

# **VERY NICE COMMUNITY ASSOCIATION**

## *DIRECTORS FIDUCIARY/ETHICS RESPONSIBILITY RESOLUTION*

Members of the Board of Directors of a Common Interest Community volunteer their services to the Association for numerous reasons ranging from a desire to participate more closely in making decisions that affect the community to a desire to undertake a significant challenge. Frequently, however, directors accept positions on the board without an appreciation and understanding of the nature of the responsibility that they have undertaken. Board members owe a fiduciary duty to the Association, which includes a duty of loyalty, a duty of care and a duty of confidentiality. These duties begin at the time a person becomes a director, and except for the duty of confidentiality, terminate once he or she is no longer a director. A fiduciary is defined in Black's Law Dictionary as the highest standard of care that there is in being responsible for someone else's property.

A violation of these duties may result in personal liability to a director. While a director may be protected by either the association's directors and officer's liability insurance policy or a personal liability insurance policy, a director must be aware of the responsibility he has and the duties he owes to the association in order to avoid potential liability. There are instances when fore-mentioned coverage did not cover an individual acting outside of their authority. Directors must also be aware of the potential for conflicts of interest to develop and the appropriate method of addressing such conflicts should they arise.

WHEREAS, the Board wishes to avoid self-dealing, actual or apparent, in its administration of the Association; and

WHEREAS, the Board wishes to adopt requirements for directors in order to assure sound management of the Association:

NOW THEREFORE BE IT RESOLVED THAT the following shall apply:

- \* No Director shall use his or her official capacity to make or participate in making an association decision in which he or she may have a direct or indirect financial interest (other than an undivided homeowner interest).
- \* A Director shall disclose to fellow directors the potential for a conflict of interest as soon as it is apparent and will work to avoid even the appearance of impropriety.
- \* Each Director shall exercise his or her powers and duties in good faith, to the best of each director's abilities and with the utmost loyalty to the Association and Owners.
- \* No director shall use his/her position for private gain, including for the purpose of enhancement of his/her financial status through the use of certain contractors or suppliers.
- \* No director shall solicit or accept, directly or indirectly, any gifts, gratuity, favor, entertainment, loan or any other thing of monetary value from a person who is seeking to obtain contractual or other business or financial relations with the association.
- \* No director shall receive any compensation from the association for acting as a volunteer other than to be reimbursed for association expenses incurred that had prior approval and knowledge of a majority of the board.
- \* No promise of anything not approved by the board as a whole at a meeting can be made by any director to any subcontractor, supplier or contractor during negotiations.
- \* No director shall knowingly misrepresent any facts to anyone involved with the community that would benefit himself/herself in any way.
- \* Each Director shall respect the Association's property as corporation property and not take it or use it for self-serving purposes.

- \* Each Director shall not undermine the decisions and actions of the Board of Directors by acting outside of Board Meetings unless the action and/or decision is against the law and then the Director shall send a certified letter to the Board, at the current mailing address, advising them of the same.
- \* Each Director shall follow the Association's Enforcement Policy consistently and not take matters into his or her own hands to eliminate liability to the Corporation with all matters including the collection of assessments.
- \* Each Director shall have sufficient familiarity with the Governing Documents (Articles, CC&R's, Bylaws, Rules and Policies), NAC 116 and N.R.S. 116 so that he or she can use them to assist the Board in the procedural and substantive decision-making process.
- \* Each Director shall seek to understand and fulfill the responsibilities of his or her position as a Director, including the additional responsibilities he or she may assume as an officer and/or committee members. If unable to perform these duties because of the time required or any other reason, that Director must advise the full Board.
- \* Each Director shall prepare in advance for meetings so as to make the best use of all participants' time. This includes review of relevant material received prior to meetings.
- \* Each Director shall be prepared to vote on issues properly noticed and properly placed on an agenda at a meeting and will not abstain unless there is a valid reason for an abstention and will advise the remaining directors of the reason for that abstention to be placed in the minutes.
- \* Each Director acknowledges that he or she *may* be asked to resign and/or may be removed (in accordance with current Nevada laws) from the Board if he or she has three (3) unexcused consecutive Board meetings. NRS 116 covers the removal of the members of the Board and those steps must be followed, however.
- \* Each Director acknowledges that if he or she is delinquent on paying their assessments that they may not vote, by Nevada Law, on any issue in executive session where disciplining or a fine may be imposed on any other owner.
- \* Each Director acknowledges that they do not have individual authority to enforce the governing documents by confronting owners or acting outside of the adopted Enforcement Policy.
- \* A Director shall not discuss Executive Session business outside of Board meetings, unless expressly authorized to do so by a majority Board or by the person who may have been discussed during the Executive Session meeting. This includes disclosing to a spouse, significant other or room mate. This duty extends even after his or her term has expired.
- \* Copies of Attorney/Client communications are privileged and copies are not to be distributed beyond the Board, unless expressly authorized to do so by the Board. This duty extends even after his or her term has expired.
- \* Each Director shall be familiar with the Management Contract and expect no more from the Manager than is detailed in the contract. If additional services are desired, an agenda item will be requested for those purposes.
- \* Each director shall treat all fellow directors, owners and residents with courtesy and respect and shall not make personal attacks against anyone.

Caution: It is not the intent of these resolutions to establish a Director's standard of care for a particular situation. Rather it is intended to assist directors in acting in a manner which may well be above the standard of care in order to avoid claims or accusations having merit as well as those without merit.

Duly adopted by the Board of Directors on \_\_\_\_\_, 2012.

\_\_\_\_\_  
President

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Secretary