

## ACTHA

### PROFESSIONAL MANAGEMENT v. SELF-MANAGEMENT LEGAL IMPLICATIONS

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- A. LEGAL RISK v. COST SAVINGS
  
- B. LEGAL OBLIGATIONS OF DIRECTORS
  - 1. Fiduciary Duty
  - 2. Statutory Obligations
  - 3. Professional Qualifications
  - 4. Management Alternatives
  
- C. FIDUCIARY DUTY
  - 1. Duty of Loyalty
    - a. primary loyalty to the association
    - b. financial benefit to association
    - c. compensation only if authorized by Declaration and By-Laws
  
  - 2. Duty of Care
    - a. knowledge and maintenance of operating systems
    - b. adopt preventative maintenance program
    - c. compliance with City Codes
      - (i) exterior wall maintenance
      - (ii) fire safety
  
  - 3. Duty of Diligence
    - a. comply with Declaration and By-Laws
    - b. knowledge of Illinois Condominium Property Act
    - c. attend meetings
    - d. collect assessments
    - e. make decisions

D. MANAGEMENT ALTERNATIVES

1. Size of Association - Dictates Need For Professional Management
  - a. 2-25
  - b. 25-100
  - c. 100+
2. Amount of Association Funds
3. Directors Assume Full Obligations
  - a. financial
  - b. maintenance
  - c. legal
4. Directors Retain Selected Professionals
  - a. project management
  - b. accounting
  - c. legal
  - d. routine maintenance
5. Directors Retain Full Time Professional Manager

E. STATUTORY OBLIGATIONS

1. Illinois Condominium Property Act
  - a. adopt budget
  - b. maintain reserves
  - c. distribute annual accounting
  - d. maintain insurance
    - (i) hazard
    - (ii) property
    - (iii) directors and officers
    - (iv) fidelity insurance (Bond)
  - e. Levy Assessments
    - (i) including increases
    - (ii) issue - can board of self-managed association recommend and levy assessment increases?
  - f. Collect Assessments
    - (i) litigation against neighbors
  - g. Hold Open Meetings
2. Internal Revenue Code
  - a. file income tax return
3. Not-for-Profit Corporation Act
  - a. file annual report with Secretary of State

4. Other Obligations
  - a. response to Litigation
    - (i) owners
    - (ii) city/municipality

F. PROFESSIONAL QUALIFICATIONS

1. Standard for Directors - Self-Managed Association
  - a. perform at a level of professionally trained managers
  - b. continuing education - changes in laws, management and maintenance practices
  - c. professional certification
  - d. work experience
  - e. performing your own professional services
2. Manager Licensing
  - a. Current requirements for community association managers
    - (i) education
    - (ii) certification
    - (iii) financial security
    - (iv) fidelity insurance
3. Proposed Legislation
  - a. standards
    - (i) continuing education
    - (ii) testing
    - (iii) background investigation
    - (iv) fidelity insurance
  - b. exemption - self-managed associations
4. Management Scenario
  - a. Monday morning
  - b. winter
  - c. burst pipes
  - d. loud weekend party
  - e. electric bill overdue
  - f. insufficient association funds
  - g. delinquent unit owners
  - h. highest delinquency - next door neighbor