

ROLES AND RESPONSIBILITIES OF ASSOCIATION MEMBERS

In the purest sense, community associations, planned communities, common interest communities – whatever term you wish to use for covenant restricted communities – are a form of representative democracy. The owners elect representatives to the policy-making body, the Board of Directors. The members of the Board of Directors in turn determine among themselves who will fill the positions of the Officers in the Association. They also appoint all Committees who serve at their pleasure in accordance with the documents.

Everyone involved with an Association has a responsible role:

1. Owners are expected to pay assessments on time, know their documents, follow the rules, and also participate at meetings and vote.
2. The Board of Directors sets policy and administers the operation of the Association. Many Associations contract with a management company to carry out the day-to-day operations, but the ultimate responsibility and decision for how the Association will run lies solely in the hands of the Board of Directors.

The “prime directive” of the Association is to **protect, preserve and enhance** the value of the asset. This may involve hiring staff or contractors, setting policy, establishing rules, holding meetings and/or recruiting volunteers, but the basic “mantra” of all Association Boards should be to “protect, maintain and enhance”, for the benefit of ALL the owners.

That responsibility includes acting with good faith for the benefit of the whole, in a prudent and reasonable manner, using the “Business Judgment Rule” or the “Reasonable Man Rule”. Simply put, this practice means to “exercise the same degree of care in decision making that would be expected of an ordinary prudent or reasonable man in a similar business or situation”. It is tried and true and it always, always works. It is the ultimate test of fiduciary duty.

The manager, contractors and professional consultants hired by the Board or volunteer homeowners recruited by the Board are charged with executing the decisions of the Board, within the parameters of the policies established by that Board. The Board may delegate the authority to accomplish certain tasks, but it can never delegate the ultimate responsibility for the operation of the Association. The Board must act not only with good faith and loyalty, exercising due care, but it must also act within the legal scope of the Association’s governing documents – CC&Rs, Bylaws, Articles, rules – as well as local, state and federal regulations.