



Board Member Roles and Responsibilities

MULCAHY Community Association Cheat Sheet®

**BRINGING ANSWERS
TO COMMUNITY
ASSOCIATIONS**

This publication discusses significant points of law as they apply to community associations and is not intended to offer specific legal advice or responses to individual circumstances or problems.

MULCAHY LAW FIRM, P.C.

3001 East Camelback Road
Suite 130

Phoenix, Arizona 85016

Phone: 602.241.1093

Toll Free: 877.206.7164

Facsimile: 602.264.4663

E-mail:

bmulcahy@mulcahylaw.net

www.mulcahylawfirm.net

Copyright 2013
MULCAHY LAW FIRM, P.C.
All Rights Reserved

August, 2013

THE BOARD OF DIRECTORS

Association owner/members look to their board of directors to provide the caring leadership and service that makes living in their community association desirable. The board of directors is overseeing what might be one of the largest assets association members have – their homes. This is why owners want their association to be run as a business and the board members to conduct themselves in a professional, business-like manner.

GENERAL RESPONSIBILITIES FOR THE BOARD OF DIRECTORS

Board Members and Directors are responsible for:

- Playing a participatory role: attending board meetings, arriving on time, being knowledgeable-having researched board issues and being ready to discuss and vote on such issues.
- Reading, understanding and being in compliance with the governing documents.
- Adhering to their fiduciary duty to the association.
- Placing the interest of the association above their own.
- Overseeing and treating the association services and facilities as a business.
- Overseeing the management company (should one be in place) which in turn oversees banking, budgets, insurance, utilities, landscape, taxes, etc.
- Giving notice and holding regular board meetings and annual meetings, pursuant to Arizona Open Meetings Law, A.R.S. 33-1804/A.R.S. 33-1248, the association's documents and making available the minutes of those meetings.
- Following and enforcing the rules and regulations, the CC&Rs, bylaws and collection of assessments fairly and consistently.
- Giving reasonable notice of CC&R violations with an opportunity to be heard before levying fines.
- Complying with owner's request to inspect and review records of the association as allowed by Arizona law, A.R.S. 33-1805/A.R.S. 33-1258.
- Providing open communication to the membership such as a newsletter, bulletin board, website, etc.
- Preparing an annual budget and adhering to the budget.
- Having a reserve study completed and adequate funds to support the study if the board chooses, or if required by the documents.
- Having financial records audited or reviewed yearly as stated in the governing documents and pursuant to Arizona law, A.R.S. 33-1810/A.R.S. 33-1243.
- Protecting the association and board by having the required insurances in adequate amounts, and keeping them current.
- Hiring professionals, when necessary, and following their professional advice.
- Maintaining active corporate status by paying the annual renewal fee and filing the required annual report with the Arizona Corporation Commission.
- Preparing for the annual meeting; notifying the membership and planning for mail-in or absentee ballots pursuant to Arizona law, finding potential new officers, and establishing a voting process in an open and fair manner.
- Having an approachable business-like manner.

WHERE DOES THE NEW BOARD MEMBER BEGIN?

Start by learning the basics.

1. Read the association documents and the minutes of the previous year.

Declaration of Covenants, Conditions and Restrictions (CC&Rs):

Defines the use of the land. The declaration outlines the standards for the community and establishes restrictions on use of the common property. CC&Rs provide that assessments be used for the upkeep and improvements of the common areas. Additionally, the CC&Rs set forth the rights, duties and obligations of the individual property owners and the board of directors.

Articles of Incorporation: Sets forth the purpose of the corporation. The Articles of Incorporation name the original board of directors, establishes membership and voting rights, and typically directs that the board adopt bylaws.

Bylaws: Sets forth the duties and terms of the officers and directors and sets the fiscal year and annual meeting date, quorum requirements, voting requirements and provisions for amendments.

Rules and Regulations: Serve as design guidelines or clarification of the CC&Rs to assist homeowners in regulating exterior design, and appearance and use of the property. Rules and Regulations are adopted by the board of directors.

2. Know where to find the state statutes that govern the association or condominium and have a working knowledge of them: **Arizona Revised Statutes: www.azleg.gov**
To access Arizona Revised Statutes (A.R.S.) online:
From the home page, select "Arizona Revised Statutes" located on the left side of the page under "General Information". Next, scroll down to the title you want to search, select and click on the actual title (i.e. title 33) to have the title open. The chapters, articles and sections follow, each listed respectively in numerical order. A.R.S. information can also be found on the Mulcahy website at www.mulcahylawfirm.net.

