

Dallas Homeowners League

**Brief on Board of Directors
For
Neighborhood Associations**

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Board of Directors

All association officers generally serve on the Board. Standing Committee chair-people generally serve on the Board. If the Association is very large, then there may be some Board Members that serve “at large.” A neighborhood association board member helps with the administration of the neighborhood association.

Being a board member involves a time commitment, on the average, of about five hours per month. More time may be required during the early period of the association. This is based on time needed for monthly board and committee meetings and participation in one neighborhood project. The benefits of being a board member include meeting new friends, gaining new skills, and influencing the future of your neighborhood. A board member must:

- Be committed to the betterment of the neighborhood,
- Work well with others and respect their opinions,
- Listen attentively to other people’s ideas and concerns,
- Communicate ideas and concerns clearly to others,
- Follow through on commitments, and
- Be assertive and friendly to recruit volunteers.

Boards sometimes fail:

- Because of an ineffective nominating committee.
- Because members do not have a good understanding of the organization and what their role is.
- Because the same people serve year after year there is no new blood, and no concerted effort to recruit and nurture new members.
- Because there is no effective way of eliminating non-productive members.
- Because they have not established committees and recruited volunteers (non-board members) to sit on them.
- Because they have no orientation for new and old members.
- Because they have no annual plan; short-term and long-range goals and objectives.

Being aware of what causes failure gives others an opportunity to avoid those problems.

Liability Coverage for Board and Officers

A fear many board members have is being held liable for board actions. When organizations incorporate, individual board members can be protected from becoming financially liable as a result of board service. Incorporation protects against individual liability.

A provision may be placed in the bylaws to indemnify board members in the event they are sued as a result of board service. Indemnification promises that the corporation will repay the board member for costs of defending themselves in lawsuits and/or for costs of judgements against board members.

However, such indemnification is pointless if the organization does not have funds available to cover the board member's legal costs. **Therefore, larger organizations usually carry directors' and officers' liability insurance.** Several procedures should be followed in order to protect board members from potential personal liability:

- Conduct regular board meetings and keep members well informed.
- Utilize a dependable system for keeping detailed minutes of all board meetings, recording which members attended, and the nature and seriousness of all board discussions.
- Obtain adequate insurance coverage for all activities that are sponsored by your organization.
- If your association has employees, you should be absolutely certain that the association has met all tax and reporting requirements under the law.

For a low additional annual fee, several individual homeowners' policies provide coverage for policyholder's volunteer activities. Check with your insurance agent to see what volunteer coverage is available.

Board Meetings

At first glance, it seems so obvious how a Board meeting should be conducted. However, as a Board member, unusual circumstances can throw an entire board into a loop. Take the time to put some measures into place so there are no surprises. Realize that there are different types of Board meetings and varying communication methods that can be used to run an effective session.

A. Regular Meeting

This type of meeting is conducted on a regularly scheduled time, date, and place. A regular meeting of the Board of Directors is conducted for the purpose of accomplishing association business. In addition to the apparent policies and guidelines for conducting such a meeting, consider establishing agreement on the following:

- A Board meeting exists whenever a majority of its members gather at the same time to discuss or deliberate upon an association matter, after proper notice to the membership.
- In accordance with many state open meetings laws, the Board shall hold its meetings in a public location (not a private home).
- Closed sessions shall be conducted only to discuss confidential matters specified by law.
- To encourage member involvement in the open meeting, the Board should provide an opportunity for questions and comments, and specify time limits for the open member forum.
- Meetings shall be held in a facility that is accessible to all persons, including disabled persons.

B. Special Meeting

This type of meeting is held at times to discuss a specific matter, outside the scope of a regular meeting. For instance, the Board may conduct bid proposal interviews with vendors and may want to devote a meeting to just that activity. What constitutes a special meeting?

- Generally speaking, a Special meeting of the Board of Directors may be called by the presiding officer, a majority of the Board members, or other requirement established by the bylaws of the association.
- Written notice of special meeting shall be delivered to all Board members, in advance of the meeting, in compliance with the requirements of state law or the bylaws of the association.
- The special meeting notice shall specify the time and place of the meeting and the business to be transacted or discussed.

