Board of Directors of Cooperative Housing Corporations and problems of Litigation

It is important that Board of Directors of Housing Cooperative Corporations be competent, pragmatic and able to take actions that minimize and not exacerbate claims/issues that may result in litigation. The front line in the fight against costly and anxiety producing litigation is to ensure to the extent possible that your Cooperative have well trained staff/employees who perform their work so as not to increase the likelihood of claims. Staff should be trained to ensure that they are not discriminating against members of the Cooperative or prospective members of the Cooperative based on religion, race, ethnicity, nationality, gender, sexual orientation, disability or age. There are a myriad of Federal, State and local laws that potentially involve screening new applicants, transfer of membership shares, death of a member, hazards of the building of the Co-op such as lead paint and toxic mold and a host of other potential issues.

The Board of Directors being responsible for the control and management of the Cooperative needs to be aware of laws that address discrimination in housing, discrimination in general, torts, and a basic understanding of the trends of litigation in your area in order to address and reduce exposure to potential judgments. In Baltimore, Maryland for instance, a major issue is lead paint poisoning that routinely results in judgments/settlements against landlords and management companies of hundreds of thousands of dollars and attorneys’ fees of significant amounts of money regardless of whether the lawsuit is successful or not. Thus, in order for the Board of Directors to be able to manage and control these risks, they have to be cognizant of the issue in the first place. Obviously, I am not implying that a board of director has to be a legal expert but I do believe that directors need to be adept at spotting issues. Board of Directors should obviously have competent legal representation that are able to assist the Board with legal issued but also able to make recommendations to reduce legal exposure in general.

Board of Directors should be very mindful of insurance to cover possible legal risks especially “high dollar” legal exposure cases. The Board should inquire about insurance that cover everything from sexual harassment, discrimination, slip and fall accidents and litigation against the Board and/or individual members of the Board as well as any other significant legal exposures.
One of the most important cases decided concerning Board of Directors and litigation in the Housing Cooperative world was decided in the State of New York, *Ronald Levandusky v. One Fifth Avenue Corp.* This case is significant because the Court concluded that the decisions of board of directors will not be second guessed unless whoever is challenging the decision can demonstrate a breach of the board’s fiduciary duty. This rule is referred to as the business judgment rule, that the Court will defer to the decisions of the Board unless the decision is beyond the authority of the board, there is discrimination in the decision or some other basis for board to have breached their fiduciary duty.
Hypothetical-Case Study

Albert Housing Cooperative Corporation is located in Main City, State of Anywhere. A member of Albert’s Housing Corporation (Sally) who works at the Cooperative as a receptionist has alleged that a fellow member and board of directors member (Bill) has sexually harassed her on numerous occasions. She resigned in protest after working for the Co-op for 10 years. She has since filed a million dollar lawsuit ($5,000,000.00) against Albert Housing Cooperative Corporation and Bill in Federal Court. Sally’s attorney has communicated with Albert Housing Cooperative and stated they will accept $20,000.00 to settle this case. (Sally really needs the money now and is not really interested in the anxiety and having to reveal all her private issues to a Court, but is willing to litigate the case through trial if she does not get $20,000.00 immediately) It also will take at least 2 years to try this case to completion and Sally is not in great health now.

Counsel for Albert Housing Cooperative (Derek) who represents both Bill and Albert Housing Cooperative advises that it will cost $75,000.00 to defend the lawsuit (win or lose) and there is a 50% chance that Sally will win and obtain over $1,000,000.00 in damages plus be responsible for paying Sally’s attorney’s fees if she wins (an additional $75,000.00) against both the Corporation and Bill, jointly and severally. But the Board of Directors with Bill voting with the other 4 board members (unanimously) voted against settling the lawsuit for $25,000.00 because they are afraid of bad publicity and concern that Bill’s wife will hear the news and may divorce him.

What issues do you see? How should the Board have addressed the issue after being informed of the lawsuit? After being informed of the offer to settle for $25,000.00?
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Suffolk, Virginia 23435  
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**SUMMARY OF QUALIFICATIONS:**

- Highly accomplished attorney with more than 11 years of experience in litigation and general counsel representation.
- Successfully obtained favorable results for numerous individuals and businesses in complex civil and criminal litigation.
- Former Counsel in Federal litigation seeking State of Maryland's compliance with Supreme Court decision of *United States v. Fordice*, 505 U.S.717 (1992) and State and Federal civil rights acts.

**AREAS OF EXPERTISE**

- Complex Civil Litigation
- Lead Paint Defense
- Employment Law
- General Counsel
- Counsel for Cooperative Housing Corporations

**EDUCATION**

*University of Baltimore School of Law*, Baltimore, Maryland  
*Juris Doctor*, May 2001

**Honors:** Recipient of the Spirit of Excellence award for community service  
**Activities:** Vice President of the Student Bar Association

*University of Baltimore Merrick School of Business*, Baltimore, Maryland  
*Master of Business Administration*, May 2001

**Honors:** 3rd Place in the University of Baltimore Business Plan Competition

*Hampton University*, Hampton, Virginia  
*Bachelor of Arts*, History, May 1997

**Honors:** Phi Alpha Theta, National History Honor Society, and Dean's List  
**Activities:** Played quarterback on college football team.

**PROFESSIONAL EXPERIENCE**

*Smith, Barlow & Challenger, LLC*, Baltimore, Maryland  
*Attorney*, December 2001-Present  
(Law Clerk: January 2001-December 2001)

- General Counsel for sports representation and entertainment firm with internationally known client(s) in all matters including litigation and reviewing and negotiation of contracts.
• Representation of several Housing Cooperative Corporations in all legal matters from litigation to corporate matters.
• Co-Lead Counsel in significant federal litigation concerning equal opportunity among Historical Black Colleges and Universities and majority universities in the State of Maryland.
• Representation of employee(s) in the Federal District Court of Maryland in litigation alleging discrimination on the basis of race, religion as well as state court claims such as wrongful discharge and breach of contract.
• Representation of employees discriminated against based on race and gender by filing Charge(s) of Discrimination, representation in administrative hearings and litigating cases in State and Federal Court. Representation of Employer in responding to EEOC Charge of Discrimination based on allegation of discrimination based on religion.
• Representation of employee who was terminated by employer who violated employee’s Family and Medical Leave Act rights and was able to force employer to rehire employee after one year absence from employment with back pay.
• Secured summary judgment on behalf of landlord who was sued in a multi-million dollar lawsuit for alleged lead paint poisoning of a child who was a previous tenant.
• Representation of individuals in wrongful discharges cases, violation(s) of employment handbooks and allegations of violations of covenants not to compete.
• Lead Counsel of Board of Trustees of a Religious Corporation in an election dispute and issues surrounding the legality of the termination of a Pastor.

BAR ADMISSIONS/ PROFESSIONAL ASSOCIATIONS

• Maryland Bar
• Virginia Bar
• Pro Hac Vice- Fulton County Superior Court, GA (2012 in the matter of Iverson v. Iverson)
• United States District Court for The District of Maryland
• United States District Court for The Eastern District of Virginia
• Peer Attorney for Maryland Attorney Grievance Commission, (2012-2014)
• Old Dominion Bar Association
• Virginia Trial Lawyers Association
• Chesapeake Bar Association
• US Court of Appeals, 4th Circuit