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Policy Governance - Board Decision Making and Operation

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This document is intended to provide general information. It does not and cannot provide specific legal advice. For additional information or answers to questions, you may contact Augustus H. Shaw IV, Esq. of Shaw & Lines, LLC at 480-456-1500 or send questions to ashaw@shawlines.com.

This course is approved by Community Association Managers International Certification Board (CAMICB) to fulfill continuing education requirements for the CMCA® certification. www.Camicb.org.

LEGAL SERVICES

GENERAL CORPORATE COUNSEL

Advising developers and community associations on forming corporations, funding reserves, compliance issues, and other general counsel matters.

COLLECTING ASSESSMENTS

Applying efficient, fair and effective collection strategies proven to recoup unpaid assessments, including collection demand letters, litigation, overseeing payment agreements, recording liens, wage and bank garnishments and foreclosures.

ENFORCING RESTRICTIONS

Employing tactical approaches to remedy violations and enforce restrictions, including mediation efforts and enforcement litigation.

DRAFTING, INTERPRETING AND AMENDING DOCUMENTS

Our attorneys are experienced in drafting and amending association documents that are easy to read, understand and apply. We also assist you in analyzing and interpreting provisions of association documents to help you better understand their meaning and application.

LITIGATION AND BANKRUPTCY

Providing competent and assertive representation for community associations in court on matters typically involving assessment collection, enforcing restrictions, foreclosure, defending community associations in lawsuits and protecting rights in bankruptcy.

CONTRACT NEGOTIATION AND REVIEW

We help review, interpret and negotiate contracts between vendors.

PROPERTY TAXATION

Assisting planned community associations in reducing tax liability for common area property tax liens.

CONSTRUCTION AND LAND DEVELOPMENT

Advising developers of community associations concerning applicable city ordinances, planning restrictions and similar land use issues.

GENERAL REAL ESTATE LAW

A multifaceted real estate practice offering clients a wide range of services for issues pertaining to zoning regulations, ordinance violations, land use and other general real estate and legal matters.

INSURANCE DEFENSE

Representing Insurance Companies in defending claims against their insured.

EDUCATING COMMUNITIES

Offering the Lunch & Learn Lecture Series and the Community Association Desk Reference Set for community association professionals to “be in the know” concerning changes in the law and effectively managing community associations.

Learning Objectives:

This seminar will discuss the how implementing policies and procedures can aid a homeowner association Board of Directors in making decisions and operating the homeowners' association in an efficient, effective and legally appropriate manner.

What is Policy Governance

Policy governance is a form of governing or operating a homeowners' association which emphasizes Board decisions based on written policies and procedures.

What is the benefit of a Policy Governance

The ideal of policy governance is for the Board of Directors to base all decisions on well thought out written policies and procedures; meaning, the Boards of Directors should know and understand the various policies and procedures of the homeowners' association and base all decisions on said policies and procedures.

What is required to implement Policy Governance

The first step in implementing a policy governance system is the creation of an overarching "mission statement" for the homeowners' association that serves to help the Board of Directors to understand its fundamental responsibilities to the homeowners' association. Below is an example of a "mission statement."

The Hillacre Homeowners Association is a community association established to create a sense of community amongst all owners, to enforce the various restrictions, rules and regulations, to protect Association property and to maintain and enhance owner property values.

The next step in implementing a policy governance system is the creation of written policies and procedures that will serve to effectuate the mission statement. Below are some examples.

Example – The Hillacre Homeowners Association is a community association established to create a sense of community amongst all owners, to enforce the various restrictions, rules and regulations, to protect Association property and to maintain and enhance owner property values.

- a. Potential Policies to implement entire “Association Mission” could be as follows:
 - i. Management Responsibilities Policy (Management Contract)
 - ii. Board Member Responsibility/Code of Conduct Policy
 - iii. Board Meeting Policies and Procedures
 - iv. Annual Meeting Policies and Procedures
 - v. Member Meeting Policies and Procedures
 - vi. Association Vendor Request for Proposal Policy
- b. Mission Statement - *The Hillacre Homeowners Association is a community association established to create a sense of community amongst all owners...*
 - i. Potential Policy regarding this “Association Mission” could be as follows:
 - 1. Social Media Policy
 - 2. Holiday Celebration Policy
 - 3. Newsletter Policy
- c. Mission Statement - *The Hillacre Homeowners Association is a community association established to enforce the various restrictions, rules and regulations...*
 - i. Potential Policy regarding this “Association Mission” could be as follows:
 - 1. Assessment Collection Policy
 - 2. Enforcement Policy
 - 3. Architectural Guidelines
 - 4. Rules and Regulations
- d. Mission Statement – *The Hillacre Homeowners Association is a community association established to protect Association property*
 - i. Potential Policy regarding this “Association Mission” could be as follows:
 - 1. Reserve Account Investment Policy
 - 2. General Association Investment Policy

3. Landscaping Committee Policy

Other examples of policies and procedures that may be needed in a policy governance system are as follows:

Examples

How should a Board meeting be run; what items should be on the Board agenda? What Board operating procedures should be used. How should meeting minutes be taken. Should the Board have a “code of Conduct.” These questions would be addressed through the *Board Meeting and Conduct Policies and Procedures*.

Let’s say the Board wants to hire an attorney, landscaper, property manager or accountant. The process to hire these vendors would be governed by the *Association Vender Request for Proposal Policy*.

Let’s say an owner complains about another owner’s activities or behavior. Handling the complaint would be governed by the *Association’s Enforcement Policy*.

Let’s say an owner is delinquent in the payment of assessments or other funds owed to the Association. The collection of the funds would be governed by an *Association Collections Policy*.

Let’s say that a landscaping issues arises. Handling the issue could be discussed *Management Responsibilities Policy (Management Contract)* or possibly in the *Landscaping Committee Policy*.

Let’s say an owner desires to make an exterior change to their property (i.e. painting). Handling this issue would be discussed in the *Architectural Guidelines and Procedures*.

Policy governance allows an association to not have to “reinvent the wheel” every time a decision must be made, thus reducing the time required for Board meetings. Policy governance also ensures that a homeowners’ association operates within the bounds of relevant law.

SHAW & LINES, LLC
COUNSELORS TO COMMUNITY ASSOCIATIONS

“DOING BETTER WHAT IS ALREADY BEING DONE.”

Shaw & Lines, LLC is an award winning law firm that focuses its practice to Homeowner Association Law, General Real Estate Law, Bankruptcy, Fair Housing and General Business Law. The Firm was founded and continues to operate on the goal of promising and providing efficient, competent and quality legal services to its clients. Shaw & Lines, LLC distinguishes itself by efficiently and effectively “doing better what is already being done.”

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