

*Welcome to the*

**WASHINGTON STATE CHAPTER**  
*of*  
**Community Associations Institute**

*The leading professional organization providing education,  
resources, and advocacy for community association living.*



# Basic Training for New Board Members

Presented by:  
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# DISCLAIMER

This presentation is for general informational purposes only and may not be construed as legal advice or a legal opinion on specific facts or circumstances, nor a solicitation of legal business.

We urge you to consult your attorney concerning your particular factual situation and any specific legal questions you may have.

No attorney-client relationship attaches as a result of any exchange of information.

# Today's Focus: The Basics

**Knowledge of the following topics is essential to being an effective director:**

- Laws that Govern Associations
- Governing Documents & Legal Structure
- Board Role & Governance Basics
  - Sources of Authority
  - Using Resolutions
  - Effective Meetings (both Board and Association)
- Liability – Common Trouble Areas

# Laws that Govern Associations

## Condominiums are *Creatures of Statute*...

- “Old Act” Condos governed by **Horizontal Property Regimes Act** (RCW 64.32) (1963)
- “New Act” Condos governed by **WA Condo Act** (RCW 64.34) (July 1, 1990)
- Washington Nonprofit Corporate Acts (RCW 24.03, 24.06)
- When in conflict, condo statutes control over corporation acts (RCW 64.34.300)

# Laws that Govern Associations

## Homeowner Associations and CC&Rs:

- Homeowner Associations Act (RCW 64.38)
- Washington Nonprofit Corporate Acts (RCW 24.03, 24.06)
- Real Property Covenants (CC&Rs)
  - Similarly burden and benefit each property
- CC&Rs normally require an Association be created to administer certain functions such as collecting assessments, budgeting and paying for common expenses, caring for common areas, etc.

# Wait a minute...

## Let's not forget:

- The Constitution
- Federal Telecommunications Act (satellite dishes)
- Fair Housing Act/HOPA
  - Housing for Older Persons/55+
  - Reasonable Accommodations/Modifications
- Americans with Disabilities Act
  - Public Areas
- Landlord Tenant Act
- HUD/FHA Project Approval Guidelines
- Others

# Governing Documents

*Newsflash: Your community has a user's guide!*

Participant discussion questions:

- What is it (or, rather, what are they)?
- What's in it (them)?
- Where are they located?
- What is their order of importance?
- Why do you have to follow them?



# Governing Documents

## Condominiums:

1. Condominium Declaration (Location: Recorded)
2. Survey Map & Plans (Location: Recorded)
3. Articles of Incorporation (Filed w/ Sec'y of State)
4. Bylaws (Location: Association books, maybe Sec'y of State)
5. Rules, Regulations and Board Resolutions (Loc: Association)

For #1 - 4, check for amendments!

For Rules, make sure you have the current version with all current resolutions

# Governing Documents

## HOAs:

1. Covenants, Conditions & Restrictions (Location: Recorded)
2. Plat Maps (Location: Recorded)
3. Articles of Incorporation (Location: Filed w/ Sec'y of State)
4. Bylaws (Location: Association books, maybe Sec'y of State)
5. Rules, Regulations and Board Resolutions (Loc: Association)

For # 1- 4, check for amendments!

For Rules, make sure you have the current version with all current resolutions

*\*\*Master Association???*

# Governing Documents

## Condominium Declaration:

- Condo formed upon *RECORDING* of Declaration and Survey Map and Plans
  - Why is *RECORDING* important?
- Must meet minimum statutory requirements
  - No “standard” boilerplate Declaration
  - Defines Common and Limited Common Elements, Units, Powers of Association, Amendments, Insurance, & more
  - When in conflict, Declaration trumps Bylaws, but is trumped by Condo Act. (RCW 64.34.216)

# Governing Documents

## Condo & HOA Articles of Incorporation:

- They establish the Association as a corporate entity
  - required by Condo Act at RCW 64.34.300
- Very little governance information – intended to be extremely broad
- RCW 24.03.025 states list of topics Articles must contain, including Official Name of Association

# Governing Documents

## Bylaws:

- ◉ Normally trumped by Declaration, unless Declaration says differently
- ◉ Directors and Officers: Number, qualifications, powers, duties, terms of office, meetings, quorum, and manner of electing and removing
- ◉ Delegation to Committees
- ◉ Authority of officers to prepare, execute and record amendments to governing docs (subject to Declaration)
- ◉ Catch-all: Anything else the Association deems necessary and appropriate

