

Legal Responsibilities of a Board of Directors

Outline

I. Board Authority

- a. Board as supreme decision center
- b. Authority granted by Articles of Incorporation
 1. Articles of Incorporation specify purpose and limits
- c. Authority established by bylaws
 1. Bylaws define powers and duties
 2. Bylaw limitations to Board authority
- d. Judicial trends on co-op responsibility and authority
 1. Tendency to protect individual member
 2. Board authority which has been recognized by courts
 - A. With regard to membership selection
 - B. Creation and enforcement of house rules

II. Board Responsibilities

- a. Fundamental responsibility as stated in Model Business Corporation Act
- b. Generally accepted legal responsibilities

III. Duties of Directors

- a. Duty of attention
 1. Active participation
- b. Duty of loyalty
 1. Honesty
 2. Conflict of interest
 3. Corporate opportunity
 4. Confidentiality
- c. Duty of care
 1. Good faith
 2. Guidelines to directors

IV. Reducing Director Liability

- a. Documentation
- b. “Counsel to the Board”
- c. Stockholder-member ratification
- d. Indemnification
 1. In bylaws
 2. D & O insurance