

I Have Been Elected to Help Lead My Community Association, What Does That Mean and What Do I Do Now?

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Congratulations. Either due to your outstanding campaigning skills and qualifications or, more likely, because you were the only volunteer, you are now a member of the management committee, board of directors, board of trustees, or whatever your association calls its governing body. I'll refer to it as the management committee in this article. You might also find yourself elected to be the president, treasurer, secretary, or to another office. Whether your association is called a condominium, PUD, townhome, HOA, or homeowners association, they operate similarly. The principals that I discuss in this article are generally applicable to all of them.

You will now have an opportunity and duty to participate in decisions regarding how your association is managed and operated. You will face and be required to make decisions involving hundreds of thousands of dollars. You will also face seemingly inconsequential decisions such as whether a fine of \$20 or \$25 is more appropriate for someone who is caught with a pet off of its leash. You are likely to consider and vote on hundreds of issues during your tenure on the management committee. Although some may seem more important than others, each decision will directly impact owners in the association in which you live.

Here is a little good news. You do not need any special skills or training to be on the management committee. You do not need to attend any classes or pass any tests. All you really need to do is to try your best to act in the best interests of the association and comply with the declarations, bylaws, articles of incorporation, and rules (the "governing documents"), and with the law.

Here is the bad news. Have you tried to read and understand all of these documents? It can be a challenge. Fortunately, with a little patience and persistence, you can usually get to the bottom of specific questions. For complicated or unclear issues, you have other options. Anytime you are unsure as to what you should do, you have the absolute right to seek the advice of professionals to advise you. In fact, the most important skill you will need to develop on the management committee is determining when you can make decisions based on your own knowledge and understanding or when you should seek the advice of professionals.

What Are Your Responsibilities?

It is important to understand that you do have legal responsibilities as a member of the management committee. You have a fiduciary duty and other legal duties to the Association. While these legal duties can be explained in complicated legal terms and definitions, essentially they require you to try, in good faith, to (1) carry out the specific duties of your position; (2) take reasonable steps to educate yourself about pending decisions and actions, and (3) take actions and make decisions in accordance with what you believe are the best interests of the association. While you hope to make the "right" decision, it is not nearly as important as your effort in trying

to make the right decision. In fact, you will almost certainly make a bad decision once in a while. This is to be expected from anyone who makes decisions on behalf of an organization. We are just people, and we make mistakes. Your declaration, the law, and your association's insurance protect you from bad decisions under most circumstances, so long as you tried to make the decision correctly. If it doesn't work out, you just shake it off and try your best on the next decision.

In the rare case that an owner or someone else tries to sue you for making a bad decision, the association or its insurance company will almost always defend you and will most often cover any loss resulting from your action. This type of lawsuit is rare but your association should have insurance to protect you nonetheless. One of the first things you will do after being elected is make sure that your association has a comprehensive Directors and Officers ("D&O") insurance policy. Call your insurance professional and have them explain the options. Get the option with the most protection for you. Don't look for the low cost alternative on this issue. You are a volunteer so you are not getting paid enough to accept any more risk than absolutely necessary.

There are exceptions to the protection under these policies, but they typically involve actions where you knew that what you were doing was a violation of the governing documents, not in the best interests of the association, or illegal. Let's face it, if you completely abandon your duties, do something that you know or should know is illegal, or do something like steal money from the association, you can get in a lot of trouble and the association's insurance is unlikely to help you.

Once again, the important thing is to try to comply with the governing documents and to make decisions with the association's best interest as your guiding principal. If you are unsure what to do, listen to the professionals.

How Am I Going to Do this Job?

You are probably reading this wondering how you are going to comply with dozens of pages of legal documents and deal with all of the management, construction, maintenance, legal, and other association issues in an hour or two a month - all without any special knowledge or training.

Your declaration has the answer. You will not only the right and power, but also the duty to engage the service of managers, accountants, insurance experts, consultants, attorneys, and other employees or agents. The association will pay those people to advise you. In addition, you are typically free to delegate nearly all of the daily and routine responsibilities of the association to a manager. The people who drafted your declaration knew that everyday owners with various backgrounds would end up running this association. That is why they gave you the right and duty to seek out those people who can help you and let them do the job for which they are trained.

