

*So now you are on the board, now what?*

## **CHECKLIST FOR NEW MEMBERS OF THE BOARD**

The below checklist is provided as a guide for the new Director to look quickly at those things that should start the Director on the road to serving as a good Fiduciary. It is not meant to be all inclusive, but rather to start the Director on the right path.

<b><u>Activity</u></b>	<b><u>Needs More Info</u></b>	<b><u>Done</u></b>
1. Ask your manager when you will have board training or where one will be taught? Classes that you should consider are shown below: a. Basic Overview b. Meetings and Elections c. Enforcement and Rules d. Building Communities e. Federal Laws f. Other State of Nevada Laws. g. Fiduciary Duties h. Financials and Reading them i. Budgets j. Reserves and Reserve Studies k. Contracts and RFP's in the CIC l. Insurance and Risk Management	[ ]	[ ]
2. Ask for Binder with all documents inside	[ ]	[ ]
3. Ask for copies of the last two years of minutes	[ ]	[ ]
4. Ask for copies of the Plat Maps and Plans	[ ]	[ ]
5. Read Articles of Incorporation a. What NRS statute were we formed under? b. Are we exempt from the Business Tax? c. What do our Articles state that our purpose for even having the corporation is?	[ ] [ ] [ ]	[ ] [ ] [ ]
6. Read Bylaws & Amendments – How the Corporation Functions – Such as how many Directors, how many meetings, etc.	[ ]	[ ]
7. Read CC&R's & Amendments – More serious document as it has been recorded against each property and the lender provisions are in this documents.	[ ]	[ ]
8. Read Rules and Regulations –Make sure you got them all.	[ ]	[ ]
9. Read Nevada Revised Statute 116	[ ]	[ ]
10. Read Nevada Revised Statute 116A	[ ]	[ ]
11. Read Nevada Administrative Code 116 (As you read the above documents, ask yourself the following questions):	[ ]	[ ]

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- a. What is defined as common area and what are the responsibilities of the association and what are the responsibilities of the owners? [ ] [ ]
- b. What authority does the board have through the documents and Nevada law? [ ] [ ]
- c. What Committees are established by the governing documents? Is there a committee charter that specifies the scope of work of each Committee's? [ ] [ ]
- d. How often does the Board need to meet? [ ] [ ]
- e. How often do the Owners need to meet? [ ] [ ]
- f. Are there any insurance requirements for Assn? [ ] [ ]
- g. Are there any insurance requirements for Contractors? [ ] [ ]
- h. Did you find a copy of your enforcement and fine policy? [ ] [ ]
- i. Did you find a copy of the Investment Policy? [ ] [ ]
- j. Did you find a copy of the Collection Policy? [ ] [ ]
- k. Did the last budget distributed to the owners include a copy of the Collection Policy? [ ] [ ]
- 12. Ask for Ombudsman's Certification to sign –After Reading the above documents and laws. [ ] [ ]
- 13. Ask to Ensure Ombudsman's Office has been advised of the change in Directors with information. [ ] [ ]
- 14. Ask for copies of the last financial audit [ ] [ ]
- 15. Ask for copies of the financial statements and in reading them ask yourself the following questions.
  - a. What is our delinquency rate? [ ] [ ]
  - b. What does our collection policy state about the delinquencies? [ ] [ ]
  - c. What method was used to prepare your reserve study? [ ] [ ]
  - d. What percent funded are we according to the study? [ ] [ ]
  - e. Is all of the money protected with government backed institutions? [ ] [ ]
  - f. Are there any due to or due from the reserves and the operating accounts? [ ] [ ]
- 16. Ask for copies of the general ledger for the last year [ ] [ ]
- 17. After looking at the reserve study has there been any deferred maintenance? If so ask the following questions:
  - a. What does your reserve study say is reserve maintenance and what is operational maintenance? [ ] [ ]
  - b. When was the last reserve study done and when is the next one as they must be done at least every 5 years? [ ] [ ]
  - c. When was the last time that comparative bids on (pool, landscape, streets, etc., done) [ ] [ ]

