

# Quick Reference Guide Suggested HOA Practices & Considerations

## Forward:

This document is provided to encourage critical thinking in the governance of your community association, whether as a board member or owner/member, seeking positive change.

It is suggested that you review a page or portion of a page daily or as best fits your schedule. You will miss a lot if you just take a cursory glance at it.

Residential Community Associations (HOAs) have many intrinsic flaws stemming from the legislature's continuing failure to address the numerous issues facing purchasers and owners. Pressure from developers and special interest groups continue to hinder any real progress. An overview can be found at [www.AlabamaHOA.org](http://www.AlabamaHOA.org).

A lack of education & experience, managerial skills, self-serving interests, and yearly turnover of board members are further complicating factors. Many boards fail to comprehend that they are mere servants of their owner/members, and their actions, or lack thereof, can seriously harm all owners, as they could be held liable should insurance be insufficient.

## Mission Statement:

### Write the Perfect Mission Statement:

This step has customarily proven difficult for board members, however, research and earnest thought on what you wish to accomplish can be a worthwhile effort as well as a thought-provoking exercise. The following link may be helpful in jumpstarting the process:

<https://blog.realmanage.com/en-us/mission-statement-for-your-community#:~:text=Your%20HOA%27s%20mission%20statement%20should%20include%20four%20basic,should%20explain%20the%20motivation%20behind%20your%20HOA%27s%20work.>

## Fiduciary Responsibility:

Wikipedia defines fiduciary duty (or fiduciary responsibility of HOA board members) as the **obligation that a fiduciary owes to the beneficiary**. In this context of HOAs, the fiduciary is the board of directors and the beneficiary is the association and its homeowners.

This is where many board members falter and allow their personal feelings and agendas to rule; which may open the door for litigation.

## Education:

Board members are elected and immediately thrown into making critical decisions with little to no training. It is suggested that associations create a training budget, and require all new board members to enroll in a training class within 90-days of taking office. This can be required by a simple by-law addendum.



Invest in your condo or HOA board's understanding of management best practices with a low-cost group membership with up to 9 additional members, each with their personal member account and log in.

Each board member gets his or her own log in, providing access to every aspect of HOAleader.com, including:

- expert advice about smart HOA management practices
- discussion forum with access to other HOA board members across the country and members of our expert community who understand the challenges you face
- tips for protecting your association (and yourself) from risks
- tactics for making your job as an HOA leader easier and more rewarding
- and much more!



The *CAI Board Leader Certificate Course* (also known as the *Board Leadership Development Workshop*) is one of the requirements of earning the CAI Board Leader Certificate. The course is available [online, in a self-study format](#), or in the classroom through [CAI's chapter network](#). [CAI Board Leader Certificate Course \(caionline.org\)](#)

## Course Outline

Whether you live in a condominium, homeowners association (HOA) or other type of community, the *CAI Board Leader Certificate Course* highlights what every board member needs to know to serve effectively. The course consists of five modules:

- **Module 1: Governing Documents and Roles & Responsibilities.** To start you on the right path, Module 1 helps you understand the legal authority for your association. It also clarifies the duties and responsibilities of each board member as well as the professionals who are available to assist the board.
- **Module 2: Communications, Meetings and Volunteerism.** Module 2 teaches how to maximize volunteer involvement in your community association by improving board communications, conducting effective meetings, and building community spirit.
- **Module 3: Fundamentals of Financial Management.** Module 3 introduces the fundamentals of association financial management, including guidelines for

protecting your association's assets, preparing a budget, planning for the future and collecting assessments.

- **Module 4: Professional Advisors and Service Providers.** Putting together the right team to support your association can be challenging, Module 4 provides practical tips on finding, evaluating, and hiring qualified professional advisors and service providers.
- **Module 5: Association Rules and Conflict Resolution.** Module 5 explores guidelines for making reasonable association rules, enforcing rules fairly, and resolving conflict effectively.

Florida is now requiring new board member training. Even though it is not required in Alabama, it is a worthwhile orientation.

[Florida Condo & HOA Board Member Certification | Prolicense \(flcaa.com\)](https://www.flcaa.com)

Unfortunately, currently, special interest groups have too much influence on the legislature to get any type of substantial regulation or training requirement in Alabama.

### **Transparency:**

Does your board hold secret meetings restricting owner attendance and meeting observation? Some boards say they remain committed to transparency and responsiveness; however, they are deceiving their own members.