In some cases it is easy to know when to hire a professional. For example, you know you need an accountant to do your tax returns and a lawyer if you get involved in a lawsuit. The decision can also be difficult. Do you hire a consultant to assist you with foundation repair or do you rely upon the advice of the contractor who is financially interested in the job? You will evaluate the

costs and benefits and make the decision. Your professional manager will be the best source of advice as to whether you need a professional, but ultimately your committee must make the decision.

When in doubt, get professional help. Make sure that your annual budget includes appropriate amounts for consulting services even when you are not sure what you will need them for. I recommend setting aside 3% of your budget for miscellaneous consulting or at least \$3,500. Next to your manager, this is the best money you can spend because you are more likely to make good decisions.

How Much Time Is this Going to Take?

You are essentially running what could be compared to a small business with vendors, customers, revenue, expenses, and some very complicated issues to deal with. How much time is this going to take?

You and the other management committee members will each have a distinct personality, as will your management committee as a whole. As members come and go, your committee's personality will change. Some members and some committees as a whole are eager to micro-manage every part of the association. Some members have a lot of time, are retired, or just enjoy the involvement. Members on this type of committee might spend several hours or more each month dealing with issues. Some members essentially turn committee membership into a part- or full-time job.

Other committees and members leave the micro-management to the manager and professionals they hire. They rarely get involved in the day-to-day management and focus instead on policy decisions and ensuring that the manager is taking care of these tasks. With a competent manager, it is possible and appropriate for a management committee to invest one or two hours a month and do a fine job managing an association.

Unfortunately, management committees and members sometimes believe that they cannot or should not incur the expenses of comprehensive professional management. So, they try to "pick up the slack" even though the members of the committee really don't have the time. This is one of the most common problems that I encounter representing associations. It inevitably leads to serious problems and burnout. It will be very difficult for you and your fellow committee members to spend the time to educate yourself properly on the issues you need to be aware of to manage your property and then put the time in to actually manage it. It is possible and there are some very well managed self-managed projects, but it is rare. More often, the association suffers without professional management and unfortunately, the owners may not even be aware of the problems until they blow up. In my opinion, good professional management is one of the most important expenses of an association. Unless you are really committed and willing to invest serious time into learning to manage your association, hire a manager.

Most importantly, you must remember that you and the other committee members are volunteers. Your "obligation" to the association should typically be an hour or two a month. Anything more than that and you are going above and beyond the call of duty. If you are spending more time,

make sure it is voluntary and that you enjoy it or you will definitely burn out.

In short, you can spend as little or as much time as you want, depending on your personal management style and that of your committee.

What Are Your Rights as a Member of the Management Committee?

As a member of the management committee, you have the right to proper notice of every meeting of the management committee and any committee that you are on. You have the right to attend meetings, make proposals, and vote on any matter of business before the management committee and any committee that you are on. If you are an officer of the association, you may also have additional rights as defined in the governing documents.

Where Do I Get the Details of My Duties and Responsibilities?

Read the governing documents all the way through at least once. Ok, you can probably skip the condemnation and project destruction sections, but read the rest. Focus on the sections talking about the rights and duties of the management committee and pay close attention to the procedures in the bylaws. If you have any specific concerns about your duties and responsibilities in a particular circumstance, ask the professionals. That is what they are there for. Start with your manager. Your manager will either be able to answer the question or will guide you to a professional who will answer your questions.

Where Can I Find Some Good Literature if I Want to Learn More about Association Management?

Although you do not have to get educated to be a good management committee member, it can help a lot. Initially and unless you have a lot of time on your hands, I would recommend that you don't waste your time trying to become an expert on whatever project your association is dealing with. Whether it is roofing, asphalt, sprinklers, painting, or whatever, you will spend hours educating yourself for a project that will probably occur once in your tenure. As soon as you leave the board, all of that education leaves with you and is of little value to the association or you in the future. Rely on the professionals to guide you in these specific areas.

