

FAQ

QUESTION: What is a "management company" and what do they do?

ANSWER: A management company is contracted by the Board of Directors to provide such services as: Collection of assessments, supervision of subcontractors, obtaining estimates for subcontracted services and providing financial statements/information and income and expense reports. Also, a management company is a general clearing house for problem solving, communications with homeowners and the Board of Directors and to serve in an advisor capacity. The management company reports directly to the Board and/or a designated member of the Board. All decisions are made by a majority vote of the Board of Directors.

QUESTION: What is the Board of Directors?

ANSWER: The Association is most often a corporation by law, and therefore a governing body is needed to oversee the business of the Corporation. The Board of Directors is the elected governing body of the Corporation or a non-incorporated association. These Directors (the number is determined by your Articles of Incorporation and your Bylaws), create the rules and regulations for enforcement within the community, oversee that funds are being properly budgeted and have the duty to enhance, maintain, and protect the property values of the Association. The Board of Directors usually organizes several committees to aid in the decision making. Examples would be Architectural and Election Committees.

QUESTION: How is the Amount of My Assessment Determined and What Does it Pay for?

ANSWER: In California, the Department of Real Estate (DRE) requires a budget from the developer for each tract that the developer proposes to build. This budget is required to be submitted to the DRE for approval prior to actual sales. The DRE has budget guidelines figures for all areas owned in common and which are the responsibility of the Association to maintain and or replace. There are two areas of the budget; the Operating accounts such as utilities, landscaping, etc. and the Reserve accounts for future (long term component) replacements such as exterior painting, re-roofing, re-paving, replacement of water boiler and/or storage tank, etc. The individual assessment amount is then determined by the number of units built within a given Association. After the DRE approves the first budget, the total monthly assessment is then passed on to the owners. Thereafter, the Board of Directors of the Association determines the needs of the Association and the ensuing budgets (with the assistance of the property manager).

To summarize, your monthly assessment covers the operation, maintenance and repairs for which the association is obligated in accordance with the Covenants, Conditions & Restrictions (CC&Rs). Items such as insurance, taxes, water, electricity, refuse collection, landscaping, pest control, security services, janitorial, etc. are just a few items covered by the monthly assessments.

A portion of your monthly assessment should go towards funding the reserve account, which is for future repair or replacement of major components. Roof repair, pool/spa resurfacing, fencing, painting, floor covering, mechanical replacement (i.e. sump pumps), hot water boiler and storage tank, etc. are just a few of the long term components that are funded via the reserve account. The reserves vary for each community association.

QUESTION: What Happens If I Don't Pay My Assessment?

ANSWER: The Declaration states that not paying the monthly assessment causes the owner to be subject to a lien notice at 30 days past due, as well as interest and possible late charges. A notice of lien and late charge is usually assessed soon after 30 days past due and is the first action taken. If there is no response from the owner a lien is then filed which could eventually result in foreclosure of the unit. The governing documents of your Association provide further information as it applies to your homeowners association.

QUESTION: What are the governing documents?

ANSWER: Governing Documents give the Board of Directors authority and direction to govern the association. They consist of:

- Articles of Incorporation
Provide the legal basis for operating within California Corporation Codes.
- By-Laws
Outline how the association shall be governed and deal with the association as a corporation, i.e., elections, assessment collections, terms of office and duties of officers.
- CC&Rs
Conditions, Covenants & Restrictions that deal with the physical entities that comprise the association, i.e., use restrictions, easements, and annexation.
- Rules and Regulations**
Rules and Regulations adopted by the Board of Directors within the guidelines of the CC&Rs.
- State Statutes
California Corporation and Civil Codes are legislated statutes that take precedence over all other legal documents, i.e., your association may have provisions for a 15% late charge, however, Civil Code 1366 states that, unless the Documents specify a smaller amount, your late fee can be no more than 10% or \$10, whichever is greater. Because California Civil Codes take precedence, your association cannot charge 15%.
- Budget
Annual Budget prepared and distributed in accordance with Civil Code 1365. Your budget consists of anticipated operating expenses for the year as well as an outline of reserve allocations. Operating expenses include utilities, and maintenance of your association's common areas. Your Reserve Fund is a type of savings account that covers major expenditures and replacements, i.e., roofs, walls, pump and motor replacement.
- Deed to Common Area
You, as the homeowner, own an undivided portion of the common area either through your deed or the corporation that you are a member of.

QUESTION: **Speaking of Rules and Regulations, can you be more specific? Are there any other rules?

ANSWER: Most associations have developed Rules and Regulations as provided for in the CC&R's and adopted by the Board of Directors. Rules are established to provide direction to the homeowners for common courtesy with regard to parking, vehicles, pets and pool use hours, etc. In addition, your Association will adopt Architectural Guidelines with procedures for submitting requests to make exterior changes to your home and/or building. Such changes may include patio covers, decks, landscaping, exterior color changes or extensive interior changes and additions. These rules and guidelines are set up to maintain the aesthetic value and integrity of the community on behalf of all owners, and hopefully protect the market value of your investment as well. Violations of these rules may result in action by the Board of Directors and a fine. In addition, if you proceed with an exterior improvement or change, without written approval of the Board of Directors, or Architectural Committee, as applicable, you will be required to remove or correct the alteration and/or be fined for the violation.

QUESTION: Who is responsible for what in an association?

