

BOARD OPERATIONS OVERVIEW

A. AUTHORITY

1. In Maryland, homeowners associations such as Ocean Pines Association, Inc. have legal existence under the provisions of the Maryland Homeowners Association Act. The Maryland Homeowners Association Act as set forth in Section 2 of this handbook, provides for the requirements and authority of homeowners associations. A “homeowners association” is the legal entity having authority to enforce the provisions of a “Declaration” which is a document recorded among the land records of the county in which the property is located. The Homeowners Association Act provides many obligations of disclosure upon the owners of lots within a development governed by a homeowners association.

2. Certain provisions, however, of the Maryland Homeowners Association Act impose requirements upon the homeowners association such as open meetings unless the meetings are closed for specific purposes and requirements regarding books and records to be kept by the homeowners association and which records are required to be made available to members of the Association. With respect to Ocean Pines Association, Inc., the homeowners association is governed not only by the provisions of the Maryland Homeowners Association Act but by the corporate charter which incorporated Ocean Pines Association, Inc., and its various amendments and restatements, and various resolutions of the Association.

3. The Corporate Charter of the Association is contained within the 1982 “Articles of Restatement, Ocean Pines Association, Inc. (A Non-Stock Corporation).” The Charter (see Section 3 of this Handbook) establishes the name of the Association; delineates the purposes for which the Association is formed; indicates that the duration of the Association is intended to be perpetual; specifies the mailing address of the Association; states that the activities of the Association shall not be conducted for profit; defines voting members of the Association and certain voting limitations and procedures; establishes certain parameters pertaining to the Association Board of Directors and its powers; states that the Association shall indemnify its officials and agents; notes how the Charter may be amended so long as any such amendment is not inconsistent with the declaration of restrictions; and requires that Association directors and officers disclose their pecuniary or other interests with entities which are conducting business with the Association.

4. The declaration of restrictions specify the mutual and beneficial restrictions, covenants, conditions and charges to which all of the lots within the Association are bound for the purpose of enhancing and protecting the value, desirability and attractiveness of the property located within the boundary of the Ocean Pines subdivision.

5. The By-laws (see Section 2 of this Handbook) are predicated upon the Corporate Charter and outline in greater detail certain procedures and practices of the Association. In general, the by-laws pertain to subjects such as membership, meetings of members, the Board of Directors, Officers of the Association, corporate books and records, financial procedures and limitations, association administration, committees, and amendment procedures.

6. Together, the above documents define the nature of the Association, its purposes and procedures, the powers and responsibilities assigned to its elected and appointed officials, and the rights and responsibilities of its members.

7. Section 11.03 of the By-laws of the Association specifies which of the governing documents take precedent in the event of conflicts between them. In the case of a conflict between the Articles of Incorporation and the By-laws, the Articles of Incorporation shall control. In the case of a conflict between the Declaration of Restrictions and the By-laws, the Declaration of Restrictions shall control.

B. FORM OF GOVERNANCE

The Association has adopted a Board of Directors - General Manager form of governance. Under this form of governance, the Board is the policy-making body, (members take an Oath of Office) and the General Manager is the Chief Administrative Officer who implements the Board's policies. In addition, a number of advisory committees provide guidance to the Board on policy matters.

"I _____ do hereby pledge to serve the people of Ocean Pines to the best of my ability and to adhere to the principles as defined in the Ocean Pines Corporate documents which govern the Association."

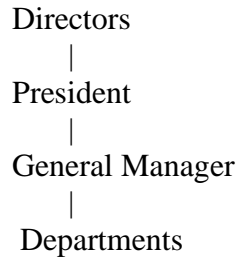
According to Webster's Dictionary, "policy" means "a definite course or method of action selected from alternatives and in light of given conditions to guide and determine present and future decisions." Also, "implementation" means "to carry out: accomplish; esp: to give practical effect to and insure of actual fulfillment by concrete measures."