Except for Executive Session meetings, all meetings of board members should be open to the membership. Do not fall into the trap of trying to use a "Working Meeting" to restrict public/member observation and questions. As mentioned above, open meetings should NOT be held in private residences in order to avoid liability and maintain owner privacy. General board meetings should additionally be held virtually with participants identified by name.

Virtual accommodation should be afforded to owners based on their time constraints using a YouTube channel or a similar digital archive, with time and location not dictated by the board. There continues to be a resistance to streaming and archiving among many boards. This is believed to be a fear of accountability issue or perhaps a simple shyness. Reasonable accommodation for the disabled should always be at the forefront of decision-making. Alabama law is weak in this area, but an amendment is working its way through the legislature's legal drafting requiring such since this has shown to be an issue of seemingly nefarious intent.

Secret board meetings and lack of accommodation for the disabled are becoming more of a prolific issue. Investing in one's home is generally considered one of the largest and most important assets one can have. The misguided practice of not holding open board meetings because makes it easier for a board to conduct business only serves to

illustrate a lack of managerial skills, inexperience, and an inability to de-escalate conflict while fostering suspicion and distrust.

Not being able to attend board meetings in order to observe first-hand the issues facing an association-community, and how the board of directors are meeting such challenges, leaves owners blind to managing their personal investment. Some boards will say they are committed to transparency and responsiveness; however, secret meetings show that to be rhetoric. Board meetings can tend to become contentious when a board “forgets that they serve the owners. It is the owners' money and association; the board is merely helping to lead it.” *HOAleader.com*.

Perceived indifference to the needs of the disabled and/or homebound owner/members resulting in lack of accommodation is a further troubling behavior. Federal ADA requirements can often be difficult to enforce without supportive state regulation.

### **Communication:**

Every effort should be made to quickly communicate directly with an aggrieved or questioning owner. Since some communities do not have common facilities in which to meet, using virtual means or a mutually convenient commercial location is strongly recommended. Because of potential liability and an imposing atmosphere of the owner's personal space, meetings should never be held at a personal residence. Even if the owner's issue seems unreasonable or incorrect, an open discussion avoids the perception of being ignored, which may aggravate tempers and worsen the chances of achieving a productive resolution. Boards generally fall short in this area.

### **Ethics Agreement:**

Ethics agreements are useful and serve as a reminder to board and committee members of how to perform their fiduciary duties ethically and honestly. They are useless without:

- Independent non-partial review of a complaint
- consequences for a violation

### **Abstention:**

Before participating in any vote, board members should carefully weigh their participation if there is any doubt of actual or appearance of conflict-of-interest. There are a number of valid reasons for abstaining.

You may find these articles helpful:

<https://www.boardeffect.com/blog/roberts-rules-of-order-abstentions/>

<https://www.boardeffect.com/blog/nonprofit-voting-procedures/>

## **Removal of Members of the Board of Directors:**

It may become necessary the owner/members to remove one or more board members. It is recommended that the membership consult an attorney for legal assistance. Those board members affected should be given an opportunity to resign in advance.

## **Social Media:**

A well-structured social media page can be useful in distributing general information; however, it should be restricted to board posts only. It would serve at a notification tool, not intended for doing general business. Responding to questions is difficult as any response should be a “one voice” board response. Allowing others to post can result in engaging in debates/criticism, against their volunteer neighbor HOA board members when/if they don’t get their way. It can also provide a platform for “Social Media Cowards/HOA Bullies”.

Individuals seem conditioned to believe hateful and negative information and counter posting of the truth only seems to exacerbate conditions. This behavior does not go unrecognized by the majority, but they are often reluctant to speak out for fear of becoming a target themselves. For the most part, you cannot seem to reason with such individuals. They are terrorists who are determined on creating destruction in their wake for their own satisfaction.

## **Management Companies:**

Due diligence is a must when it comes to hiring a management company. Be cautious of real estate agents who claim to be managers. While some company owners are well qualified, others just think they are or can just because they have a real estate license. Real estate agents list, sell and rent property. HOA managers are business Agents. The two have nothing in common. Have any contracts reviewed by an HOA experienced attorney. Watch out for automatic contract extensions and junk fees. Remember, management companies are agents of the board and not board members. They only take direction from the board.