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- d. Have any of your maintenance providers given recommendations to the Board that may have been ignored?
- e. Where are your largest maintenance dollars spent?
- f. What maintenance items have been reoccurring over the last couple of years (roof Leaks etc.)
- g. Has water conservation been considered over the last couple of years? (Water district input)
- h. What do your documents require to make above water saving changes (vote of the owners, etc)?
- i. Did you read the notes in the study put in my the reserve study provider as they could contain some information that could or should concern the Board.
- 18. Was a certificate of insurance included in the Binder?
- 19. Find out if a meeting with the insurance agent will be held and if an annual meeting and review of the insurance policies is required in the documents  
  - a. In looking at your insurance certificate, see the Insurance checklist with questions for the agent – It is attached to this checklist.
  - b. Is your manager covered in the D & O policy?
  - c. Does your manager have his or her own Error & Omissions insurance policy?
  - d. Do you have adequate liability insurance
- 20. Were any copies of contracts included in the Binder?
- 21. Find out what organizations we belong to. (CAI)
- 22. Who are some of the resources we have available with whom the Board and the Committees can consult?  
  - a. Manager
  - b. Attorney
  - c. Insurance Agent/Broker
  - d. CPA
  - e. Service Providers (landscaper, lighting, Etc.)
  - f. Developer – Even if transitioned to owners as they are a serious resource.
  - g. Ombudsman’s Office – NRED (702) 486-4480
  - h. Other Industry Experts
  - i. City or County Neighborhood Services
  - j. County Mediation Service (Free in Washoe and Clark Counties)
- 23. Who are our current service providers and what contact information do we need and what is the contact chain of command?
  - a. Manager (Normally in the contract as the President)
  - b. Landscaper
  - c. Bank – What documents state can sign checks and pay bills. Does your association Treasurer receive a copy of the bank statement at their home/place of business? Is there a written resolution or policy on when and if your manager can incur costs in an emergency or can they sign operating account checks?

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- d. Collection Company or Collection Attorney (What is your written policy... now check and see if it has been uniformly applied in all cases by the company and the Board.)
  - e. Insurance Agent/Broker
  - f. Attorney
  - g. Resident Agent to be served with all law suits and official notices.
  - h. Gate Service Company. (Is your gate equipped with a back up batter? When was the last time it was checked?)
  - i. Pool Service Technician – Has anyone verified that the pool logs are being maintained properly in accordance with NRS 444?
  - j. Developer Contact. Yes, you may be built out and the developer gone, but they will be a very competent contact for resources and information to help you as your community matures. Did they leave you with a list of contractor and warranty information?.
24. Review the social condition of your community. Is your community trying to build a Sense of Community since this is home to most of your owners, but all of your residents?
25. Does your association treat the tenants as second class citizens? If you treat them that way, they will act that way. They live there so include them in all activities.
26. Do you have a Social Committee? If so, what type of activities have been successful in the past?
- a. What can you do cheap and with little initial participation? Community wide garage sale, Kid's bike parade, Country craft fair, Bring your own barbeque and game night, bunko, etc.
  - b. What activities can you promote to help your community? Neighborhood Watch, Neighbors Helping Neighbors, Holiday can drive to help the less fortunate, Earth Day – Spring clean up contest, Holiday Lighting Contest, Flag Day Picnic.
27. What are your Board Meetings like and what can you do to make them better?
- a. Do you have comment cards or sheets at every meeting? [ ] [ ]
  - b. Do you follow up on these? [ ] [ ]
  - c. Do you encourage volunteerism and do you recognize people who volunteer with thanks and thank you certificates? [ ] [ ]
  - d. What are people asking for at your meetings – Information, service, etc? What have you done to empower them? [ ] [ ]
28. What are some of the worst things that you can do as a Director?
- a. Not ask questions.
  - b. Assume you know all the answers and know better than the experts.
  - c. Assume someone else on the board knows all of the answers.
  - d. Stick your head in the sand and say none of this applies to us.
  - e. Let someone bully you into ignoring your Fiduciary Duty as a member of the Board of Directors of a Nevada Non-Profit Corporation.
29. What are some of the best things that you can do as a Director?

