

# The Role of the Self-Managed Board Increasing Efficiency, Decreasing Risk & Improving Property Values

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Self-management may be a viable option for your association and, if done correctly, can be very rewarding. Smaller associations may find it cost prohibitive to hire qualified, experienced and responsive community association management. Larger associations may choose to self-manage because there are Board members who may have time to perform the management functions.

Regardless of the reason, the buck starts and stops with the Board. A self-managed Board must be prepared to perform all day-to-day functions regarding the management of the property, be available to address an emergency and/or oversee outsourced tasks. Although volunteers, self-managed Boards must comply with all of the same legal requirements as a professionally managed association.

Without a clear understanding of roles and responsibilities, increased liability and decreased efficiency are often prevalent and can negatively impact the property values for all owners in the association. This does not have to be as daunting as it may seem – information is empowering! Following are strategies to help the self-managed Board understand how to efficiently manage the association.

## 1. LEGAL COMPLIANCE SHOULD BE THE BASIS FOR ALL DECISIONS

Not doing things right can cause legal risk. A Board that says, “We’ve been doing it this way for years, so it must be right,” may not have sufficient defense if the Board gets sued for not following applicable laws. It is also possible that the association’s Director’s & Officers (D&O) insurance policy may not cover the actions of a non-compliant Board, which could create expensive legal bills for the association and possible personal liability for board members. Following condo law and doing things correctly are the best defenses to prevent and/or defend challenges to the Board’s decisions.

**Education-** Boards must first understand and adhere to all federal, state and municipal laws including, but not limited to: The Illinois Condominium Property Act (ICPA);

Not-For-Profit Corporation Act (NFPCA); and, the association’s governing documents such as the Declaration, Bylaws, Amendments and Rules & Regulations. If the association is a non-condominium, such as a townhome or homeowners association, it will be important to know which parts of the law may or may not apply.

Boards don’t just wake up one day and become skilled Board members and, more importantly, most don’t know what they don’t know. Just like any professional trade, education is needed. Boards that may not have implemented correct community association procedures from the start of their association often set the stage for mistakes by future Boards because they will follow the same procedures established.

**Fiduciary Duty-** The Board has a fiduciary duty to set the members’ personal agendas aside, which could be considered a conflict of interest, and make decisions based on the best interest of all owners. The Business Judgment Rule should always be applied, which includes the Board providing proper due diligence to thoroughly research association matters, obtain professional guidance and competitive bids for projects, treat all owners fairly and equally, follow all applicable laws consistently, and make the most informed decisions in a timely manner. If a Board follows this process, and still gets sued, there will be a better chance of a positive outcome in favor of the association.

**Professional Guidance-** The self-managed Board may not have the benefit of on-going consultation that a professionally managed association may have. It is helpful to surround yourself with a team of professional advisors that specialize in the community association industry such as an attorney, insurance agent, accountant, management consultant, and engineer as the need arises. The Board may consider outsourcing specific tasks to take some of the burden off of the Board while gaining experienced guidance. When in doubt, ask the experts! It will save you time and money overall.

## 2. THINK STRATEGICALLY—ADMINISTRATIVE, FINANCIAL & PHYSICAL

There are three aspects to managing any property, regardless of size: 1) Administrative-including protocols, governance, legal compliance, insurance, meeting/minutes, communications, rules, annual records, sales/leasing, etc.; 2) Financial-including income, expenses, budgets, reserves, etc.; and, 3) Physical-including the maintenance and operations of the property. If proper protocols are not followed, in addition to creating legal liability and owner inconvenience, Board decisions could be challenged.

**Administrative-** The Board should complete a Needs Analysis to determine the accurate protocols needed for all three aspects of the property, which is based on the association's Declaration/Bylaws and governing documents. An Operations Manual should be developed including all pertinent information such as: contracts, emergency numbers, vendor information, maintenance criteria, annual calendar, insurance, association procedures and forms, emergency protocols, budget, minutes, rules, governing documents, etc. This will assist in creating a transparent process, so information can be readily available, when needed, and passed on to future Boards.

