

Transition of Control: Your Association has come of age. Now What?

Dean Martin
Barker Martin, P.S.
719 – 2nd Avenue, Suite 1200
Seattle, WA 98104-1749
206-381-9806 x 101

deanmartin@barkermartin.com
www.barkermartin.com

Overview

- What kind of board did you get?
- Pre-transition issues.
- Managing Expectations.
- Rational Governance.
- First Board Meeting After Transition.
- Issues with RCW 64.55.
- Conclusion

Board # 1: The Pliable Infant

- Pros:
 - No independent thought and may do anything you say.
- Cons:
 - No independent thought and may do anything the developer says or do anything a vocal homeowner says.
 - Won't make decisions.
 - Not proactive.
 - Inadvertently shifts risk to manager.

Board # 2: Know-it-all Teenager

- Pros: Almost none.
- Cons:
 - Tends to disregard your advice and the governing documents.
 - “I was on a board before and we did”
 - Treats Association as their kingdom.
 - Creates unnecessary conflict.

Board # 3: Rational Adults

- Pros:
 - Pays attention.
 - Wants to do right thing.
 - Willing to deal with things before they become emergencies.
 - Tends to minimize conflict.
- Cons:
 - Can be over involved and make your job harder.
 - May be less willing to accept initial recommendations without additional support.

Pre-Transition Issues

- Who do you work for? Be Consistent!
- Who communicates with the Association?
- Does Declarant Understand Transition?
 - RCW 64.34.308:
 - Appointment and election of board members.
 - Deadline for Transition of Control.
 - RCW 64.34.312
 - Documents and property to be transferred.
 - Audit.

Pre-Transition Issues

- Make sure you understand the issues and know what you are getting into.
- Review the Declaration as early as possible.
 - Does it have unique inspection requirements?
 - Is the commercial/residential setup workable or will you be stuck moderating an ongoing conflict?
 - Is there an inherent conflict or voting scheme that will prevent action?

Expectations!

- New or Conversion?
- Budget and repair issues.
- Board should not expect that the manager's extensive initial time investment will continue.
- Define your duties early and often!
- Perception that "developer's manager" is tainted or pro-developer.

Rational Governance

- Board responsibilities and limitations.
 - No authority outside board meeting.
 - No shirking duties.
 - No proxies for board meetings!
- A democracy not a dictatorship.
- No right to deviate from governing documents.

First Board Meeting

Setting a Tone

- Protocol for Board Meetings
- Living in a Condominium
- Assessments:
 - Is Declarant still paying expenses? RCW 64.34.360(1)
 - When was first assessment to any homeowner?
- Late Fees & Collections
- Fines and Enforcement
- Master Association, Commercial Association, Sub-Associations

First Board Meeting

Part 2

- Deadlines.
 - New inspection requirements in declarations.
 - Statutory Deadlines.
 - Ability to terminate leases. RCW64.34.320.
 - Audit. RCW 64.34.312(2).
 - Transfer of Association's docs and property. RCW 64.34.312(1).
 - Warranty Deadlines. RCW 64.34.443, 445, and 452
 - General Deadlines.
 - Corporate renewal.
 - Tax returns.
 - Budgets.
 - Give association ample time to take action.

Issues with RCW 64.55

- Conversions: RCW 64.55.090
 - What do you do with Developer's Inspection and Recommended Repair Report?
 - Conflict regarding recommended repairs.
 - RCW 64.55 may apply to certain repairs.
 - Tough issue to deal with at first board meeting.
- New Condominiums. Get copies of:
 - Building Enclosure Design Docs. RCW 64.34.020.
 - Inspection Certification. RCW 64.34.060.

Conclusion

- The more a board gets off track the harder it is to reign them in.
- Train and educate early.
- Cross your fingers and hope for a rational board.