# Governing Documents

## Rules & Regulations:

- Condos - Authorized by Condo Act *UNLESS* declaration provides otherwise. RCW 64.34.304(a)
- HOAs – Authorized by HOA Act *UNLESS* CC&Rs provide otherwise. RCW 64.38.020
- Rules and Regulations should supplement (but not contradict) Declaration, CC&Rs and Bylaws
- Normally contain the day-to-day guidelines that promote good behavior, safety, and Association harmony
- TIP: Look for Declaration or CC&R sections that state something like: “...this section may be supplemented by rules adopted by the Board.”
- Included here are RESOLUTIONS!

# Board Roles, Duties and Responsibilities

*Newsflash: Your manager is not a director!*

- How does a corporation take action?
- What is a board of directors?
- What actions may a board take? Why?
- What is the board's role, and what roles do board members play within it?
- Is there a difference between a director and an officer?
- May a director vote by proxy?

# Board Roles, Duties and Responsibilities

- The Board of Directors is the control group of your corporate entity (the homeowner's assn).
- Board Role Generally – Administer the association on behalf of its members; act in the best interests of the association.  
(Shareholders/members are the owners of Lots/Units).
- The Articles of Incorporation should list the purpose for your association's existence.



# Board Roles, Duties and Responsibilities

## **Board Roles:**

- Maintain, repair and replace common areas
- Collect assessments, pay bills, save for reserves
- Insurance
- Govern
  - Enforce governing documents
  - Follow governing documents

# Board Roles, Duties and Responsibilities

## Board Duties – Condos:

- Govern the Association consistent with duty of care to “...act in all instances on behalf of the association . . . the officers and members of the board of directors are required to exercise ... *ordinary and reasonable care*” **RCW 64.34.308(1)**
- *Fiduciary duty* for Declarant as member of the board, and for Declarant-appointed board members. *Id.*
- Authority to establish policies and supervise their implementation. Often have a right to enter individual units in emergencies, and to maintain and repair common elements.

Let your documents be your guide!!

Anyone see the word fiduciary?

# Board Roles, Duties and Responsibilities

## Board Duties – HOAs:

- Except as provided in the association's governing documents or this chapter, the board of directors shall act in all instances on behalf of the association. In the performance of their duties, the officers and members of the board of directors shall exercise the degree of care and loyalty required of an officer or director of a corporation organized under chapter 24.03 RCW.  
**RCW 64.38.025**
- Many different schemes. Directors should look to CC&Rs in conjunction with RCW 64.38.020 for specifics.
- Business Judgment Rule – Duty of Care, Duty of Loyalty

# Governance Basics

Step 1: Identify Action or Issue

Step 2: Read your Governing Documents

Step 3: Attempt to follow your Governing Documents

Step 4: If you don't understand, ask assn manager or attorney for interpretation

Step 5: Repeat

As a Director, you should endeavor to follow your Association's Governing Documents.

# Governance Basics

## Board Meetings:

- Do you need a meeting?
  - Meetings are not necessary for information dissemination or sharing
- Are you ready for a meeting?
  - Do you have necessary info? Notice? Quorum?
  - Do you need input to move forward?
  - Does anything need to be done before meeting?
  - Agenda adequate? Time allotments? Identify presenters? Time for owner input? Executive Session?

# Governance Basics

## Association Meetings:

- Condo Annual and Special Meeting  
How may a meeting be called?  
**Notice** must be *hand delivered or mailed* to the address of each owner or any other owner-designated address.
- HOA Meetings  
Notice to owners must be hand delivered or sent via first class U.S. mail 14-60 days in advance of meeting. Notice must contain certain info. See RCW 64.38.035.
- Quorum  
Condo: 25% present in person or by proxy *at start of meeting* unless the Bylaws or Declaration provide a different standard. RCW 64.34.336 (Condo Act)  
HOA: 34% present in person or by proxy at start of meeting unless the governing documents specify a different percentage  
RCW 64.38.040 (HOA Act)

# Common Trouble Areas

- Meetings
- Budgets
- Records
- Committees
- Warranties & Defects
- When to seek legal advice

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