

Adopt Operational Policies to Avoid Surprises

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A policy is a principle or rule used to guide decisions and achieve consistent and fair results. The system or method, based upon the policy, is referred to as a procedure. Association documents typically do not indicate when to send letters to residents, the wording of the correspondence or exact follow-up steps. In short, governing documents give little guidance on carrying out the routine tasks. Every association needs operational policies for implementation. One of the key responsibilities of a Board of Directors is to establish and follow these important procedural steps. Policies and procedures are critical to mitigating risk. Well thought out written policies and procedures exhibit a proactive approach to association management. The documentation of them is a way for the Board to indicate that they are using prudent business judgment.

Policies and procedures take the subjective, individual circumstances out of the equation. Each decision is applied according to established criteria so that it is not selective and it is not personal - it is business. They also provide the parameters by which the manager and the management company can consistently undertake the day-to-day operations of the Association. For associations that are not self-managed, the management company has an obligation to advise the Board on industry "best practices" for policies to adopt. An experienced management firm can provide a great deal of practical insight on policies that eliminate acrimony and reduce pressured reactions.

One most common example of the policies and procedures is covenant enforcement. Enforcing rules on neighbors is very touchy under the best of situations. While the process is not meant to be intrusive or punitive, it can be viewed that way by the recipient of a violation letter. That is why the rules violation process needs to be carefully thought through by the Board. It must demonstrate that the Board does not pick and choose who to cite and who not to. Every detail is important: 1) the exact tone and wording of each letter, 2) the waiting time between letters, 3) the appeals process and 4) the fine for specific infractions.

Another common example relates to vendor liability and Workers Compensation coverage. Some vendors, by the nature of their business such as tree trimmers, roofers, painters and paving companies involve a fair amount of exposure to liability. Associations typically require liability insurance and Workers Comp as basic operational policy for all contractors. The policy protects property from damage caused by vendors and protects the community from any claims of bodily injury to an uninsured worker. Although small vendors with few workers are able to obtain a Workers Compensation exemption in some states, the exemption does nothing to reduce risk. Even with an exemption certificate, the vendor's employees can still sue an association for medical claims. So a vendor liability and workers comp requirement is smart and reasonable operational policy for Associations.

Collections are another Board responsibility usually requiring a detailed policy. Much of the policy is determined by information in the Declaration or Master Deed. For instance, the documents may spell out: 1) how the assessment is determined, 2) when it is late, 3) how to

calculate the late fee, 4) can any of the late fee be applied to the assessment and 5) how much interest is accumulated on a past due assessment. What is really important is when to send late letters, when to do an Intent to Lien Notice and when to file the Lien. There is another aspect to collections policy-the motivating effect it has on residents to keep their maintenance assessments current. By clearly explaining to residents through newsletters and websites the deadlines and actions relating to payments, you are putting them on notice of what to expect if they should happen to fall behind in their obligation to pay.

Some association policies are clearly laid out by state laws and administrative code. An election for Florida Condominium and Cooperative Associations, for example, is probably the most exacting example of a detailed procedure in the country. Besides advance notice requirements, wording on the ballots and how to conduct the election, there are detailed specifications on envelopes. There must be outer and inner envelopes. Specific information must be on the outer envelope and it must be signed by an eligible voter when returned. The larger envelope must contain an inner envelope with the secret ballot. Condominium Boards must always comply with the letter of this law. The purpose of the policy is to guarantee no residents are disenfranchised in the voting process. Following it faithfully is important- if the steps are not followed, the election can be invalidated.

Policies and procedures adopted by an association may address a myriad of topics in addition to the four discussed. Most often, policy is also formulated for the enforcement of covenants, architectural guidelines, formation of the agenda, handling business of the board meetings, lease approval (if applicable) handling owner's complaints, bidding out contracts and use of facilities.