C. Emergency Meeting

What constitutes an emergency can be a matter of debate among Board members. It is important to establish criteria, so you are not caught off guard when an emergency exists. The Board may hold an emergency meeting in compliance with state law or the bylaws of the association without notice in the following cases:

- An activity which severely impairs public health, safety, or both, as determined by a majority of the members of the Board
- A disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the Board
- The Board president or designee shall give notice of the emergency meeting at least 24 hours before the meeting, whenever possible.

D. Teleconference Meeting

Since many Board members may travel or cannot make it to the Board meeting location, why not consider how to use teleconferencing to conduct a board meeting?

- A teleconference is a meeting of the Board in which Board members are in different locations, connected by electronic means, through either audio, video or both.
- The Board may typically use teleconferences for all purposes in connection with any meeting of the Board of Directors.
- All votes taken during a teleconference meeting shall be by roll call.
- During the teleconference, at least a quorum of the members of the Board shall participate from one physical location.
- All teleconferenced meetings shall be conducted in a same manner that protects the statutory rights of the members, including the right of the membership to address the Board.
- All Board policies and association bylaws shall apply to board meetings that are teleconferenced.

E. Other Gatherings

There will be times that more than a majority of the Board members could be located in one place. If this occurs, do you have guidelines in place that can reduce any perception of impropriety? Attendance by a majority of the Board members at any of the following events is not subject to open meeting laws, provided that a majority of the Board members do not discuss specific association business among themselves:

- A public gathering that involves a discussion of issues of general interest to the public.
- An open, publicized meeting organized by a person or organization other than the association to address a topic of local neighborhood concern.
- An open and noticed meeting of a legislative body.
- A purely social or ceremonial occasion.
- An open and noticed meeting of a standing committee of the association.
- Individual contacts or conversations between one Board member and any other person.

Don't be caught without any advance guidelines when unusual circumstances materialize. Prepare your Board of Directors for the abnormal events that can happen in the day-to-day management of the association.

Board Members

Board members of common-interest realty associations are volunteers who are elected by the members of their association. New board members do not always recognize the many different board member responsibilities. At various times during a board member's term of office, the member is a leader, a policy maker, an enforcer, an arbitrator and a strategic planner.

A. Roles

Some suggested roles for Board Members follows:

- Attendance at regular meetings,
- Setting policy, goals, and priorities,
- Planning projects and events,
- Sitting on a committee (i.e., housing, fund-raising, etc.),
- Representation of the neighborhood on city advisory committees,
- Representation of the neighborhood at civic activities, testifying at public hearings, and
- Recruiting volunteers.

B. Leaders

Members of the board of directors are the association's leaders. As a leader, the member is expected to always act in the best interest of the association. This means putting aside personal interest and opinions when performing board duties.

C. Policy Makers

A Board member is a policy maker. To be an effective policy maker, the board member should have an understanding of the association's past, a vision for the future, and knowledge of the present.

D. Enforcers

At times, the board member may have to enforce the association's rules, regulations, policies or guidelines. Enforcing the governing documents is necessary. Being fair, firm, consistent, honest, concerned and empathetic is the best approach to this duty.

E. Arbitrators

Arbitrator is another important board member role. There will be times when owners cannot agree on a topic and the board member becomes involved. The board member's goal is to help the owners find an equitable resolution to the disagreement. This requires the board member to be a good listener, a calming influence, and to make fair decisions.

F. Strategic Planners

As a strategic planner, the member's objective is to maintain the association's assets, prevent a recurring problem, and to avoid a future problem. This planning is often performed by the entire board. The final solutions will be a product of education, debate, and negotiation. Sometimes the proposed solutions are submitted to the membership for comment.

NOTE: Too Many Tasks?

At this point the reader is probably asking why someone would volunteer to be a board member if they knew beforehand that they were expected to do so many different kinds of tasks.

The answer is that a new board member is not expected to be an expert in each role on their first day. There are other members of the board who have more board experience.

How can board members improve their performance of these roles?

Being a board member is a rewarding experience. From the board member's perspective, the board member learns how the association is operated, develops skills they did not have before becoming a board member, and gains an appreciation of the contributions of former and future board members. From the association's perspective, the value of the volunteer's time, commitment, and intelligence could not be duplicated at any price.

