

# DEFINING YOUR ROLE IN A HOMEOWNERS ASSOCIATION

By Robert Ryan

CONTRIBUTING WRITER

As a recognized leader in your business or community, you have just been asked to consider running for a seat on the board of directors of your neighborhood homeowners association. You pause, reflect and then ask for a few days to consider the request. As you are hanging up the telephone, you wonder to yourself, "What have I just agreed to consider doing?"

Typically, in larger developments, an owners association is established by the developer. One of the first inquiries should be to find out if the association was formed as a Kentucky nonprofit corporation and if it is in good standing. This information is available online at the Kentucky Secretary of State's corporations Web site. In unincorporated associations, the active members may be personally liable for the association's contractual liabilities.

It is also important to retrieve the restrictive covenants covering your neighborhood to determine if mandatory owner membership in the association is provided for, which requires all owner members to abide by the rules and regulations of the association. These restrictive covenants serve as the road map for the enforcement activities of the association and should have been provided with your closing documents. If not, the restrictive covenants are available at the appropriate county clerk's office.

In incorporated associations, the owner members vote to elect the board of

directors, which must contain at least three members, with three to five board members being the norm. That vote is typically taken at the annual owners meeting or, if provided for in the bylaws of the association, by mail balloting.

Unless otherwise provided for in the association bylaws, a board member's tenure is one year and until his or her successor is elected and seated. Those bylaws may provide for a staggered board with two-year terms and election of a number of directors in alternating years. The advantages of the staggered board are greater continuity and ensuring a number of seasoned members each year.

In making your decision, you may wish to familiarize yourself with the current board members, the ongoing operations of the association and whether director and officer's liability insurance coverage has been procured and a property manager retained to assist the association. A growing number of associations are establishing Web sites that contain this operational information and serve as an informational highway to association members and a window to the world for the community. Former association board members would also serve as an excellent resource on prior board commitment and philosophy.

If elected, you would assume your seat on the association board and participate in the election by the board members of the officers for the association for the upcoming year. In nonprofit corporations, the board of directors formulates the association

policies and administers its affairs, which are carried out by the association officers. These officers usually consist of a president, vice president(s), secretary and treasurer. Association board members can expect to be appointed to one of these offices.

Typically, the president is the chief executive officer and presides at the meetings of the owners and board of directors. The secretary has charge of the association records and keeps the minutes of the meetings. The treasurer is responsible for keeping full and accurate financial records and ensuring that any necessary tax returns are prepared and filed. If a property manager has been retained, many of the ministerial functions may be assumed by the property manager's employees.

The better course is for the association board to hold regular monthly meetings that are open to attendance by the owner members. In a number of associations, the board members hold pre-meeting work sessions to preliminarily discuss and better organize their more formal board meetings. A growing number of associations post the minutes of the board meetings on the association Web site for the nonattending members to view.

Another important function of the association board is to formulate an annual budget and establish the annual assessment, which will be paid by association members. Under its formation documents and the restrictive covenants, the association is charged with the

obligation of maintaining the common neighborhood areas, collecting the assessments and ensuring compliance with the neighborhood restrictive covenants. Implementation of many of these functions may be the responsibility of the property manager.

A distinct advantage of an owners association is that it buffers neighborhood disputes. The more impartial association board, or its property manager, can enforce the established restrictive covenants and ensure uniform collection of any delinquent assessments, all the while avoiding pitting neighbor against neighbor.

Hopefully, your inquiry and reflection will lead you to say "yes" to becoming one of the driving forces in your community to help chart your neighborhood association's future course in promoting the social welfare and serving the common good of members of your association.

*Robert Ryan is a member in the Lexington firm of Fowler Measle & Bell PLLC and advises and defends in business, real estate and homeowner association matters.*

*If you have a question about business, real estate or associations law, e-mail Robert Ryan at RRyan@FowlerLaw.com. Your question may be anonymously addressed in a future issue.*

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