### **HOA Management Companies: A Practical Guide for Homeowners Association Boards**

- With a great HOA management company, your homeowners association will flourish.
- With a weak one, your association will struggle. Without one, you need to be... <https://www.hoaleader.com/public/HOA-Management-Companies-A-Practical-Guide-for-Homeowners-Association-Boards.cfm>

### **HOA Boards' Biggest Mistakes: Have You Made These Nine Blunders?**

If you are not careful, you may take huge missteps in overseeing your homeowner association. Here, is a summary... <https://www.hoaleader.com/public/582.cfm>

Board members often forget the association is a business and may take things personally, allowing emotions to get in the way of making good business decisions which benefit the entire community. HOA leaders should always disclose any actual or perceptions of conflicts-of-interest and abstain or recuse when appropriate.

Skimping financially when it comes to getting legal advice when dealing with difficult or potentially problematic issues is dangerous, not advised, and could turn disastrous.

### **Neighborhood Watch:**

Associations should avoid setting up and accepting responsibility for Neighborhood Watch programs. This program is essentially designed to protect a community owners' personal property. Concerned homeowners should bear responsibility and manage the program themselves stressing “**observe and report**” as their prime goal and responsibility. Committee members have been known to carry weapons, confront individuals they feel are suspicious and exercise deadly force.

### **The Trayvon Martin Case: The Liability of Community Associations for A “neighborhood Watch” ... <https://www.ottesq.com/about>**

Hoover: <https://hooverpd.com/neighborhood-watch-program/>

Shelby County: <https://www.shelbyso.com/Search?searchPhrase=neighborhood%20watch>

### **Recognizing Jurisdiction:**

Unless a community is entirely private, an association has no jurisdiction over rights-of-ways. The extent of jurisdiction is limited to inside the boundaries of a lot and within common area. It does not extend to sidewalks, driveway aprons, speed limits, or traffic signs. Some boards and their attorneys have been known to push the boundaries when it comes to this along with the support of some lower court judges; however, this would most likely be reversed by a higher court. One of the major issues with HOA abuse is that these are for the most part civil matters, therefore, an aggrieved owner must hire an attorney and file a lawsuit.

### **By-law Amendments:**

Covenants, Conditions and Restrictions (CCRs) are crafted on behalf of the developer/declarant prior to the first sale of property within the community's boundaries for use during the construction and sales period. Prior to officially transitioning association control to homeowners, the developer/declarant is in total control and has tremendous leeway over what can be done or changed, regardless of what the CCRs state. After transition, many portions of the CCRs are not applicable or enforceable. This may vary significantly if a community is intended to remain private without a government entity taking portions of it into maintenance like roads and retention ponds. When such areas are accepted into maintenance, jurisdiction falls away from the association,

regardless of what documents may indicate. Invalid language should be updated by amendment.

Caution should be exercised for a board not to craft legal language, but simply indicate when the goal is and let an experienced HOA attorney craft the document.

### **Meetings:**

We recommend stating on the agenda that the meeting of the board is a “business meeting” intended to conduct association business. This should also be stated verbally prior to starting the meeting, during which time, is meant to be conducted without input from attendees. If questions are submitted in writing in advance, the board will attempt to respond at the conclusion of the business meeting, although this might not be possible. **Boards need the opportunity to confer and agree on a response since they operate under the “One Voice” principle.** This should assist in maintaining order and decorum.

The agenda should be distributed to the members as soon as possible by e-mail, website, social media, and/or community signage announcing board meetings no fewer than 10 days in advance or more than 50. There may be instances during which a last-minute agenda item is added, but this statement, along with submitting questions in advance, should be added on the agenda.

Along with the general business meeting topics, very limited executive session topics should be included (e.g. personnel issue, contracts, matters regarding owners).

### **Suggestions:**

- Never hold meetings at a private residence due to liability concerns.
- Point the camera toward the board not the audience.
- Hold comments to one per owner capping the time at 3-minutes +/-.
- Be polite but firm.
- Adjourn if you have an unruly or abusive audience.

### **Insurance:**

**Directors and Officers:** A must have policy even if your by-laws say “may” obtain. Coverage should extend to committee members also. Many homeowners umbrella policies provide coverage for volunteer positions. Review provisions and exclusions carefully. Some policies may not provide coverage for acts determined to be illegal.

**General liability:** Determining the correct coverage can be difficult at best. There may be exclusions and specific riders needed. Consider having a prospective agent visit the property to review if firsthand. Get multiple quotes for the same coverage. Do not skimp on coverage limits.