- Become more knowledgeable of the state and local laws that govern neighborhood associations.
- Read and refer often to the association's governing documents (i.e. declaration, bylaws, policies, procedures, resolutions, guidelines, rules and regulations).

- Be prepared when attending board meetings. Bring the association's governing documents, most recent financial report and management report. Read the management and financial report before the meeting.
- Maintain a professional demeanor before, during, and after meetings.
- Attend seminars and classes to learn more about the operations of neighborhood associations.

Correct Number of Board Directors

In some instances, associations are unable to recruit the number of directors required, while other associations are faced with the dilemma of having too many volunteers. Having too few directors is typically easier to remedy because, in most cases, vacancies caused by resignations are easily filled by appointment. Typically, there is a provision in the bylaws that gives the remaining directors the authority to appoint directors to fill vacant positions on the board; however, in some cases, the replacements must be elected by the membership at large.

Below are some tips to ensure compliance with board member number requirements:

- Become familiar with the bylaws that govern your association
- Consult your association attorney when in doubt about ambiguous language
- Default to the covenants or articles of incorporation for additional guidance if the bylaws do not address the issue
- Keep accurate and complete minutes of association and board meetings
- Make sure that a quorum is present when electing directors
- Maintain a board roster with election and term dates for each director

Elections Should Follow By-Laws

In an attempt to accommodate all of those who volunteer to serve on the board, association members sometimes vote all of the volunteers into office. Association leaders must intervene should this happen in their association, to lead the members to a solution that is in keeping with the requirements of the bylaws. Some solutions include amending the bylaws to increase the number of directors or holding a special meeting to re-elect the appropriate number of board members to satisfy the bylaw requirements. To ensure continued compliance, the association leaders should utilize provisions in the bylaws that address the nominating committee and other election procedures.

Holding Successful Board Meetings

Advance preparation and planning ensure successful and productive association meetings. Organizers should strive to make meetings orderly and business-like, but avoid excessive formality as it can intimidate members and discourage attendance.

Organized meetings set the tone for all future board work. Board members come away from these meetings knowing they have performed their duties with confidence about how to proceed on future projects. Here are just a few tips to help the association president run an effective board meeting.

1. **Publicize the meeting in advance.** Notify the members in advance through the newsletter, e-mail, snail mail, or announcements posted in the common areas.
2. **Give board packets detailing topics to be discussed to the directors in advance.** Send such information at least one week prior to any board meeting. By giving the board plenty of time to review pertinent material, they can make informed decisions at the meeting.
3. **When possible, always conduct the meeting at the same place and time.** The place and time at which the board conducts the meeting will greatly influence the directors' productivity. Evening meetings work well for many associations, since both working and nonworking members can attend easily. However, some board members and managers claim they accomplish more at early morning meetings where there can be less distraction and more focus. The meeting place should be easily accessible, well lit, and comfortable in temperature.
4. **Begin with an agenda and allot specific time periods for each matter of discussion.** The agenda is the core of every effective board meeting. An agenda expedites meeting business and usually addresses a monthly financial report as well as committee and manager reports. The Secretary or President of the association should post the agenda on a bulletin board or other common area where members are likely to read it or perhaps send it out electronically. Understanding association issues encourages members to attend board meetings.
5. **Use the agenda to set goals.** Outline board meeting goals or objectives in the agenda. These may include future business and actions being proposed. For example, the board president may set goals to:
 - a. hear comments from the homeowners
 - b. dispatch old business
 - c. consider new business
 - d. take final action on a contract
 - e. consider tax and personnel issues
6. **Avoid surprises.** Surprises at a board meeting can be embarrassing and disheartening to both the directors and the members. To avoid unpleasant surprises, contact key members before the meeting to inquire about any potential problems and to start the resolution process early. This call will also remind other board members of their responsibilities so they too can better prepare. Reports to be discussed should be in writing and always given to board members a few days prior to the scheduled meeting.
7. **While never inviting it, always be prepared for controversy.** If the board is addressing a controversial topic, it should plan to discuss it toward the end of the agenda. This way, other routine business can be promptly concluded which allows for those observers with concluded business to depart whenever they prefer.