ANSWER: The Organizational hierarchy of an association consists of:

- Board of Directors establishes policies and procedures.
- Management Company executes policies and procedures as established by the Board of Directors.
- Committees research and make recommendations to the Board of Directors who then makes the final decision, i.e. Newsletter Committee, Architectural Committee, Rules Committee and Grounds Committee.
- Sub-Contractors are professionals hired to perform services for the association. The Management Company oversees the sub-contractors.
- The Auditors work independent of the Board of Directors and the Management Company in order to provide a fair and impartial audit and review of your association's finances.

QUESTION: What types of insurance does an association need to (or should) have?

ANSWER: In order to protect your interests in the association, the following types of insurance cover your association. Insurance requirements vary according to your property type and legal documents. Always call upon your Association's insurance agent when considering purchasing a policy or when increasing or decreasing coverage or deductible. The following examples show various kinds of insurance available common to homeowner associations:

- Property Damage (fire).
- General Liability (common area injuries).
- Directors & Officers Errors & Omissions (questionable business judgments by your Board).
- Workers compensation** (protects against financial liability caused by injury to employees).
- Fidelity Bond (protects against theft of association dollars).
- Earthquake Insurance (optional).

**Many associations do not require a workers compensation policy since the association may not have any paid employees (this holds true mostly for small and medium size homeowner associations). Occasional work performed by a plumber, an electrician or a garage repairman - these are services performed by independent contractors and not considered employees of the association.

The majority of claim-related occurrences are covered under the Association's liability insurance policy. Consult with your association's insurance agent (and your association's attorney) to see whether having a workers compensation policy is necessary for your association.

QUESTION: What are the duties of the Board President?

ANSWER: The President's duties include:

- Prepares agenda for meetings.
- Presides at all meetings of the Board and Association.
- Appoints and supervises all Committee Chairs.
- Liaison with Manager.
- Selects and trains Board Members for future leadership positions
- Responsible to control all meetings, keeping them moving, on time, and seeing that decisions are made in an orderly manner.
- Sets positive example for other volunteers.

QUESTION: I am thinking about running for the Board of Directors. What should I be prepared to do?

ANSWER: Members of the Board of Directors should:

- Come to meetings prepared.
- Maintain a professional demeanor.
- Ask questions ahead of time.
- Accept and support the President as leader.
- Put personal issues aside.
- Encourage others to participate by example.
- Be open and fair.
- Avoid surprising other Board Members and/or the Manager at meetings.
- Keep a healthy perspective.
- Keep information provided to you through your Director's Report confidential. It is for your use as a Board Member, not for distribution to others.

QUESTION: What is the primary charge of the Board of Directors?

ANSWER: To preserve, maintain and enhance the common assets of the association. To do this they must rely on the governing documents, advice from experts and the ability to make reasonable business decisions.

QUESTION: What can I expect when I attend the Open Forum portion of the Board of Directors meeting?

ANSWER: If you attend Open Forum, you will be expected to:

- Raise your hand to be recognized by the President of the Board.
- State your concern in clear and simple terms, preferably limiting your comments to three (3) minutes.
- If someone else has already stated the concern, but you have something new to be added to the concern already expressed, then please raise your hand to be recognized, however, the Chair may limit participation to once per owner.
- Please don't interrupt others while they are speaking.
- Maintenance related items are to be directed to the Management Company by calling their Customer Service Dept. (Open Forum is not the proper venue to report maintenance items.)
- Please realize that while the Open Forum is a time for you to express an opinion or concern to the Board, you may not receive an immediate response or decision. The Board will take

your concerns into consideration, but may not necessarily act upon them at the meeting, unless the concern is vital to an agenda item decision.

QUESTION: How can I get an item added to the Agenda of our Board of Directors meeting?

ANSWER: If you would like an item to be considered by the Board to be on a future agenda for a decision, submit your request or suggestion in writing at least a month before the next meeting. If you only want to verbally address the Board, without their making a decision at the meeting, your written input can be received up until the day before the Board meeting. (Note: The Board may be unable to make decisions on items until they have done the proper research and had time to consider their findings).

QUESTION: As a member of the Board of Directors, what can I do to contribute to each meeting?

ANSWER: The following steps will allow you to contribute to the success of your community:

- Please read your Director's Report prior to the meeting.
- Be prepared to ask a question when you're Manager calls you on the day of the meeting.
- Please call management in advance (as early as possible) if you know you will be missing a meeting.
- Always maintain confidentiality as a Board Member regarding sensitive issues discussed or reviewed at meetings (i.e., names of delinquent owners, names of owners reporting violations, who voted on Board issues, etc.).
- If you are made aware of an issue that unhappy owners (or an owner) will be raising at a meeting, please notify management in advance (they should do the same for you). In this way, management can be prepared and possibly diffuse the situation.
- If the need arises to point out an error, oversight, or deficiency in performance, please give management the courtesy of conducting this in private (just as you would conduct an employee review or reprimand in private)

QUESTIONS: What are the most common violations experienced in community associations?

ANSWERS: Some of the most common violations are:

- Failure to be current in Association dues and/or assessments.
- Disturbing the peace.
- Failure to maintain attractive landscape (weeding, fertilizing, trimming, pets soiling lawn).
- Making exterior improvement WITHOUT prior written approval of the Architectural Committee and/or in violation of governing documents (antennas, fencing, trees, etc.).
- Parking (not utilizing garage or designated space for parking, abuse of guest parking spaces, RV parking).
- Violations involving pets (i.e., clean-up, leashed, noise, waste)
- Driveway oil stains.

* Please note: Any information displayed is in no way to be construed as legal advice. Any legal concerns regarding homeowner associations should be addressed to an attorney who specializes in homeowner association law.