The following Arizona state statutes may govern your community association:

Title: 10 Corporations and Associations

Chapter: 24 General Provisions – Non Profit Corporations, A.R.S. Sections 10-3101 - 10-11908

Title: 33 Property

Chapter: 9 Condominiums, A.R.S. Sections 33-1201 -33-1270

Chapter: 16 Planned Communities, A.R.S. Sections 33-1801 - 33-1817

Not on-line? Most libraries have computers and will help with a search of the revised statutes or they may have the Arizona Revised Statutes in bound editions.

3. Learn

- The board should set up a mentoring program to have experienced members train new board members.
- The board should maintain a board book of resolutions, and important actions taken by the board for review.
- Use professionals to help train board members. Many professionals associated with community associations will attend a board meeting to educate the members. For example: ask a landscaper to come talk about maintaining trees, an attorney to talk about the importance of boards, etc.
- Learn the basics of parliamentary procedure.

BOARD MEMBER RESPONSIBILITIES

President - The community association president is required to fulfill many different roles, but the primary role is leader and manager. The president does not have the authority to do anything beyond the approval of the board.

The president is the official spokesperson for the board and the association and should work closely with the board, management company (should one exist) and residents to establish the overall goals of the association. Working cooperatively is essential to the success of the association.

The president should come to the meetings prepared. He/she should understand and use parliamentary procedures and be an effective communicator. The president of the board of directors has a difficult task in that he must conduct a productive business meeting of the board of directors in front of the owner members when the meeting may contain items that are controversial and upsetting to board members and owner members.

The president is responsible for the association's fiscal well being, including directing the budget process, collecting assessments, ensuring that reserves are adequately funded and that insurance coverage is sufficient to protect the board of directors and the association.

The president cannot do everything, he/she will need to

delegate to knowledgeable people and professionals and use committees and their findings for the good of the association.

Vice President - The vice president substitutes for the president in his/her absence and may be called on to use the same management skills as the president. He/she conducts meetings and presides over the board meeting when the president chooses to stand down from the chair. The vice president should keep himself/herself up to date regarding the association's programs and agendas so that he/she is prepared to chair the meeting when required. The association's bylaws may list additional responsibilities.

Secretary - The association secretary is the official recorder of the association's activities and is responsible for ensuring that accurate board meeting minutes are taken, error free, safely maintained in a notebook and kept indefinitely. Once recorded, the minutes are presented for approval by the board at a subsequent meeting. Once approved, minutes may be posted, placed on the website or in the newsletter for owner/members to review. Minutes are the official record of the association and as such can be used by a court of law in court proceedings. It is important to remember that minutes should contain what actions the board takes, not who said what in a discussion. Executive meeting minutes are not subject to review by owner members and should be maintained in a separate notebook.

The board of directors may choose to have a professional minute taker. A professional will compile the minutes and ready them for the board's review at the next meeting.

Other secretarial duties will include filing documents and attesting to the validity of the documents by signing them. The secretary prepares and distributes board meeting notices, and also notes actions taken on authorized projects. Additionally the secretary is responsible for all board of directors' correspondence.

Treasurer - The treasurer has the responsibility for association funds and will be responsible for keeping and maintaining a complete set of financial and accounting records, ensuring the financial stability of the association.

The treasurer is responsible for reviewing and understanding the association financial records each and every month and being able to give a complete review as to the association's financial status to the board at the board meeting. Additionally, the treasurer has the responsibility for overseeing the preparation of the annual operating budget. Other key responsibilities include monitoring the progress of the annual audit or financial review pursuant to Arizona law and ensuring the timely filing of appropriate tax returns and monitoring insurance for the board as well as the association.

If a management company maintains the association accounts, it remains the treasurer's responsibility to review and have a working knowledge of the accounts. The treasurer should also put safeguards in place and internal controls to protect association assets and prevent the misuse of association funds. The treasurer must be able to ask probing questions to receive answers regarding association funds and accounting procedures. A treasurer who is aware of all aspects of the accounting for the association is also a safeguard for the association's financial assets.

The treasurer may also oversee a reserve program and work with the board of directors to assure that a proper reserve study is completed and funding is adequate to support the study.