



## 12 Common Mistakes a Board can Make

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## **THE THINGS WE DO WHEN WE WANT TO BE SUED:**

### **I. We don't follow those portions of the documents we don't like.**

- A. Meetings
- B. Fines
- C. Assessments
- D. Architectural control committee
- E. Maintenance, repair & replacement

### **II. We have secret board meetings when we know the unit owners won't be happy.**

- A. We don't encourage attendance.
- B. We don't have a time for unit owner comments (listening time).
- C. We don't post when and where the meetings will take place.
- D. We don't timely publish the minutes of the meetings.
- E. We don't go into executive session ONLY when we should.
  - 1. We talk about confidential information or personal/protected information at the board meetings because no one else is there;
  - 2. We go into executive session or closed session for items not covered by the law (Open Meetings Law);
  - 3. Requirements for executive session – Sec. 19.85, Wis. Stat.:
    - a. Need a motion to go into executive session;
    - b. Can only stay executive session for those limited items allowed to be discussed in executive session;
    - c. The presiding officer should make an announcement of the nature of the business to be considered in the executive session before the board goes into the executive session; and
    - d. The normal items for which closed sessions are used are the following:
      - i. Seeking advice of legal counsel on pending matter;
      - ii. Personnel decision on dismissal, demotion, discipline, or personal financial or medical histories;
      - iii. Strategies for Crime prevention or detection; and
      - iv. Deliberating or negotiating competitive contracts.

### **III. We don't notify our insurance carrier of all claims because:**

- A. We don't want too many claims;
- B. We don't want to risk being dropped or our premiums raised; or
- C. We don't believe the claim is covered.

**IV. We don't have reserves, because we don't want to raise assessments.**

**THE THINGS WE DO THAT WE SHOULDN'T:**

**V. We have meetings that go on for hours so everyone can have their say.**

**VI. We have minutes of our meetings that attempt to cover every statement.**

- A. Minutes, not hours.
- B. What you need:
  - 1. Date;
  - 2. Attendance;
  - 3. Quorum;
  - 4. Motions; and
  - 5. Vote on motions

**VII. We keep our documents forever, so if we ever need a document it's there.**

- A. Document destruction policy.
- B. Why you NEED one – \$\$\$.

**VIII. We make decisions based on what we think is right.**

- A. Make data driven decisions and state why you are making a decision.
- B. *Example* – Use the reserve study to determine what needs to be replaced and when, and Use a contractor or engineer to determine which building/unit goes first, second etc.

## WHAT WE DON'T DO THAT WE SHOULD:

### IX. We don't buy D&O and fidelity bond insurance to save money.

- A. **D & O Insurance.** Directors & officers liability provides coverage for the alleged wrongful acts of board members, officers, volunteers and possibly the association itself. These acts include errors in judgment, breaches of duty and wrongful acts. This coverage pays for legal fees when a suit is filed against the insured.
  - 1. Include property managers;
  - 2. Issued on a claims made policy form; and
  - 3. Include contractual liability (most don't).
- B. **Fidelity Bond or Blanket Employee Dishonesty.** This protects the insured against losses due to theft or misappropriation of funds (or other property) by employees. The property manager is included in this coverage. The amount of coverage is based on the annual income plus reserves per state law.

### X. We don't take our time to carefully draft the budget.

- A. We get it done at the last minute.
- B. We use last year's numbers and just bump them up by 3%.
- C. We have the property manager draft it and then after minimal discussion we adopt that one.

### XI. We don't immediately respond to ALL lawsuits, including bank foreclosures.

- A. Bank foreclosures – Why is it important?
- B. Suits against the association, board members and property manager
- C. Small claims actions – How to deal with these?

### XII. We don't have our attorney review our contracts.

### XIII. We didn't get our association HUD approved and Eligible.

- A. Eligibility v. Approval.
- B. Why my condos should want it.
- C. Key requirements.
- D. Two types – Del-Rap and H-Rap.

## LAST BUT NOT LEAST:

### **XIV. Take time to have fun.**

- A. Games
- B. Raffles
- C. Picnics
- D. Recognition
- E. Wine tasting
- F. Cards