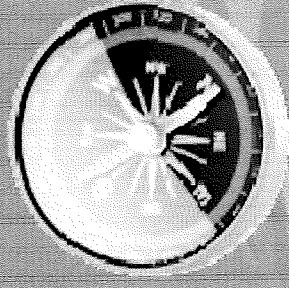


# OVERVIEW

Board Duties & Liabilities

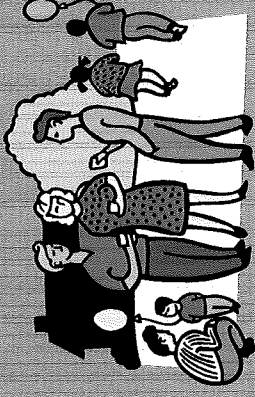
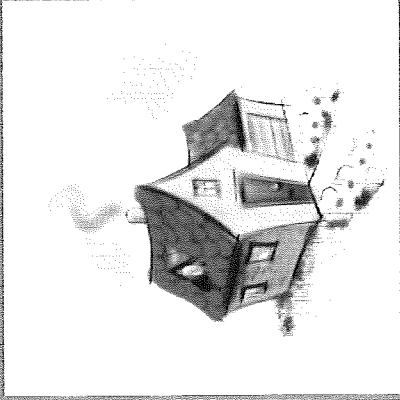
Governing Documents & Records

Members' Duties



**CAVEAT:** This PowerPoint presentation is meant for demonstrative and illustrative purposes only and is not meant as a reference tool which can be taken out of context.





# RESIDENTIAL GOVERNANCE PROPERTY OWNERS ASSOCIATIONS

## Memorial Super Neighborhood

December 14, 2015

CHRISTOPHER J. ARCHAMBAULT  
DAUGHTRY & JORDAN, P.C.



## BOARD OF DIRECTOR RESPONSIBILITIES

Fulfill their fiduciary duties – do what they reasonably believe to be in the best interests of the community.

Exercise sound business judgment.

Balance the needs & obligations of the community as a whole with those of individual homeowners.

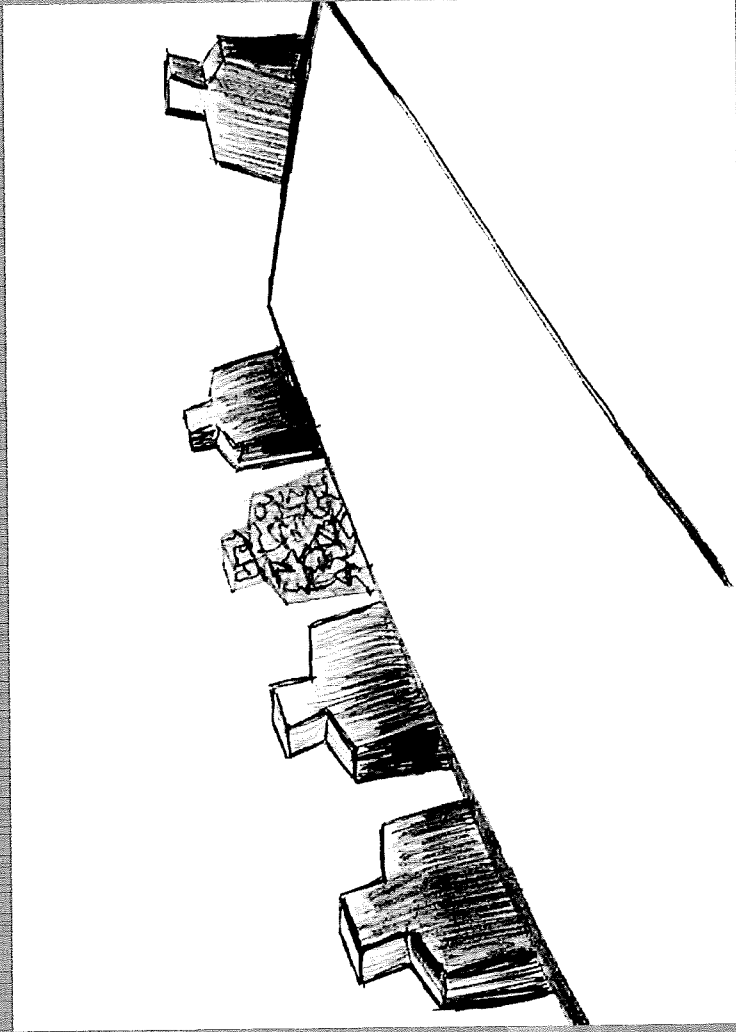
Understand the Association's Governing Documents & become educated as to federal, state & local laws.

Establish committees & use methods to obtain & encourage input from residents.

Conduct open, fair and well-publicized elections.

Welcome & educate new members.

**BOARD OF DIRECTORS**  
Duties & Liabilities







## Duties Owed by Board Members



Duty of Obedience - forbids director from engaging in acts that are outside scope of corporation's power

Duty of Loyalty - director cannot allow his own personal interest to prevail over interests of corporation

Duty of Due Care - director must manage corporation's affairs with diligence & prudence



Encourage events that foster neighborliness and a sense of community.

Conduct business in a transparent manner.

Allow homeowners access to appropriate community records.

Collect all monies due from owners.

Devise reasonable arrangements to facilitate owners to meet their financial obligations to the community.

Provide appeal process affecting financial responsibilities or property rights.

Initiate foreclosure proceedings only as a measure of last resort.

Make covenants, conditions & restrictions as understandable as possible.

Provide complete and timely disclosure of personal and financial conflicts of interest related to the actions of the board.



# *Know Where to Look*

## Governing Documents

Federal Law

Fair Housing Act

ADA

State Law

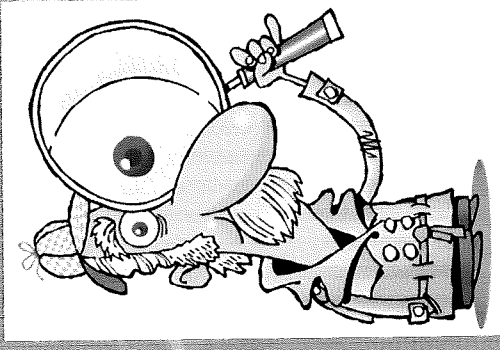
Texas Property Code

Texas Business Organizations Code

Texas Transportation Code (private streets)

Ask For Help!

A written opinion from your attorney or CPA may protect you



HEIRARCHY OF ASSOCIATION'S GOVERNING DOCUMENTS

**ASSOCIATION  
GOVERNANCE**

Articles of  
Incorporation/Certificate of  
Formation

Bylaws

**ASSOCIATION  
ENFORCEMENT**

Plat

Declaration of  
Covenants, Conditions  
and Restrictions

ACC Guidelines,  
Board Policies; Rules  
and Regulations



## Individual Liability for Directors?

- **Indemnification** – Articles, Bylaws or CCRs
- A director *may* not be accountable for a violation of his duties if he relied in *good faith* upon the legal or financial expertise of an attorney or CPA
- **Director’s & Officer’s (“D&O”) Liability Insurance** (aka Community Association Policy) - Possible Exclusions:
  - **Libel or slander**
  - **Bodily injury or property damage**
  - **Employment discrimination**
  - **Intentional acts of misconduct**
  - **Acting outside the scope of director’s role**