

apm NEWS

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OPERATING GUIDES FOR COMMUNITY ASSOCIATIONS

By JOHN R. MATH, LCAM

Boards of Directors of Community Associations are running a small business for the betterment of their community and their fellow owners. Like any well-run business there has to be a plan of action and a basis for getting there. Successful businesses have Operating Guides for key people in the organization. In the case of a community association, all Board Members, Committee Chairpersons, key maintenance personnel and management should be in possession of the guide. In this way, the "Team" will all be on the same page when it comes to the administration, management and operations of the Association. The Guide can be used for day-to-day operations of the association or will be quite useful in the case of any emergency.

An Association Operating Guide will include essential information on the administration, management and operations of the association. The Board of Directors and management will consult the Operating Guide for important information that will help to run

the association efficiently and successfully. We suggest at a minimum that an Operations Guide contain the following categories; (Some large Associations may want to expand their Guides to contain additional information).
1. Administration 2. Budget/Reserves 3. Operations 4. Other Important Information. The following is only to be used as a guide and may be expanded or shortened depending on the size and complexity of your association.

1. ADMINISTRATION

Banking Information
Board of Directors
Clubhouse Rental/Use Committees

Description
Members

Employee Information

Contact
Job Description

Legal Information

General
Governing Documents
Articles of Incorporation
Bylaws
Declaration
Resolutions
Rules & Regulations

State Statutes

Meetings

Annual Meeting
Board of Directors
Committee

Rental & Resale Policy
Screening Procedures
Unit Owner Roster

2. BUDGET/RESERVES

Annual Budget (Last 2 years)
Balance Sheet
Income/Expense Statement
Reserve Information

3. OPERATIONS

Contact Information Including;

Service Type
Company
Contact Name
Contract Renewal Date
Telephone Numbers
Insurance Cert. on File

Insurance Information:

Insurance Co. Name
Insurance Agent Name
Contact Name & Tel.
Expiration Date for;
Casualty
Director & Officers
Empl. Dishonesty

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Flood Insurance
Liability Insurance
Umbrella Ins.
Windstorm Ins.

Service Agreements

Copies of Agreement
Service Type
Company
Contact Name
Contract Renewal Date
Telephone Numbers
Insurance Cert. on File

4. OTHER INFORMATION

Committee Reports (for the last 2 years)

Facilities Management Schedules & Reports

Manager's Reports (for the last 2 years)

Minutes of all Annual Meetings and Board Meetings (for the last 2 years)

Newsletters (for the last 2 years)

Planning Calendar (for next 12 months)

Site Map of Community with features.

The proposed Operating Guide will help your association, Directors, management and other key decision makers to respond more quickly to day-to-day problems and emergencies.

The Guide will help new Directors and Committee Members to become effective in their positions more quickly.

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Ask The Attorney

By Leigh C. Katzman, Esq.

Q. Our telephone company has notified us that they are removing the public telephone from our pool area. Is this a potential liability for the Association in case there is an emergency? If so, what should we do?

A. Potential liability may arise from the owners having an expectation that a functioning telephone would be available in the event of an emergency. To minimize potential liability, the Association should, at least thirty days prior to removing the telephone, send a notice to each and every record owner advising that the telephone will be removed on a certain date and time. By informing every owner that there will no longer be a public telephone by the pool, the Association, in essence, shifts the burden to each unit owner using the pool to make sure he or she takes the proper precautions related to same (i.e. bringing a cell phone to the pool). In any event, before allowing the telephone company to remove the telephone, the Association would be well advised to have its attorney make sure that there are no local ordinances or laws which require a telephone in community pool areas.

Q. Our Board of Directors continues to discuss and decide on items that are not on the agenda. How can we get them to stop this practice?

A. The Board of Directors must inform the members of an upcoming board meeting by posting the notice and agenda in a conspicuous area on the common property at least 48 hours in advance of the meeting. Any such agenda should include all contemplated items to be discussed, considered and/or voted upon at the time of the upcoming meeting. Furthermore, the Board of Directors must allow the members of the asso-

ciation to attend board meetings and, subject to certain limitations, speak at those meetings relative to such agenda items. Obviously, previously tabled topics or new unanticipated issues and topics sometimes come up at board meetings. Those issues are handled under the boilerplate "new business" or "old business" categories. However, it is imperative that the membership be timely informed, in writing, as to the anticipated items for discussion and consideration. When the board fails to provide proper notice to the members as to agenda items, they are not serving the interests of their constituents, and as such, must be reminded of their fiduciary obligations and the reason why they wished to serve on the board in the first place.

Leigh C. Katzman, Esq. is an attorney with the law firm of Katzman & Korr, P.A., a practice which represents over four hundred (400) community associations throughout South Florida. You may contact Mr. Katzman at lkatzman@katzkorr.com or telephone (954) 486-7774.

REMINDERS!