There are five steps in policy making and implementation:

1. Policy Formulation: Everyone is responsible for input, including property owners, the President, the Board, advisory boards, the General Manager, and staff.
2. Policy Determination: This is the responsibility of the Board.
3. Policy Implementation: This is the responsibility of the General Manager and staff.
4. Policy Evaluation: This is the feed back loop to determine if the new policy is having the desired results. As in policy formulation, everyone is responsible for input.
5. Policy Modification: If any policy needs modification, the process returns to step two.

Under the Board - General Manager form of governance, the following represents the ideal line of communication:

OCEAN PINES BOARD OF DIRECTORS
Ideal Communication



C. NOT-FOR-PROFIT-STATUS

The sixth article of the Ocean Pines Association, Inc. “Articles of Restatement” of its Corporate Charter states that the Association “...shall not be conducted for profit.” This article further states, in the event of the voluntary or involuntary liquidation or dissolution of the corporation, that “...no member, officer or director of the Association shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the Association...shall be applied to...public or charitable purposes...as determined by the Board of County Commissioners of Worcester County...”.

D. PRESIDENT JOB DESCRIPTION

The following is the job description for the Board President:

1. To represent all the people of Ocean Pines and the long-term interest of the Association.
2. To act as the official spokesperson for the Board to the homeowners, residents, and General Manager of Ocean Pines.
3. To chair Board meetings, allowing for reasonable input, for discussion purposes, from all sides of an issue.
4. To work with the General Manager so that Board priorities and staff workload can be coordinated.
5. To refer items to the General Manager and appropriate Board persons.
6. To appoint members to the various advisory committees with the advice and consent of the Board.
7. To provide leadership in fulfilling the Board’s role: evaluating the General Manager, bringing issues to the attention of the Board, etc.

8. To review materials prior to meetings.

E. DIRECTOR JOB DESCRIPTION

The following is the job description for an Association Director:

1. To represent all the people of Ocean Pines and the long-term interest of the Association.
2. To insure that Association policies, fiscal practices, rules and regulations fulfill Goal 1 above.
3. To evaluate the General Manager regarding the implementation of Association policies.
4. To attend regular and special meetings of the Board.
5. To keep the President informed of current issues and future concerns.
6. To represent the Association at assignments agreed upon with the President.
7. To seek to maintain a sense of the difference between policy and implementation: the Board makes policy; staff implements it.
8. To review materials prior to meetings.

F. GENERAL TIPS FOR THE BOARD OF DIRECTORS

The work of a Director involves reading, studying, inquiring, listening, learning, sharing, discussion, deliberating, and voting. If you enjoyed school you'll enjoy being a Board President or Director. The Association's administration includes professionals with a lot of knowledge and many years of experience. They can be important sources of information.

As a Board Member either you or the staff must respond to all homeowner and resident questions or complaints which you receive. Be very fair, open, and self disciplined. A homeowner or resident can lose his/her equanimity but you cannot.

You are not on the Board to be an expert technician or specialist or to represent a single interest. You are there to be an exceptionally well informed generalist. Whatever technical skills you may possess are tools, not credentials.

Watch out for conclusion jumping, ego trips, and mountains out of mole hills. Remember, the Board is a team.

Share your thoughts. Keep one another informed. Disagree and debate with your fellow Board members, but do it on facts based on homework and in a constructive and respectful manner. Illuminate the subject.

Lastly, help the Board President and one another. The Board President and a Director's jobs are not easy.

G. GENERAL MANAGER'S DUTIES

The General Manager is responsible for the overall management of the Association on a day-to-day basis; implementing policies adopted by the Board of Directors; assisting the Board in policy formulation by identifying issues and gathering and presenting information pertaining to such issues; and monitoring and evaluating results of operations.

The General Manager supervises all personnel and programs of the Association, either directly or through subordinates. When outside professional services are utilized by the Association, the General Manager supervises the work of same, unless other specific direction is given by the Board of Directors.