Rather, a committee member with limited time but a desire to become better informed should focus on the issues that committee members deal with every day. First and foremost, you must deal on a day-to-day basis with your manager. This person is really the key to how well your association functions. You could learn what to expect from managers and what options are available in the types of management. You could also learn how to better define and clarify your association's relationship with a manager. You cannot go wrong in getting better educated about your association's relationship with its manager. Moreover, as you implement this knowledge, it will get instilled in and taught to new committee members and will be passed along to benefit the association into the future long after you are off the committee.

You might also choose to learn about reserves, budgeting, rules, fines, and other aspects of an association that you will deal with day in and day out. This education will help you and your

manager fine tune your association's financial objectives and operations to really go the extra mile in protecting and enhancing the environment of the association.

Where can you get information on these topics? There are several on-line resources, some better than others. Some are free and some charge for their information. I recommend starting with CAI or the Community Associations Institute. It is a great source for information and they have dozens of books addressing all aspects of community associations. Their website is at www.caionline.org. I encourage you to focus on the GAP materials. This is the "Guide to Association Practitioner" series of booklets. CAI publishes these materials and I find them to be very insightful. You can purchase the entire series of booklets for a few hundred dollars. If you have an association office or some other place where the booklets might find a permanent home, I would recommend that your association purchase the entire series. It will provide a permanent resource from which current and future committee members will be able to educate themselves on various topics as the need arises.

Finally, you might also consider joining CAI. Your association can and should pay for your membership. If you have the time to attend any of the various seminars they provide, you will learn a lot and it is a great place to network and meet professionals in the industry. You will dramatically increase your understanding of the industry by attending and participating in CAI functions.

How Do I Get off of the Management Committee?

To get off the management committee, you simply communicate your resignation to a member of the management committee. You can resign at any time and for any reason. The best way to do this is in writing so that your decision is clear and is not misinterpreted. Typically, nothing formal is required so it can be by e-mail, letter, or handwritten note delivered to anyone on the committee. It should simply state your name, the date, and say something like: "I resign from the management committee as of the date of this notice." You can add an explanation or whatever else you believe is relevant. If you are comfortable under the circumstances, it is often helpful to provide notice of your decision to leave in advance and allow the committee time to find a replacement.

I highly recommend that you don't make the decision to resign in haste or in the heat of the moment. I have been involved in at least three situations where management committee members resigned at a meeting after an elevated conversation or during some other conflict, only to seriously regret that decision. Before you resign, make sure that you are comfortable with how power will be allocated on a new committee. Remember that the old committee members will likely be able to appoint your replacement until the next election.

Unfortunately, politics can be a reality in management committees. If you care about your association and the direction it is taking, you might want to hang in there and fight for what you believe, even if you are in the minority. At the very least, you will be raising the voice of dissent and keeping informed on exactly what is going on. This is particularly true if you believe the majority of the committee is really making bad decisions.

Ultimately, however, you can resign any time you want. If you really don't have the time and cannot make it to regular meetings, resign. You are not helping yourself or the association by holding a board position without participating.

What is in this for me?

Alternatively, you might ask; "why am I doing this?" You will not get paid. You will sometimes be involved in conflict. You will be contributing your very valuable time. Finally, you really are engaging in a very serious affair in which you and your neighbors could all be financially benefitted or harmed by your decisions.

On the other hand, you will meet and get to know many of your neighbors. You will have your finger on the pulse of your association and you will be able to participate in the decisions that impact the future value of your investments. You will be constantly observing and learning new leadership and communication skills and implementing those skills you already have. You will also volunteering your time and really helping the people in your community.

When I joined the management committee of my association, I was looking for a new experience. As I look back now and think about why I continued on the management committee for several years, I keep thinking of one elderly lady who lived across the hall from me. Once or twice a year she would stop me and really tell me how appreciative she was that I was on the committee. She told me that she slept better at night knowing that we were keeping an eye on things. It really made me feel good.

With rare exception, I believe that most people enjoy and benefit from their involvement in the management committee. You have a great opportunity to learn, stretch your leadership and communication skills, protect your own investment, and provide a valuable service to your community. You get all of these benefits for the small price of a few hours a month.

I sincerely hope you enjoy and find satisfaction serving your community.