Legal Obligations for the Co-op Board of Directors

1) Duty of Care
2) Duty of Loyalty
3) Fiduciary Duty

Governance Overview

EXTERNAL:
- Laws—STATE, Federal, LOCAL
- Regulations specific to industry
- Requirements imposed by loans

INTERNAL:
- Articles of Incorporation
- Bylaws
- Members
- Board of Directors
- (Board appointed) Committees
- Policies and Procedures...
Duty of Care

“Prudent Persons”

Standard:

Act in good faith, in the best interests of the cooperative, and with such care—including reasonable inquiry, an ordinary prudent person in a like position would use under similar circumstances.

Cooperative Leadership Qualities

(see Qualities of Effective Co-op Leaders on NAHC Conference App/Website)

- Interested & Appreciative
- Listens Openly
- Productive
- Shares
- Humility
- Good humored

Duty of Loyalty

- Make decisions based on what is good for the co-op (and therefore all members).
- Disclose potential bias that may you may have -- seriously consider excluding yourself from any decision that might imply a bias.

(Scenario/Small Group)
Duty of Loyalty: Small Group Discussion

NOTE: LISTEN FIRST

Co-op needs new furniture for the Community room. Board treasurer, Tahnisha, just started a new job at a furniture store and offers his 10% Employee discount on the purchase.

ALSO— Tahnisha is paid on commission.

1) What should the board do?
2) What should Tahnisha do?

Avoid ANY Conflict of Interest

- Never use your board position for personal gain or profit.
- If a personal opportunity comes up that could also benefit co-op, must DISCLOSE & offer it to co-op first.
- If a board decision might have a substantial benefit to you—DISCLOSE and abstain from voting.
- When a conflict possibly exists: DISCLOSE; Abstain; Recuse

Fiduciary Duty

- Review & Consider Financial Statements
- Ask Questions
- Carefully manage co-op’s money & property (“Assets”)—don’t put assets at risk
Monitoring & Managing your Fiduciary Duty

Roles of Board & Management:
- Annual Budget
- Financial Reports
  - P & L
  - Balance Sheet
  - Accts Payable
  - Accts Receivable
- Vacancy
- Monitoring & Maintaining Reserves
- Monitoring Maintenance & Repair
- Financial Plan
- OTHER STRATEGIES?

Committees

Committees can be Standing (regular/ongoing) or Ad-Hoc (temporary), and be composed of board member (sub-committees) or entirely of (non-board) co-op members. Committees:
- Increase meaningful participation of members
- Help the board and the community: More hands make for lighter work
- Committees should have a budget to help them with their tasks
- Re-evaluate committee need/mission or bi-annually

Typical Housing Co-op Committees

Standing Committees
- Finance (board only--develop budget; review audit; assist treasurer...)
- Membership (include 1 board member)
- Social Communication & Education
- Landscape/Garden

Sample Ad Hoc Committees
- Solar Committee
- Playground
- Management Search
- Paint
Clear Roles & Responsibilities
Authority & Accountability

WHOSE ROLE? - Small Group
1) Act on late payment
2) Establish community room rules
3) Enforce rules
4) Evaluate board performance
5) Enact Bylaw change
6) Establish Conflict of Interest Policy
7) Evaluate Manager
8) Elect Board

Act as Trustees on Behalf of Members (Loyalty)
- Establish systems that link the various positions in the co-op
- Ensure that there are mechanisms for member input
- Follow bylaws, policies, regulations
- Monitor finances
- Make Regular Reports to Members
Board Speaks with One Voice

• A good board takes in information from members, listens to the separate perspectives of board members and comes to a unified decision on an issue.
• In minutes—Record cumulative vote; The only names mentioned should be who moved, who seconded, and who abstained.

Consciously Work on Board Cohesion

• Strive for consensus on decisions – listen, discuss, compromise
• Meeting/interaction Rules
• Deal with conflict don’t ignore it
Please see “Conflict Resolution Tips” in NAHC App & Conference Folder

Effective Meetings Basics

✓ Transparency; Shared Understanding
  • Set Time & Location
  • Agenda, with Est Time for each item (Approve at start of meeting)
✓ High Level of Participation
✓ Good Facilitation
✓ Always record Minutes of Meeting
Good Facilitation & Participation

• Have designated facilitator
• Timekeeper is helpful
• Someone to take minutes
• Stick to agenda topics — if a new topic is raised, group decides whether or not to add it to the agenda and timing (usually last).
  “STACK” “PARKING LOT”
• Strategies to encourage diverse participation (stick, check-in...)

Meeting Minutes

Brief, general record of meeting
Include:
• Meeting date, start & end time, location and who attended (and who didn’t if regular board member)
• Motion & who presented it & who seconded it
• Note if there was significant discussion of topic—very brief
• Results of vote (note who abstained or recused to avoid and potential conflict)

THANK YOU!!!
Policy (If time)

• A policy is a written statement of values or expectations which guide current and future decisions and actions.
  → Focus is on what needs to be done rather than the specifics of HOW they will be done.

(Small Groups) POLICY:

• Annual Budget
• Members at Board Meetings