*So now you are on the board, now what?*

- a. Take all of the classes available at least once. An overview is an excellent call to get you help initially.
- b. Ask questions until you are satisfied with the answer.
- c. Play let's walk the "ethical edge" – Identify that edge and stay far away from it.
- d. When you make any serious decisions, picture yourself standing in front of a judge defending your decisions. If you don't feel stupid and it is in the best interest of the whole community, it could be the right decision.

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## **CHECKLIST FOR COVERAGE DISCUSSION WITH AGENT OR PROSPECTIVE AGENT**

**THE MOST IMPORTANT FIRST QUESTION SHOULD BE WHETHER THE PERSON IS AN AGENT OR A BROKER. A BROKER IS REQUIRED TO LOOK OUT FOR YOUR INTERESTS AHEAD OF ANY COMPANY WHO MAY EMPLOYEE HIM VS BEING AN EMPLOYEE WITH ONE PRODUCT TO SELL.**

Think about your decisions this way.

- 1) If we can't afford it, can we afford to pay for it in the event of a claim.?
- 2) Can we afford not to tender it to the insurance carrier? What could the maximum outcome be should we not tender it and it escalates to the maximum?

### **AGENT/BROKER ISSUES (DOES YOUR AGENT/BROKER):**

	Yes	No
Provide good written explanations .....	[ ]	[ ]
Charge for a Certificate of Insurance .....	[ ]	[ ]
Are loss runs forwarded in a timely manner upon written request .....	[ ]	[ ]
Have they studied to carry special credentials? .....	[ ]	[ ]
Speaks honestly, realistically, and follows through on time.....	[ ]	[ ]
Reviews program with Board at least annually or upon request .....	[ ]	[ ]
Educates unit owners in writing if asked .....	[ ]	[ ]
Has and reviewed copies of governing documents and insurance program Complies; ask for that statement in writing. ....	[ ]	[ ]
Has experience with common-interest communities .....	[ ]	[ ]
Completes all obligations in a timely fashion.....	[ ]	[ ]
How are you going to handle "Notice of Circumstances"? .....	_____	
How are verbal complaints going to be handled? .....	_____	
Recommends coverage and techniques even if he/she cannot sell to you! Acts as a resource. ....	[ ]	[ ]
Monitors certificates of insurance for you .....	[ ]	[ ]
Forwards loss runs annually; those showing no losses are the most Valuable, of course .....	[ ]	[ ]
Meets with the Board on request regardless of premium amount .....	[ ]	[ ]
Checks the policies for errors .....	[ ]	[ ]
Monitors the insurance companies you are with for stability and financial security. (AM Best ratings, etc.) Works for your best interests rather than the insurance company. Brokers work for you you while captive agents work for the insurance company .....	[ ]	[ ]
Other: _____ .....	[ ]	[ ]

### **CARRIER ISSUE:**

	Yes	No
Is the carrier recommended admitted (Licensed) in Nevada .....	[ ]	[ ]
How many notices of <i>Circumstances</i> triggers a raise in premium? .....	_____	

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Can we negotiate counsel to defend us? ..... [ ] [ ]  
 How will Notices of Circumstances be treated in the future if nothing  
 occurs from the Notice of Circumstance? ..... \_\_\_\_\_