Remember, time is precious for volunteers of any association. Proper planning can assure efficient and productive meetings for those who give so freely for the betterment of their neighborhood.

Conflict of Interest Considerations

It is important for boards of directors to be aware that both real and apparent conflicts of interest and dualities of interest sometime occur in the course of conducting the business affairs of the neighborhood association. The appearance of same can be troublesome - - even if there is in fact no conflict whatsoever. Conflicts occur because the many persons associated with the association should be expected to have, and do in fact generally have, multiple interests and affiliations and various positions of responsibility within the neighborhood. In these situations, a person will sometimes owe identical duties of loyalty to two or more organizations.

Conflicts are undesirable because they potentially place the interests of others ahead of the association. Conflicts are also undesirable because they often reflect adversely upon the person involved, regardless of the actual facts or motivations of the parties. However, the long range best interests of the association do not require the termination of all relationships with persons who may have real or apparent conflicts that are harmless to all individuals or entities involved. Board decisions must be made by disinterested directors. Even the appearance of a conflict of interest should be avoided, if possible, and disclosed if unavoidable.

Consistent with their duty of loyalty, directors and officers should avoid placing themselves or other representatives of the association in a situation where their personal interest may conflict, or appear to conflict, with the best interests of the association. This rule applies not only to obvious conflict situations where an individual is directly involved in both sides of the transaction, but also in more subtle situations. For example, if a director has a close relationship with a person dealing with the association, the true independence of that director may be subsequently challenged. If an actual or perceived conflict exists, the directors and officers may be required to prove their objectivity and fairness relative to the challenged transaction to avoid liability. Directors and officers should heighten their sensitivity towards conflict issues. Because individuals typically do not focus on perceived conflicts, frequent inquiries and reminders concerning potential conflict situations are suggested.

A. What Constitutes a Conflict of Interest?

Because directors may be involved with other organizations that may have business dealings or affiliations with their association, the following general principles have been established. Conflicts of interest include situations:

- Where the director's private affairs or financial interests are in conflict with their duties and responsibilities or result in a perception that a conflict exists
- Where a director's actions compromise or undermine the trust which the other members place in the association

- Which could impair or appear to impair the director's abilities to act in the association's interest rather than his own

B. Types of Conflict of Interest

- **Self-dealing:** In the director's association role, the individual makes decisions that financially or materially affect the director as a private citizen or the director's immediate family.
- **Accepting benefits:** In the director's role, the director accepts substantial gifts, bribes, services or other significant benefits that may be perceived to influence the director.
- **Using confidential information:** The director uses confidential information acquired because of association work to his own individual gain.

C. Avoiding Potential Conflicts of Interest

Conflicts of interest can include both financial and material interests. In addition to actual conflicts of interest, there can also be apparent or potential conflicts of interest. An apparent conflict of interest occurs when the answer to the following question can be answered yes. *Would a reasonably informed person perceive that the performance of the director's duties and responsibilities could be influenced by their financial or material interest?* For example, any time a director is also directly engaged in a project sponsored or supported by the association, there is the possibility of an apparent conflict of interest.

A potential conflict of interest is a situation that may develop into an actual conflict of interest. The following guidelines direct all actions and decisions regarding potential and actual conflicts of interest in activities sponsored or supported by the association.

- The directors act in the best interest of the members of the association
- The directors do not participate in decisions from which they could personally benefit financially or materially, apart from the general membership
- The directors regard benefits accruing to immediate family as if the director in question were to benefit
- The directors do not use their positions or information obtained therefrom to provide an unfair advantage to themselves;

D. Procedure When a Conflict of Interest Arises

It is the responsibility of each director to immediately disclose in writing to the chair of the board of directors the existence of any conflict of interest.

- It is the duty of the board of directors to decide whether such individual may participate in any discussion or vote on the issue that has given rise to the conflict.
- Directors must withdraw from participation in any way in those decisions in which they have a financial or material interest
- When a potential conflict is identified, the director with the conflict should be removed from the decision making process. However, if such persons must

- remain in meetings in order to fulfill their administrative responsibilities, they shall not participate in any discussion regarding the issue that has given rise to the conflict of interest.
- Any proposal for funding submitted by directors in which they, their relatives or their friends have a financial interest, must be fully disclosed and forwarded to a minimum of two (2) directors for evaluation.
 - Should a director be found to be in a conflict or interest that has not been disclosed to the board as required in point one (1) above, the board may:
 - require the director to provide full disclosure of the nature of the conflict of interest
 - by special resolution, remove said director from the board.