The General Manager has the following specific responsibilities:

1. Maintain, protect and enhance the value of Association facilities and properties, including the establishment of appropriate managerial and financial controls.
2. Oversee, monitor and correct the ongoing operations of all Association functions, programs and activities to assure the provisions of quality service to Association members and guests.
3. Develop, maintain and monitor long-range and short-term plans for the Association in conformance with the objectives and goals of the Board of Directors.
4. Act as the Chief Personnel Officer of the Corporation, recruit, lead and maintain a work force with the requisite skills needed to carry out the objectives and goals of the Association, in a physical and psychological environment conducive to safe and productive employment.
5. Represent the Association to the community at large, including liaison with government agencies, vendors and contractors, utilities, real estate developers and the media.
6. Establish a reporting system and structure to keep the Board of Directors apprised, via simple and timely communication, of all matters of impact to the Association.
7. Establish a system and supporting procedures to assure timely response to, and resolution of, inquiries and complaints from Association members.

H. THE ATTORNEY FOR THE ASSOCIATION

General Counsel of Ocean Pines Association, Inc. is an attorney (not a member of the Board of Directors) primarily responsible for all facets of representation of Ocean Pines Association, Inc. in all legal matters of concern to the Association. General Counsel has the following responsibilities:

1. Providing legal advice to the Board of Directors of Ocean Pines Association, Inc., and the General Manager and his staff.
2. Maintaining files of all legal matters related to the business of Ocean Pines Association, Inc.
3. Defending Ocean Pines Association, Inc. in law suits brought by third parties against the Association.
4. Prosecuting law suits on behalf of Ocean Pines Association, Inc. at the direction of the Board of Directors and General Manager.
5. Representation of Ocean Pines Association, Inc. before administrative agencies such as the Board of Zoning Appeals for Worcester County, the Planning Commission for Worcester County, and the Maryland Department of Assessments and Taxation related to tax assessment matters.
6. Representation of Ocean Pines Association, Inc. before legislative bodies such as the Worcester County Commissioners and the Maryland General Assembly.

The attorney for Ocean Pines Association, Inc. is the chief legal representative of the Association and, as such, generally handles all legal matters on behalf of the Association as set forth by way of the illustrations above. The attorney is appointed annually by the Board of Directors in accordance with a fee agreement established by mutual consent.

I. ORGANIZATION

- (1) Board of Directors

Section 5.06 of the Association By-laws requires that the Board of Directors meet within two (2) weeks after the annual meeting of the members of the Association for at least the purposes of organization and election of Officers of the Association. The President, Vice President and Secretary offices must be filled by a member of the Board of Directors.

Officers of the Association include a President, Secretary, Treasurer, and one or more Vice Presidents, Assistant Secretaries, and Assistant Treasurers. Section 6.02 of the Association By-laws requires that the officers be chosen annually and that each officer hold office until a successor shall have been chosen and qualified, or until death, resignation or removal.

Section 6.06 of the Association By-laws explains the duties of each officer.

Section 9.03 of the By-laws states that individual members of the Board of Directors “...shall not give orders to any subordinate of the General Manager, either publicly or privately, and, shall deal with administrative service solely through the General Manager except for the purpose of inquiry. The President of the Association shall provide day-to-day liaison between the Board of Directors and the General Manager.”

(2) Advisory Committees

Section 10.02 of the Association By-laws states that committee chairpersons shall be appointed by the President, with the consent of the Board of Directors. Each committee chairperson, in turn, recommends to the Board of Directors for its approval, persons to serve on their respective committees.

Section 10.02 further states: “The committee chairpersons and Board of Directors shall make every effort to obtain representatives from as many sections of the subdivision as possible and, when appropriate, advertise committee vacancies in the official publication of the Association.”

Section 5.12 and 10.04 prohibit association compensation to Board of Directors or committee members for services in connection with their positions.

Section 10.05 of the By-laws, states that “...committee chairpersons and members shall not give orders to the General Manager or any subordinates of the General Manager, either publicly or privately. All contacts with Association employees shall be through the chairperson to the General Manager. The President of the Association shall provide all instructions and directions to the General Manager concerning committee activities.”

J. BOARD VOTING PROCEDURES

Section 5.10 of the By-laws states that a majority of the entire Board of Directors shall be necessary to constitute a quorum thereof, except for the filling of vacancies, which shall require a majority of the remaining Directors for a quorum.

