, the short answer is no. The primary duty of a Board member is to be a fiduciary. A Board member is responsible for exercising good business judgement for the overall welfare of the community that is not influenced by personal considerations. The community's welfare is looked after through prompt and equal collection

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of assessments and fair and equal enforcement of rules. All of those “shall” sentences in the Governing Documents don’t leave a lot of wiggle room.

The line can get fuzzy though, when we consider whether it’s also in the overall interests of the community to exercise compassion in the collection of assessments and the enforcement of association rules. Board members often have difficulty reconciling their Board duties with their instinct to be compassionate, particularly because we strive to create a positive sense of community in our associations and that’s often defined as one where neighbors help each other. The desire to be a good neighbor wars with the responsibility to uphold Association covenants. As well-intentioned as it may be to want to provide relief to neighbors in need, Board members should not be tempted to use their authority to allow for the inconsistent application of the rules. Duty should prevail over compassion.

However, that doesn’t mean that Board members have to check their hearts at the door when they’re elected. Associations **can** encourage an atmosphere of neighborly compassion through its non-monetary support of a network of community volunteers to offer landscaping or childcare, to run errands, or make meals for community members in need. They can provide access to neighborhood communication to connect those who need help with those who want to provide it. Association websites and newsletters can provide links and phone numbers to municipal and charitable resources to connect people with assistance available in the wider community. Some Associations partner with local high schools to offer a list of students who can do these things in exchange for credit for community service hours.

Each community must decide for themselves how to manage compassionate governance while staying within the parameters of the Governing Documents. Some great ideas may need to be vetted by your insurance agent or attorney. If you choose to accept a payment plan, extend a compliance deadline, or forgive late fees, those concessions should be applied equally for any owner in similar circumstances. But know that good business judgement and empathy are not mutually exclusive. Great communities and great boards can have both.



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