**DOES YOUR COVERAGE INCLUDE?**

	Yes	No
Buildings and Structures .....	[ ]	[ ]
Inflation Protection .....	[ ]	[ ]
Increased Cost of Construction .....	[ ]	[ ]
Code Upgrade Coverage .....	[ ]	[ ]
Community Personal Property .....	[ ]	[ ]
Structural Glass & Signs .....	[ ]	[ ]
Elevator and Escalator Collisions .....	[ ]	[ ]
Off Premises .....	[ ]	[ ]
In Transit .....	[ ]	[ ]
Trees, Plants, Shrubs and Lawns .....	[ ]	[ ]
Bridges, Docks, Piers, Retaining Walls and Wharves .....	[ ]	[ ]
Money & Securities .....	[ ]	[ ]
Electronic Data Processing		
Equipment, Media and Supplies .....	[ ]	[ ]
Papers, Receivables and Records .....	[ ]	[ ]
Fine Art .....	[ ]	[ ]
Personal Property of Others .....	[ ]	[ ]
Per Person .....	[ ]	[ ]
Per Occurrence .....	[ ]	[ ]
Employee Dishonesty (Fidelity) .....	[ ]	[ ]
Computer and or Cyber Fraud .....	[ ]	[ ]
Depositors Forgery .....	[ ]	[ ]
Maintenance Fees and Assessments (Loss Assessment) .....	[ ]	[ ]
Community Income .....	[ ]	[ ]
Extra Expense .....	[ ]	[ ]
Accounts Receivable Expenses .....	[ ]	[ ]
Media Costs .....	[ ]	[ ]
Valuable Papers and Records Costs .....	[ ]	[ ]
Non-Owned Auto Coverage .....	[ ]	[ ]
Garage and Parking Area (RV Parking Lots?) .....	[ ]	[ ]
Legal Liability .....	[ ]	[ ]
Comprehensive Coverage .....	[ ]	[ ]
Collision Coverage .....	[ ]	[ ]
Property Damage Legal Liability .....	[ ]	[ ]
Mechanical & Equipment (Boiler) .....	[ ]	[ ]
Are Defense Costs Inside the Limits? .....	[ ]	[ ]
Are Defense Costs Outside the Limits? .....	[ ]	[ ]
A letter advising us of status of Notice of Circumstance?.....	[ ]	[ ]

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**PROPERTY**

	Yes	No
No Co-insurance (If Co-Insuring are you willing to assume the risk?)...	[ ]	[ ]
	Yes	No
Guaranteed Replacement Cost.....	[ ]	[ ]
Walks, Roadways, Patios and other Paved Surfaces .....	[ ]	[ ]
Underground Flues, Pipes and Drains .....	[ ]	[ ]
Continuous or repeated seepage of water over time is covered .....	[ ]	[ ]
Artificially Generated Electrical Currents .....	[ ]	[ ]
Sewer Backups .....	[ ]	[ ]
Mysterious Disappearance for Property of Others .....	[ ]	[ ]
Building Ordinance Including Demolition .....	[ ]	[ ]
Design error/building defect covered (no exclusion) .....	[ ]	[ ]
No Vacancy or Un-occupancy Provision .....	[ ]	[ ]
Waiver of subrogation against unit owner .....	[ ]	[ ]
Collapse covers (no exclusion for) .....	[ ]	[ ]
If it is in our reserve study is it automatically covered .....	[ ]	[ ]
Is the coverage by contract or what ever the CC&R's say? .....	[ ]	[ ]
Items of Property:	Yes	No
Appliances Owned in Common .....	[ ]	[ ]
Appliances inside the units .....	[ ]	[ ]
Appurtenant Structures .....	[ ]	[ ]
Arbors .....	[ ]	[ ]
Awnings or canopies .....	[ ]	[ ]
Back Flow Devices .....	[ ]	[ ]
Beach or diving platforms .....	[ ]	[ ]
Bridges .....	[ ]	[ ]
Bulkheads .....	[ ]	[ ]
Drains underground and above ground .....	[ ]	[ ]
Computer Equipment & Software .....	[ ]	[ ]
Fences .....	[ ]	[ ]
Fixtures, yard .....	[ ]	[ ]
Floor, wall, window, ceiling, coverings .....	[ ]	[ ]
Flues, gutters/down spouts .....	[ ]	[ ]
Foundations above ground .....	[ ]	[ ]
Foundations below ground .....	[ ]	[ ]
Glass (Deductible _____) .....	[ ]	[ ]
Irrigation Controllers and/or Computerized Systems .....	[ ]	[ ]
Land .....	[ ]	[ ]
Lights and Light Poles .....	[ ]	[ ]
Marble .....	[ ]	[ ]
Metal Smokestacks .....	[ ]	[ ]
Paving, roads, walks, courts.....	[ ]	[ ]
Piers & Pilings .....	[ ]	[ ]



