

McGowan CAI CED Resource Newsletter

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True or false:

Every board of directors and/or property manager that we insure has read their associations' By-Laws and CC&R's.

Every board of directors and/or property manager that we insure understands their duties and obligations to the association.

FALSE. The truth of the matter is, we need to advise ALL boards and property managers to DO THEIR HOMEWORK. There are simple steps they can take to minimize claims and avoid potential problems for their associations. This month, we are providing you with a quick and easy read, our Do Your Homework brochure. Our brochure provides 4 simple suggestions, that if followed, will help avoid unnecessary claims for our boards. The suggestions may seem obvious to many, but it can never hurt to be reminded of the basics for board members.

Please feel free to distribute this with your future publications. Pass it out at your next event. Have it handy for any new board members you meet.

Should you have any questions, concerns, or topics you would like us to discuss in upcoming newsletters, please do not hesitate to contact us! As always, be on the lookout for future Newsletters!

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Basics for Boards

No amount of training, guidelines or manuals will eliminate all insurance claims against homeowners association boards. But you can take steps to minimize claims and avoid many potential problems by practicing:

- Communication—Active listening;
- Transparency—Eliminating all unnecessary mystery;
- Inclusiveness—Providing every association member the opportunity to speak;
- Flexibility—A willingness to think outside the box;
- Seriousness—Treating the association like the business that it is.

By incorporating these simple concepts into board operations and association management, your association should be able to avoid most frivolous non-monetary claims.



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DO YOUR HOMEWORK

How can an association board avoid claims of improper association management?

WHAT YOU NEED TO KNOW:

Do Your Homework

Understand Your Duties and Obligations as a Board Member.

There are a number of ways to accomplish this.

- If the association has an orientation book, read it. At the same time, the board should make sure that the book is up to date (hire a community association attorney to make sure the book complies with the relevant state status);
- Have the community manager, if she or he is experienced, hold an orientation meeting discussing the duties and obligations;
- If the association does not have a community manager, hire a community association attorney to conduct an orientation. This should be repeated every time the composition of the association board changes. This is an expense that is worth its weight in gold. There are attorneys and consultants specializing in the areas that know how to price this for budget driven associations;
- The Community Association Institute is always a good resource for this type of information, both at its conferences and through materials found in its bookstore online at www.cai-online.org.

Know Your By-Laws

By-Laws are the association's operating manual.

- Have a community association legal specialist review the by-laws and the association's actual practices and make sure that they are in sync. If they are not in sync, revise the by-laws;
- Require elected board members to read the by-laws and understand how the association is managed;
- Follow the by-laws and do not get lulled into a false sense of informality.

Know Your Covenants, Conditions & Restrictions.

CC&Rs are the rules that the board is charged with enforcing.

- Have a community association legal specialist review the CC&Rs and make sure they comply with existing law;
- Require elected board members to read the CC&Rs;
- The board must be aware of how the CC&Rs have been enforced to avoid discriminatory application.

Know Your Professionals

You are only as good as the team you build.

Whether an association is small, large, simple or complex, the use of professionals is worth its weight in gold.

- Community & Property Managers;
- Community Association Attorneys;
- Community Association Financial Advisors & Bankers;
- Community Association Accountants.

How to choose?

- Referrals from other associations or professionals;
- Avoid conflicts of interest;
- Check references;
- Check association experience.

What to do?

- Demand that professionals have their own professional liability insurance;
- Obtain written engagement agreements;
- Require mutual indemnification agreements so that both sides are responsible for their own conduct.