

# Condo Board Member Boot Camp

## **Legal Overview**

**May 1, 2010**

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# Rights and Obligations

- ✧ Developer and Owner
- ✧ Board Members
- ✧ Officers
- ✧ Committees
- ✧ Unit Owners

# Common-Interest Communities

- ✧ Condominiums
- ✧ Cooperatives
- ✧ Planned Communities
- ✧ Master Association

# Legal Documents

- ✧ Master Deed
- ✧ Declaration
- ✧ Bylaws

# Responsibility and Authority of Board

## Overview

- ✧ Role of Trustees: condominium documents, i.e. declaration of trust, bylaws, M.G.L 183A; hiring and firing of professionals, i.e., cpa's, attorneys, etc.
- ✧ Preserving, enhancing and maintaining asset value
- ✧ Fiduciary Duties: loyalty, care, accounting, disclosure
- ✧ Agency Relationship: principal agent
- ✧ Principal Liability: response for misdeeds or failure to act in light of known defects, i.e., snow, ice, aggressive pets
- ✧ Written Management Agreement (where applicable)

# Responsibility and Authority of Board: Administration

- ✧ Communications to Unit Owners
- ✧ Transfers & Refinances: extra costs and expense
- ✧ Unit Owner Issues: unit owner vs. unit owner nuisances, transparency of director action, be inclusive
- ✧ Meetings & Minutes
- ✧ Surveys
- ✧ Investment of Association Money

# Responsibility and Authority of Board: Collections

- ✧ Track AR-cash flow trends
- ✧ Identify problem accounts
- ✧ Determine when to get legal assistance
- ✧ Last follow-up
- ✧ Bad mailing address
- ✧ Automatic pay info problem
- ✧ Status reports and monitoring
- ✧ Super-lien/foreclosure
- ✧ Policy in place to refer to legal, amount of fines for delinquency

# Responsibility and Authority of Board: Financials

- ✧ Budget Determination: Board draws up income/expenses, services vs. spiraling costs
- ✧ Shortfalls and Variances
- ✧ Special Assessments vs. Fee Change



# Responsibility and Authority of Board: Insurance

- ✧ Reviewing Documents
- ✧ Selecting Coverage
- ✧ Claims from common areas should reimburse damage property, no fault bylaw unit owner, increase future premium
- ✧ Deductibles & Budgets
- ✧ Unit Owner Self-coverage

# Responsibility and Authority of Board: Operations/Maintenance

- ✧ Standard Procedures: Property Manual, site inspections
- ✧ List of Vendors
- ✧ Indemnity
- ✧ Bidding, Contracts and Vendor Relationships; 3 Bids, quality, price recommendations, contracts, warranties, insurance loss payee, general liability, workers' compensation, basis to termination
- ✧ Preventive Maintenance
- ✧ Emergency Procedures
  - Fire
  - Flood
  - Snow

# Responsibility and Authority of Board: Capital Items

- ✧ Adequate Reserves: prevent emergency assessments
- ✧ Reserve Studies: outstanding firms, engineer, rely on third party every five years, major systems; heating, roof
- ✧ Replacement vs. Improvement: upgrade or add new services
- ✧ Unit Owner Approval

# Management Companies: Board-Manager Relationship

- ✧ Board-Manager Contact & Communication
  - Board Meetings
  - Email & Phone Calls
- ✧ Monthly Management Reports
  - Financial
  - Variance
  - Delinquency
  - Operations
- ✧ Unit Owner Contact & Communication
  - Know your unit owners' preferences
  - Meet your community's needs

# Management Companies: Benefits

- ✧ Manager Interprets Board's Policy
  - Accuracy of interpretation of policy
  - Following through as directed by Board
  - Ensuring compliance
  - Accountability
- ✧ Communications to Unit Owners
- ✧ Emergency Services
- ✧ Everyday repairs and maintenance
- ✧ Finances: collection of dues, assessments, transfers and refinances
- ✧ Unit Owner Issues
- ✧ Meetings & Minutes
- ✧ Surveys
- ✧ Investment of Association Money

# Management Companies: Contract

- ✧ Duration
- ✧ Duties of manager
- ✧ Costs and extras, i.e.. extra g.c. work,  
insurance claim oversight
- ✧ Compensation
- ✧ Indemnity

## Enforcement Procedures: Internal Enforcement Procedures

- ✧ Documents
- ✧ Rules and Regulations
- ✧ Policies and Procedures-warnings, fines, enforcement
- ✧ Compliance, Hearings and due process

# Enforcement Procedures: External Enforcement Procedures

- ✧ Rights of the Condominium
- ✧ Mediation
- ✧ Arbitration
- ✧ Litigation