

What obligations do the board members of a Community Association have?

Community Association board members have several duties. These duties include a duty of care, duty of loyalty, and duty of obedience. The board members also have a duty to abide by the Association's governing documents and the law. Under Minnesota law, Association board members have an obligation to carry out their duties in good faith, in a manner that the board members reasonably believe to be in the best interest of the Association, and with the care an ordinary prudent person in a similar position would exercise under like circumstances. (Minn. Stat. 317A.251.)

Pursuant to the Minnesota Common Interest Ownership Act (MCIOA), board members not only have the ability to exercise any powers conferred by law or the Association's governing documents, but board members can also exercise any powers necessary and proper for the governance and operation of the Association. (Minn. Stat. 515B.3-102.) Since board members have an obligation to abide by the Association's governing documents they should make sure the governing documents are being properly construed and interpreted when exercising their powers. Board members should also appreciate that the decisions they make and the actions they take have a direct impact on homeowners' property values.

In order to help properly carry out their duties and protect homeowners' property values, board members should have the necessary processes and procedures in place. Board directors are entitled to rely on information, reports or statements, including financial statements and other financial data prepared or presented by:

- one or more officers or employees whom the director believes are reliable and competent;
- counsel, accountants or other persons with appropriate professional or expert competence; or
- a committee of the board, upon which the director does not serve, established to deal with designated matters that the director reasonably believes the committee to merit confidence.

If a director has actual knowledge concerning a matter in question that makes reliance on these professionals and experts unwarranted then the director may not rely on that information from the three aforementioned sources.

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Directors must also avoid conflict of interests. Minn. Stat. 317A.255 discusses director conflict of interest. If a conflict of interest presents itself, the board can still proceed as long as it follows certain procedures, including:

- The contract or transaction has to be fair and reasonable when it was authorized, approved or ratified.
- The material facts about the contract or transaction and the director's interest must be fully disclosed or known to the members and they still approve the same 2/3 vote. The term "members" used here is not the board members, but membership.
- The board, after being fully advised of the conflict, approves, authorizes, and ratifies the same, not counting the vote of the interested director.

In summary, board members must attend to their duties of care, loyalty and obedience, as well as abide by the Association's governing documents and the law. Board members must be sure that, in exercising their powers, they are doing so in a reasonable manner, based on appropriate information and avoiding conflicts of interest.