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Pipes Underground (Cost of Discovery?) .....	[ ]	[ ]
Pipes above Ground .....	[ ]	[ ]
Plants, shrubs, trees & Lawns (Increased to _____) .....	[ ]	[ ]
Pollution (Finding underground oil cans, etc.) .....	[ ]	[ ]
Property Off premises .....	[ ]	[ ]
Pump Houses .....	[ ]	[ ]
	Yes	No
Retaining walls that are and are not part of building .....	[ ]	[ ]
Sign attached and sign not attached to building		
Sprinklers for Landscaping .....	[ ]	[ ]
Swimming Pool, spa, and their equipment		
Unit Owner Improvements and betterments .....	[ ]	[ ]
Utilities, underground .....	[ ]	[ ]
Wharves or docks .....	[ ]	[ ]
Other: _____ .....	[ ]	[ ]
Other: _____ .....	[ ]	[ ]

**LIABILITY**

	Yes	No
No General Aggregate .....	[ ]	[ ]
Medical Payments Coverage for Unit Owners in Common Areas .....	[ ]	[ ]
Bodily Injury .....	[ ]	[ ]
Bodily Injury caused by Pollution Conditions (i.e. <b>pesticides</b> ) .....	[ ]	[ ]
Environmental Impairment Liability Coverage .....	[ ]	[ ]
Extended Bodily injury/Incidental Medical Malpractice .....	[ ]	[ ]
Host Liquor Liability .....	[ ]	[ ]
Printed slander claims .....	[ ]	[ ]
Contractual Liability /Independent Contractors .....	[ ]	[ ]
Separate Liability Limit for Personal Injury and Advertising Injury .....	[ ]	[ ]
Is Mold and Fungi coverage an Exclusion? .....	[ ]	[ ]
Are Defense Costs Inside the Limits? .....	[ ]	[ ]
Are Defense Costs Outside the Limits? .....	[ ]	[ ]
Include Environmental Impairment (Pollution) Issues .....	[ ]	[ ]

**DIRECTORS AND OFFICERS LIABILITY**

	Yes	No
Do you offer tail policies if we change policies? .....	[ ]	[ ]
Is there a retroactive date? .....	[ ]	[ ]
Does it cover prior unknown acts? .....	[ ]	[ ]
Pecuniary Relief with Defense Costs Outside of Limits .....	[ ]	[ ]
Monetary and Non-Monetary Claims .....	[ ]	[ ]
Non-pecuniary Relief .....	[ ]	[ ]
Full Prior Acts Coverage Available		
No Co-Insurance or Retention .....	[ ]	[ ]
Unknown Prior Acts Coverage .....	[ ]	[ ]

