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Smart Strategies for Social Media Use in Community Associations

In a 2006 Today Show interview, Mark Zuckerberg said he started Facebook because he "just figured it would be really cool if there was some website that I could go to that would tell me a bunch of information about my friends and the people around me." What started as a "really cool" idea has revolutionized the way we interact with one another. In many ways, social media has been a positive force for transparency, connection, and access to information. If used with the appropriate level of care, these platforms can enhance our ability to disseminate information and connect us with our communities. However, knowing the pitfalls and how to apply that level of care is critical to protecting the association and its members.



Implement a Social Media Policy

As with most things, success starts with good planning. Before establishing social media accounts as a means of communication, adopt a comprehensive social media policy with the input and guidance of management and legal professionals. This policy will establish the platform's intent and set guidelines for who can post and view, what types of posts are acceptable, and the consequences for violating the rules of use. It is helpful to appoint a moderator to review the site content and allow them access to approve or refuse posts, delete prohibited content, and manage users. Creating clarity for users about whether they can expect a response from management or the board through the platform can ward against frustration. Be aware that if board members do engage on the platform, they may be creating the expectation that the association is aware of information on it and can be held responsible for it. This "should have been aware" argument has been used in claims against associations for not acting to prevent harassment under FHA Third Party Liability rules (for more on that, see the October 15, 2021, Community Builder: *What Boards Need to Know About Neighbor-*

to-Neighbor Harassment). Including clear expectations for the proper channels for communication can help boards manage risk.

Mitigate Risk by Conducting Periodic ‘potential exposure’ reviews.

In addition to regulating the use of the platform for your membership, a good social media policy should include procedures for mitigating risk and managing issues if they arise. Mike DiNino, SVP and Practice Leader for LaBarre/Oksnee Insurance suggests that associations conduct periodic potential exposure assessments to identify areas of risk and address gaps in regulating platforms. He advises that boards should consider the nature of the content, posting frequency, and level of membership engagement to establish the appropriate risk mitigation strategies. Since we know that the internet is forever, associations must guard against inconsistent, incomplete, or incorrect information posted online. When not removed or corrected, this information can be used as evidence in litigation, even if it comes from someone without an official association position. Setting forth a process to retain detailed communication records, including posts, responses, corrections, and interactions, can be helpful if disputes or insurance claims are filed against the association or board members.

Other common exposures include copyright infringement, libel and defamation claims, and failure to comply with regulatory requirements. It's all too easy to use images and videos we find online, but associations should be careful about using third-party content without proper authorization. Increasingly, community associations have been a target for people scanning internet content for copyright compliance. Violations can be costly, so copyrighted items should be licensed if used on association platforms. The authorization need also extends to images from the community, such as photos or videos of community events and people. Getting written permission from the parties featured is best practice. While community members may use these platforms to criticize the board or management, responding in kind could lead to libel or defamation claims. Boards should speak with one voice when responding to online challenges and may want to have general response language ready for use in those circumstances.

Ensure Privacy, Confidentiality, and Sensitive Information is Safeguarded

Finally, social media is not exempt from privacy and other regulations. The association has a duty to keep confidential items confidential, so ensuring sensitive information stays off of social media platforms is vital. Boards must also be aware that each platform has rules of use that are agreed to when establishing an account. The association can be held responsible for violations of those rules by any of its members. A disclaimer on the page that states that member comments are their own and do not necessarily reflect the positions of the association can be used, but these statements don't altogether exempt the association from responsibility for rogue posts.

Rely on The Association's Insurance Agent

Even when associations take care to establish processes and mitigate risk, claims may still arise. That's where the right insurance coverage is critical. Mike DiNino recommends that associations work with their insurance professionals to review coverage and exposure carefully. Start by reviewing General Liability policy coverages and exclusions to ensure online communications, including social media, extend to board and committee member use. Boards may also want to determine whether Cyber Liability coverage is appropriate. This coverage may respond if there are data breaches or cyber-attacks on social media platforms used by the association. Understanding what insurance can be relied upon and having a crisis management plan in place is vital to shielding the association from significant financial loss and reputational damage. This coverage should be reviewed and adjusted periodically to keep pace with the changing environment.

Communication is arguably the most important means of creating a thriving community. Social media has improved the speed and accessibility of messaging in a way we wouldn't have imagined possible just a few decades ago. With a thoughtful approach to managing the platforms and good professional guidance, associations can harness the power of social media to connect their residents and guard against the hazards that come with having an online presence.

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**Laura Poole, CMCA, AMS, PCAM
Regional President - Midwest**

Laura Poole is the Midwest Regional President for Sentry Management. She has been a community management professional for sixteen years and holds CMCA, AMS, and PCAM designations through the Community Associations Institute, as well as a B.A. in International Studies from American University in Washington, DC.



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