**Financial-** Preparation of the Annual Budget must be realistic and based on the actual anticipated expenses of the property and not a "wish" of what the Board or owners hope to pay. While it is important for the Board to keep costs down as much as possible to prevent owners from defaulting, the Board has a fiduciary duty to ensure that the property is well maintained for the long-term. Strict collection procedures should be approved and implemented, as a budget shortfall could result in a special assessment or increased assessments paid for by all owners.

**Physical-** The Board must thoroughly review all aspects of the property for an assessment of the Building Criteria needed to maintain the safety of all owners, protection of property and extend the useful life of all common areas. Regular cleaning, repairs and preventative maintenance by qualified vendors will not only add to the enjoyment of living at the property and benefit owners trying to sell, but will save money in the long run. Proactive emergency protocols must be identified and communicated to all owners. Waiting until a pipe bursts at 3 a.m. to find a plumber will result in increased costs and damage to the property. Proactive rather than reactive management saves lives, property and money.

Each aspect of management is dependent upon the other and an annual review is suggested. For example, once the Board determines the physical needs of the property, it can budget wisely for the short and long-term expenses, and hopefully avoid an unanticipated special assessment. The Board would also be able to proactively determine the vendors and procedures for emergencies and communicate to all owners.

## 3. TAKING ACTION—THE BOARD VS. OWNERS ROLE

Staying in legal compliance and researching the needs of the

property paves the way for the Board to make good business decisions and then take action to implement those projects efficiently and in a timely manner. A clear division of roles and responsibilities will prevent confusion and provide accountability.

**Board-** It is every Board member's responsibility to understand all aspects of the property and the association in order to make the most informed decisions. The self-managed Board should "divide and conquer" by clearly defining who will be overseeing which project, setting short and long-term goals, and then providing the applicable proposals or status updates for the Board's review and approval. Avoid getting caught up in "Paralysis By Analysis" -either make a decision to approve or reject the proposal, take action and move on to the next project or table the decision pending further research.

All Board members should be active in preparing for and participating in meetings, reviewing association documents, maintaining professionalism at all times, setting personal issues aside, being fair and reasonable, keeping confidentiality on association matters, and making the most informed decisions in the best interest of all owners. Regardless of the position or office held on the Board, each Board member has an equal vote and a decision is made by a majority of the Board. This is very important to provide a checks and balance, especially regarding financial matters.

**Owners-** In smaller associations, many incorrectly believe that all owners should participate in the decision-making process, occasionally called "Decision By Mob Rule."

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Section 18.3 of the ICPA states that the association is responsible for the overall administration of the property through its duly elected board of managers and Section 18.4 itemizes the powers and duties of the Board. The owners vote for the board members and perhaps a few other specific things per their Declaration/ Bylaws but, besides that, the Board is the decision-making body of the association. The Board may approve the creation of a committee or commission and invite owners to participate and provide recommendations to the Board; however, the ultimate decision still lies with the Board.

#### 4. MANAGING YOUR ASSOCIATION LIKE A WELL-RUN BUSINESS

If you add up the value of each unit in your association, more than likely you are managing a multi-million dollar corporation. In order to run successfully, any corporation must have standardized protocols, efficient communications, a realistic budget, and a board of directors that makes informed business decisions. This is the professional mindset that all Board members need to have in managing their own association. Protecting and increasing the value of the property is the Board's number one job.

Since volunteer Board members time may be limited, it is important to increase efficiency and transparency in order to decrease Board burnout and frustration. Everything should be a process, not a project. Avoid reinventing the wheel year after year. Use industry standard forms and templates and customize based on your associations governing documents and needs. Proactive emergency protocols will prevent "crisis management, will save lives and decrease property damage.

If self-management is the right option for your association, remember that it all starts and ends with the Board. Do your homework, obtain proper training and on-going education, budget wisely, don't be penny wise and dollar foolish, surround yourself with the professionals that can properly guide you, and make the most informed decisions in a timely manner.

Efficient Management = Decreased Liability, Increased Property Values and Happier Owners! 👑

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