## **Financial:**

**ALWAYS** get a [fidelity bond](#). This will generally protect the association from theft, embezzlement or if some other covered loss has occurred from board or committee members who may have access to financial resources. A management company's insurance most likely only ensures others from their wrongdoing and most likely will not extend to association board and committee members. Review the conditions and remedies carefully since all coverage is not the same. The devil is in the details.

Credit and debit cards are not recommended since they have a high susceptibility for abuse. Unlike credit cards, debit cards may lock your entire account until a potentially fraudulent issue is resolved.

## **Debt Collection:**

Before arbitrarily turning debt over to a collector, make every effort to communicate with the delinquent owner and learn the reason for nonpayment. A person-to-person approach is recommended vs. a "cold" letter. Your management agent can assist in this arm's length effort. You may need to exercise some compassion.

## **Liens:**

Every effort should be made to avoid placing liens on property or seeking foreclosure. While an association may have a legal right to do so, this should be an ABSOLUTE last resort action after all else has failed. Boards have a history of not communicating to learn why and/or arranging payment plans or other accommodations. Be cautious in taking such legal action just because an attorney may advise that you legally can. Every effort should be documented since further legal action against the association will most likely result as well as creating very unfavorable publicity. A community can in being "blacklisted" by sales agents and reduce home values.

## **Architectural Review Committee (ARC):**

Most documents may say that the ARC has the exclusive right for community architectural control; however, the board is ultimately responsible. While most boards allow the committee to operate independently, it is recommended that any decision require a board signature for approval or disapproval. The majority and severity of issues a board will most likely face will be from ARC decisions.

Having a published ARC policy and procedure document is crucial for fair and impartial assessments and decisions.

<https://hub.associaonline.com/blog/hoa-architectural-review-guide>



**Appeals:**

This process should be well defined and published. A must for technical review and further consideration.

**Variances:**

On occasion, a situation may arise that does not appear to fall within the constraints of a typical ARC request but would have minimal impact on the community, if at all. A variance might be in order without establishing a precedence. It is important not to make a hasty decision to decline without fully exploring impact and potential property rights.

While governing documents may indicate that the ARC has sole and absolute discretion over Architectural Control, and possibly the exclusive right to grant variances, the board is ultimately responsible and should have final approval authority on all ARC decisions.

Any decisions, especially variances, should be conveyed in writing indicating the decision as a onetime, specific, decision that does not establish precedent.

Governing documents may appear to grant authority to regulate/restrict, but the documents were created by the Developer/Declarant for their use granting exclusive authority prior to transition of community management to a homeowner board. During this initial "construction and sale" period, they have wide authority including rights of change to governing documents. A great deal of the language should be amended after transition.

**Ed Collins**

Director

Alabama Concerned Homeowners Alliance

[www.AlabamaHOA.org](http://www.AlabamaHOA.org)

Birmingham, AL

(205) 201-0567

***Disclaimer: we are not lawyers. The information provided in this document does not constitute legal advice.***

**Agenda Example:**

**(Community Name)**  
**Board of Directors Meeting**  
**February \_\_, 2024 – Virtual 5:30 P.M. ([link...](#))**

**Call meeting to order and Establish Quorum**

Adoption of Minutes from \_\_\_\_\_ 2024

Meeting, posted to the web site.

Adoption of Agenda

Acknowledgement that all Board Members are in good standing within the community.

**Committee Reports:** Each Board member is assigned lead for each of our committees and is responsible to report on activities during the monthly meeting

- AC/Covenants –
- IT –
- Maintenance –
- Newsletter –
- Lake –
- Security/NHW –
- Social –
- Welcome –
- Capital Improvements –

**NEW BUSINESS**

- 
- 

**OLD BUSINESS:**

- 
- 

**Management Company Report**

(All personal homeowner related discussions will ONLY be done in the executive session.)

**Executive Session** (Closed meeting – general topics to be discussed)

- Contracts
- Personnel Matter

- Legal Issues
- And, as stated by your documents

**Adjourn/ Next Meeting**

**Next meeting is scheduled for \_\_\_\_\_ 8 (\_\_\_\_ AM/P.M.) at \_\_\_\_\_.**

---

**OPEN SESSION (SHOULD NOT BE PUBLISHED)**

- Incident log
- Covenant Violations
- Collections: Letter to homeowners, dues collection.