

POA Education Center

Education Series #005

Understanding Governing Documents: Why Some Documents Have More Authority Than Others

Why This Matters

Serving on the Board of Directors is more than volunteering to help the community. It is accepting a position of trust.

Every director has a legal and ethical responsibility to act in the best interests of the Association. These responsibilities are known as **fiduciary duties**.

Understanding these duties helps directors make better decisions, promotes public confidence in the Board, and helps ensure that the Association is governed fairly and responsibly.

What Is a Fiduciary Duty?

A fiduciary duty is the obligation to act in the best interests of another rather than for personal benefit.

For a Property Owners Association, each director owes that duty to **the Association as a whole**.

This means directors must make decisions based on what they honestly believe is best for the Association—not what is best for themselves, a friend, a neighbor, a committee, or even the members who voted for them.

The Three Primary Fiduciary Duties

1. Duty of Care

The Duty of Care requires directors to make informed and thoughtful decisions.

This includes:

- Preparing for meetings.
- Reading reports and supporting materials.
- Asking questions when information is unclear.
- Seeking additional information when appropriate.
- Exercising reasonable judgment.
- Making decisions after considering the available information.

Directors are not expected to know everything, but they are expected to make a reasonable effort to understand the issues before voting.

2. Duty of Loyalty

The Duty of Loyalty requires directors to place the interests of the Association above personal interests.

Examples include:

- Avoiding conflicts of interest.
- Disclosing potential conflicts when they exist.

- Not using Board service for personal gain.
- Treating all members fairly.
- Protecting confidential information obtained through Board service.
- Remaining impartial when making decisions.

Directors should avoid situations where personal relationships, financial interests, or outside influences could improperly affect their judgment.

3. Duty of Obedience

The Duty of Obedience requires directors to ensure that the Association operates within the authority granted by its governing documents and applicable law.

This means the Board should:

- Follow the Restrictive Covenants.
- Follow the Bylaws.
- Follow the Articles of Incorporation.
- Follow applicable federal, state, and local laws.
- Follow properly adopted Board resolutions and policies.

A Board does not have authority simply because it believes a different approach would be better. Its authority is defined by the governing documents and the law.

Good Governance Is a Process

One of the most common misconceptions is that a Board's decisions should be judged solely by whether members agree with the outcome.

In reality, **good governance is measured first by the integrity of the decision-making process.**

Before making significant decisions, a Board should strive to:

- Gather the relevant facts.
- Review the governing documents.
- Consider applicable law.
- Evaluate available options.
- Disclose and manage conflicts of interest.
- Discuss the issue openly and respectfully.
- Exercise independent judgment.
- Vote in good faith.

When directors follow this process, they demonstrate their fiduciary responsibilities—even if reasonable people later disagree with the outcome.

A decision that is unpopular is not necessarily a breach of fiduciary duty. Likewise, a popular decision is not necessarily a good one if it ignores the governing documents or applicable law.

Fiduciary Duty Does Not Mean Everyone Must Agree

Reasonable people may reach different conclusions after reviewing the same information.

Directors are expected to exercise independent judgment.

Healthy discussion and respectful disagreement are normal parts of responsible governance. In fact, thoughtful debate often leads to better-informed decisions.

Once a vote is taken, however, the Board acts as one governing body, and the decision of the Board becomes the official action of the Association.

Fiduciary Duty Does Not Require Perfection

Board members are volunteers, and the law generally recognizes that honest mistakes can occur.

Directors are not expected to predict the future or guarantee successful outcomes.

They are expected to act:

- In good faith.
- With reasonable care.
- Within the authority granted by the governing documents.
- In what they reasonably believe to be the best interests of the Association.

A director who does these things has generally fulfilled the responsibilities of fiduciary service, even if the results are not what everyone hoped for.

How This Applies to SunEagle Bay

Every member of the SunEagle Bay Board of Directors has the same fiduciary responsibilities, regardless of whether they serve as President, Vice President, Secretary, Treasurer, or Director-at-Large.

These duties apply whenever the Board:

- Adopts budgets.
- Approves contracts.
- Maintains common property.
- Interprets governing documents.
- Enforces restrictions.
- Makes financial decisions.
- Conducts elections.
- Adopts policies and resolutions.

Every Board decision should be guided by two simple questions:

"Do we have the authority to do this?"

And

"Is this decision in the best interests of the Association, consistent with our governing documents and applicable law?"

What Fiduciary Duty Is Not

Fiduciary duty does **not** require a director to:

- Always agree with other Board members.
- Vote the way friends or neighbors want.
- Represent only the interests of the members who elected them.
- Base decisions on popularity.
- Ignore the governing documents in order to reach a preferred outcome.
- Put personal preferences ahead of the Association's best interests.

The Board's responsibility is to govern the Association fairly, consistently, and within the authority granted by its governing documents and applicable law.

Key Takeaway

Every director serves in a position of trust.

The duty of care requires informed decisions.

The duty of loyalty requires putting the Association first.

The duty of obedience requires following the governing documents and applicable law.

Just as importantly, fiduciary duty requires a commitment to **good governance**—making decisions through a thoughtful, informed, and lawful process. When directors follow that process in good faith, they strengthen the credibility of the Board and help build confidence throughout the community.

Next in the Series

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Sources

This article is based upon:

- Texas Business Organizations Code
- Texas Property Code
- SunEagle Bay Governing Documents
- Generally accepted nonprofit governance principles

Educational Disclaimer: This article is intended for general educational purposes and is not legal advice. If a conflict exists between this article, the Association's governing documents, or applicable law, the governing documents and applicable law control.