*So now you are on the board, now what?*

Are Defense Costs Inside the Limits? .....	[ ]	[ ]
Are Defense Costs Outside the Limits? .....	[ ]	[ ]
Are Director Spouses (Marital Endorsement) Covered? .....	[ ]	[ ]
Are Past Director's Covered (Even if no longer an Owner)? .....	[ ]	[ ]
Are Committee Members Covered? .....	[ ]	[ ]
Is the Manager/Agent Covered (Staff within the Mgt. Co.)? .....	[ ]	[ ]
Does the Policy Cover Committees? .....	[ ]	[ ]
Does it cover <i>Appointed</i> Directors and Officers? .....	[ ]	[ ]
Employment Practices Liability Included? .....	[ ]	[ ]
Does the Company have the Duty to Defend/Pay on Behalf Policy Language? .....	[ ]	[ ]
Does the Company cover defense of Director against Director?.....	[ ]	[ ]
Do they defend the board if they are in breach of a contract? .....	[ ]	[ ]
Do they defend if a unit owner is suing to compel the Board to purchase insurance? .....	[ ]	[ ]
Do they defend if the Community Manager sues the association for slander seeking emotional distress damages? .....	[ ]	[ ]
Do they defend if a unit owner sues because a volunteer sexually harasses a child at the pool? .....	[ ]	[ ]
Do they defend if the Community Manager is sued for an alleged Unauthorized entry into a unit owner's condominium? .....	[ ]	[ ]
Do they cover is a unit owner's tenant sues the board for wrongful eviction because of enforcement of the Unit Owner? .....	[ ]	[ ]
Have you reviewed the CC&R's (The agent)? .....	[ ]	[ ]
Is there Employers Practices Liability Coverage? .....	[ ]	[ ]
Are independent contractors who work just for us covered?.....	[ ]	[ ]

**OTHER FINANCIAL & SERIOUS COVERAGE**

	Yes	No
Community Association Manager and Firm Included for Fidelity .....	[ ]	[ ]
Earthquake .....	[ ]	[ ]
Flood .....	[ ]	[ ]
Wind /hail damage to interior by endorsement .....	[ ]	[ ]
Worker's Compensation Coverage (regardless if there are employees)..	[ ]	[ ]
Environmental Impairment Liability Coverage .....	[ ]	[ ]

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## **IMPORTANT QUESTIONS AND REMINDERS:**

**I. WHO WILL BE CHECKING THE ASSOCIATION'S DOCUMENTS TO SEE THAT THE COVERAGE OFFERED IS WHAT IS REQUIRED IN THE DOCUMENTS?**

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**II. HAS THE ASSOCIATION DRAFTED A "DEDUCTIBLE" POLICY? Having this Board of Director's Policy in place before the claim happens will save the Manager and the Board a lot of grief and last minute decision making.**

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**III. HAS THE ASSOCIATION DEVELOPED A CHECKLIST OF POSSIBLE RISKS?**

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**IV. HAVE YOU ASKED YOUR OWNERS TO PREPARE A CHECKLIST OF THEIR INDIVIDUAL RISKS TO MAKE SURE THEY ARE ADEQUATELY COVERED?**

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**V. HAS YOUR INSURANCE CARRIER PROVIDED A LETTER TO GIVE TO YOUR OWNERS TO MAKE SURE THAT ALL PARTIES ARE ADEQUATELY COVERED AND THAT THERE ARE NO GAPS IN COVERAGE? THIS DOCUMENT SHOULD DETAIL WHERE THE ASSOCIATION'S COVERAGE STOPS AND THE UNIT OWNER'S COVERAGE STARTS.**

**VI. KNOW WHAT THE EXCLUSIONS ARE IN THE POLICY**

**VII. KNOW WHAT THE DEFINITIONS STATE IN THE POLICY AS SOME OF THEM CAN EXCLUDE SOME COVERAGE BY DEFINITION.**

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***VIII. KNOW WHAT A CLAIM IS AS DEFINED IN THE POLICY.***

***IX. KNOW WHAT THE POLICY SAYS ABOUT ADMINISTRATIVE PROCEEDINGS/EMPLOYMENT.***

***X. KNOW HOW MUCH TIME YOU HAVE TO SUBMIT ANY POTENTIAL CLAIM.***

***XI. PLEASE REMEMBER THAT ANY PRE-TENDERING A CLAIM TO THE INSURANCE CARRIER LEGAL COSTS WON'T BE COVERED IN MOST CASES.***

***(This list is being provided for discussion purposes only and is not intended to insure that each community has adequate insurance and is not all inclusive. Each community must meet with their broker to determine if there are other insurance needs that need to be met.)***