When in doubt as to whether a conflict exists, advice from legal counsel should be obtained.

Remember, if there is ANY sign of a conflict of interest, it may completely destroy any defense you may have against a claim or accusation. Better to be safe than sorry. Avoid conflicts and, when in doubt, DISCLOSE, DISCLOSE, DISCLOSE.

Fixing What the Previous Board Did

Neighborhood Associations are like a living entity, which exist in a state of constant evolution. Associations must be able to adapt to both the physical changes of the neighborhood that take place over time, as well as the ever changing make-up of the membership of the association, which may have an even greater impact on the need for modifications. Just because a prior board of directors mandated a policy, procedure or prior action does not mean that the current board is saddled with their decisions indefinitely.

Change is necessary and should reflect the current needs of the neighborhood.

It is very important for a board to know the history of the association and understand how past policies came into effect in order to implement changes of older policies, which were established by prior boards.

As neighborhood associations age and the needs of serving the membership change, decisions made by previous boards must be revisited. Boards of directors should not feel they are married to past decisions as change is a necessary progression for serving the current requirements of the association. Fix what is needed, as the membership must look to the current board for its leadership and direction.

Taking Minutes: Whose Job Is It and Why

The responsibility to take minutes of meetings of the association or its board is typically that of the secretary. Specific responsibilities of directors serving on an association's board are most often stated in the by-laws of the association.

The most common description of the secretary's role includes the keeping of all the minutes and records of the association and the distribution of all required notices. With a job description like this, the role of secretary is a busy one that people often shy away from. When you find a volunteer who is delighted to be the minute taker, hold onto them and never let them miss a meeting! Their absence is often a source of great concern to the rest of the board and their job is one that must be faithfully filled at every official meeting.

I have been to many a meeting where the board members look around as the meeting begins and someone will ask who's taking minutes. Suddenly, people are busy removing lint from their sleeves or even the sleeve of a nearby board member, carefully avoiding the chairman's questioning eyes. What makes this task so formidable? I presume there are several reasons one wouldn't want the responsibility. First of all, as the minute man, scribe, or secretary, you have become responsible to report, as articulately as possible, all of significance that took place within a meeting without adding any confusing description or accidental prejudice. In addition, this report you provide becomes a permanent part of the association's record. From concerns about one's writing style or skills, listening to all that is going on while writing, or the pressure of knowing others will be reading your take on the meeting, the job has been known to intimidate even the most enthusiastic board member.

Some Essentials

No matter who ends up with the task, there are some fundamental essentials to taking good minutes. The following is a list of some of those essentials.

- Make sure that a description of the meeting is reflected, such as type of meeting, name of the association, date, time and location of the meeting.
- Meeting attendees should be listed (including all board members, guest speakers, and management company representatives).
- Having an outline based on the agenda can be very helpful. This allows you to jump from item to item without pausing. Printing out the agenda with additional spacing allowed between the topics to make room for comments and a description of how that agenda item was addressed.
- All actions taken should be recorded. Every single comment does not have to be memorialized. What is important to note is by whom was the initial motion made, seconded and ultimately how the action was resolved. Was the motion unanimously passed? If not, how many were opposed? If no action is taken on a specific item, it is helpful to note that discussion centered on the topic but that no action was taken. It is also helpful to note when the item will be reviewed again.
- Have the person taking the minutes be the one to type those minutes and ask that such is typed as quickly as possible after the meeting is adjourned. As much as can be committed to paper during the meeting, when sorting through notes later, considerable detail may actually be confusing or taken out of context if typed after your recollection of the meeting has waned . . . or if the person typing the minutes did not hear the conversation.

Neighborhood Association Tools
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Keep in mind that taking the minutes is a very important responsibility and should not be taken lightly. If you develop this skill, you may come to enjoy the task. The ability to produce concise, coherent minutes is widely admired and valued among association members at large.