Section 5.10 further states: “The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.”

Section 5.11 of the By-laws, however, allows the Board of Directors to take action without a meeting, if a unanimous written consent which sets forth the action is signed by each member and filed with the minutes of the Board.

In addition, Section 11.02 of the By-laws states that they can be modified by a majority vote of the entire Board of Directors at any regular meeting of the Board, provided notice of the meeting and the proposed amendments have been published and appeared in two consecutive issues of the official publication of the Association prior to the meeting.

The following circumstances require an affirmative vote of at least two-thirds of the entire Board of Directors:

1. The granting of any easement or variances on Association property (Section 5.14 (a) of the By-laws);
2. The authorization for Association personnel or agents to enter upon a private lot for the purpose of repairing, maintaining and restoring a lot and/or the exterior of buildings and other improvements erected thereon to a condition satisfactory to the Board of Directors (Section 14 of the Declaration of Restrictions);
3. Amendment of the Articles of Restatement (i.e., Corporate Charter) at any meeting called for that purpose, provided that any such amendment is not in conflict with the Association's restrictive covenants and deed restrictions and provided further that required notification and publication procedures have been followed (Article Ninth of the Articles of Restatement).

The following circumstances require approval of the membership by a majority of votes cast in a referendum vote of all voting members:

1. To sell, mortgage, encumber or donate any of the Association's real or personal property or assets in excess of twenty percent (20%) of the current income derived from annual charges;
2. To include in any annual charge amounts necessary to fund any single capital expenditure which exceeds twenty percent (20%) of the current income derived from annual charges; and
3. To borrow money which would increase the total of all outstanding debt of the Association to an amount which would exceed fifty percent (50%) of the current income derived from annual charges.

K. OPEN MEETINGS PHILOSOPHY

Section 11B-111 of the Maryland Homeowners Association Act requires that all meetings of the Association, including those of the Board of Directors, be open to all members of the Association or their agents. This section, however, does allow the Board of Directors or an Association Committee to meet in closed session for the following purposes:

1. Discussion of matters pertaining to employees and personnel;
2. Protection of the privacy or reputation of individuals in matters not related to the homeowners Association's business;

3. Consultation with legal counsel;
4. Consultation with staff personnel, consultants, attorneys, or other persons in connection with pending or potential litigation;
5. Investigative proceedings concerning possible or actual criminal misconduct;
6. Consideration of the terms or conditions of a business transaction in the negotiation stage if the disclosure could adversely affect the economic interests of the homeowners association.
7. Compliance with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure; or
8. On an individually recorded affirmative vote of two-thirds of the board or committee members present, some other exceptional reason so compelling as to override the general public policy in favor of open meetings.

Section 11B-111 further requires that no action may be taken and no matter may be discussed in a closed session other than items 1 through 8 above. In addition, if a meeting is held in closed session, the minutes of the next meeting of the Board of Directors or committee must include the following:

1. A statement of the time, place, and purpose of the closed meeting;
2. The record of the vote of each board or committee member by which the meeting was closed; and
3. The authority under section 11B-111 of the Maryland Homeowners Association Act for closing the meeting.

L. FREEDOM OF INFORMATION PHILOSOPHY

Section 11B-112 of the Maryland Homeowners Association Act requires that all books and records kept on behalf of the Association be made available for examination and copying by a lot owner, a lot owner's mortgagee, and their respective duly authorized agents or attorneys during normal business hours, and after reasonable notice.

The following types of books and records, however, may be withheld from public inspection:

1. Personnel records;
2. An individual's medical records;

3. An individual's financial records;
4. Records relating to business transactions that are currently in negotiation; or
5. The written advice of legal counsel.

The Association is permitted to impose a reasonable charge upon a person desiring to review or copy Association books and records.

M. NON-PARTISAN POLITICAL PHILOSOPHY

The sixth article of the Ocean Pines Association, Inc. "Articles of Restatement" of its Corporate Charter states: "No substantial part of the activities of the Association shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Association shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office."