1. Be sure to update your files to include a new Question & Answer Sheet as of January 1, 2004.

2. Fees to the Division are coming due and are late if not paid by January 1, 2004. The amount is \$4.00 per unit for all condominiums and cooperatives.

3. Corporate Annual Reports will soon be mailed and must be filled out and received by the Secretary of State by May 1, 2004. The Fee is \$61.25 for Not-For-Profit Corporations.

COMMON MISTAKES THAT NEW DIRECTORS MAKE

By John R. Math, LCAM

The winter months are the traditional period of time reserved for annual meetings and the election of new officers and directors. This has evolved over the years as the best time to hold elections, as most of the owners are in residence at this time of year and their involvement is usually much greater. The operation of an association is one of our purest forms of democratic government. Simply put, owners nominate and elect fellow residents to represent their interest on the Board of Directors in order to govern their association according to the Declaration of Condominiums and its By-Laws.

The individuals who serve their association in an elected capacity are an absolute cross section of our society. Some people have had extensive business experience, which can be very helpful. Others have no experience at all, which in some cases can be just as helpful. I know of no real practical experience or training that will prepare anyone for being on the Board of Directors of an association. It is a totally unique business, in that you are dealing with friends, neighbors and a group of different personalities. For the inexperienced, there are common mistakes in administering an association. Some mistakes can be rectified through education and practical experience. Most can be solved with a lot of common sense. The most common mistakes for new officers and directors are the following:

1. Not being familiar with the association's documents. Many owners may be aware of the rules and regulations but not with the Declaration and its By-Laws. These documents set forth how your association will be governed and act as a guide.
2. Not being knowledgeable of State Statutes 718, 719 and 720 as well as other state and federal laws. In many instances, if the documents do not address a certain problem or circumstance, then these other laws will prevail.
3. Many Board members are unaware of their personal liability while serving on the Board of Directors. Certain decisions and actions by the Board can result in litigation and the Board may be held accountable on a personal basis. Being aware of this may help some to act more judiciously. As a director, you have a fiduciary responsibility to all of the unit owners. Rely on an attorney who specializes in condominium law to guide you.
4. Some new board members will selectively enforce rules while ignoring others who may be violating the same or different rules. This is not only unfair, but it can also bring action against Board members.
5. Many new board members are unaware of the property manager's true function. If there is a property management company, just what is their contractual responsibility? Being unaware not only creates friction but also hinders everyone from performing their jobs efficiently. I suggest having the board meet with their respective managers, review their job responsibilities with them and talk about the way the board would like to interface with them.
6. Some unit owners want to be board members for their own personal gain, or to right some wrong they feel they received in the past. This type of thinking can lead to trouble for all concerned.
7. Some officers and directors are unaware of their responsibilities. Actual job descriptions can clarify these duties. Obviously, the best time to be fully aware of these duties is prior to being nominated.
8. Some directors are unwilling to put sufficient time and effort into their positions. This is not fair to the other unit owners, or to the other directors who will have to make up the slack.
9. In some instances, there will be directors who overstep their bounds of responsibility and may be in conflict with the documents. This will disrupt the workings of the association.
10. Never conduct business and meetings in private. This is in conflict with documents and state laws.
11. Directors may be unfamiliar with existing specifications, contracts, leases and the bidding process.
12. Directors may be unfamiliar with standard insurance coverage's. This one single area will

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produce most of the litigation against a board, especially if it is not properly covered.

13. Some board members may be unfamiliar with requirements for reserves for repair and the calculations of same. Also, directors who are unwilling to make tough decisions with regards to preventative maintenance expenditures, for fear of criticism.
14. Some members may be unfamiliar with standard accounting practices and procedures. Allow someone with knowledge in this area to take the responsibility for this all-important area.
15. Boards may not be prepared for emergencies and the unexpected. Such things will happen and they should be thought out well beforehand.

This list is comprised of only the most common mistakes that seem to be repeated by new officers and directors. They are all correctable and, through a period of adjustment and experience, can all be conquered.

Associated Property Management of the Palm Beaches, Inc. is a fifteen-year-old full service association management firm. APM serves more than 125 associations in Palm Beach County. If you have any questions or comments you may contact us at 1928 Lake Worth Road, Lake Worth, Florida 33461. Please call us at 561-588-7210 or you may email us at assocpropmgt@bellsouth.net at any time.

USEFUL WEBSITES FOR YOUR ASSOCIATION

Associated Property Management
561-588-7210 or www.assocpropmgt.com

Florida Department of State
904-487-6000 or www.sunbiz.org

South Florida Water Management District
561-686-8800 or www.sfwmd.gov/index

Palm Beach County Property Appraiser
561-355-3230 or www.co.palm-beach.fl.us/papa/main/default

Florida Division of Emergency Management
850-413-9900 or www.floridadisaster.org

Palm Beach County Div. of Emergency Mgt.
561-712-6400 or www.co.palm-beach.fl.us/eoc