

# Board Members as Fiduciaries of their Association

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**W**hen homeowners consider running for a position on their board of directors of their homeowners association, they need to look at what it is they are really taking on in making that decision to run. Board members are volunteers who, for the most part, have the best interests of their community at heart, but their role in serving as board members is more a position of responsibility. They are responsible to the members of the association, and, as such, are a fiduciary of the association.

A fiduciary is someone who owes a duty of loyalty to safeguard the interests of another person or entity, such as a trustee of a testamentary trust or a guardian of an estate. A fiduciary may be required to hold funds and assets of another, and has the express duty not to benefit at the expense of the one(s) they are responsible for. A fiduciary must avoid “self-dealing” or “conflicts of interests” in which the potential benefit to that fiduciary is in conflict with what is best for the person who trusts him or her.

This “duty of ordinary care and loyalty” means that the board member serving the association and its members must put aside any ideas of self-interest, profit, or actions that may only benefit or affect a select number of the membership. The “duty of care” is the responsibility of the board members to ensure that their decisions and day-to-day operations of association business protects, preserves, and works to enhance the assets of its members - mainly the association and its common areas. The “duty of loyalty” is much the same as “duty of care” in that the board’s loyalty in its actions are to protect the interests of the association member-owners and to benefit them as a whole.

The ideal board as a whole needs to work together, allowing for the fact that they each may have their own ideas and differ in their opinions. When a majority of the board votes one way on an issue, others may be disappointed and frustrated when the vote did not go their way. Those board members must put their disappointments behind them, move forward, and support the majority board decision. A board that understands its responsibility to all the members of its association is a working and productive board.

A large part of the duties of a board of directors, as a member and a fiduciary, is to maintain a healthy financial condition for the association. Working within their annual budget and in controlling the expenditures and expenses for their association is an important part of acting as a fiduciary as well as making sure they have a well-funded reserve account for the replacement of major common area components.

Acting as a good fiduciary also means that in a review of their expenses, the board does not shy away from their responsibility of making sure that assessments meet the total of expenses necessary to properly maintain and

operate their association. As a volunteer, it is sometimes difficult for board members to get past the feeling that in raising members’ assessments they are not doing a good job, or they worry that neighbor members will not look favorably on them.

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A board member of a homeowner association is much like a board member of a Fortune 500 corporation; the financial health is all important to its members. So, while your decision to increase assessments is not one that may be easily accepted by the members, it is, in fact, one of your duties as a fiduciary. A successful board is one that looks to the professionals and experts such as their community manager, CPA, attorneys, and Reserve Specialists in establishing a healthy budget and keeping adequate funding in their reserves for larger expenditures down the road.

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CAI has many educational publications, books, articles, and webinars that assist and educate board members in their duties to the association. Explore the many resources available online at: [www.caionline.org](http://www.caionline.org).