



## DIRECTOR DUTIES

For Condominiums and Planned Communities

A director's duties, including duties as a member of a committee, shall be discharged (1) in good faith, (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and (3) in a manner the director reasonably believes to be in the best interests of the corporation. *See* ARS 10-3830(A). Directors also have a duty of loyalty to the Association. *Kadish v. Phx. Scotts. Sports Co.*, 466 P. 2d 794 (App. 1970).

Since 2007, case law recently added to these duties by holding that directors must (1) use ordinary care and prudence, (2) treat members fairly, and (3) provide members reasonable access to information about association affairs. *Tierra Ranchos v. Kitchukov*, 165 P.3d 173 (App. 2007).

Fiduciary duties are also owed by the directors to the non-profit corporation. These *fiduciary* duties are generally *not* owed to the members.

### WHAT DO ALL OF THESE DUTIES MEAN?

They mean that when making decisions, a board member must make them with the best interests of the association (not his or herself) in mind. They mean that when a director makes a decision, they must take off the "homeowner hat" and put on their "director hat." For example, directors cannot avoid increasing assessments to accommodate additional maintenance because they do not want to personally pay more dues. If it is a decision that will benefit the community, that decision should be approved irrespective of how the directors feel as homeowners. Lastly, these duties mean that directors must keep executive information confidential.