

Chapter 13 - Fiduciary Duty of Board Members



Creating Community

ABC'S OF HOA LAW IN NEW MEXICO

A Guide to New Mexico Community Association Law

Fiduciary Duty of Board Members

For those associations that are nonprofit corporations, the Nonprofit Corporation Act sets forth standards for directors of the association.

1. The director must perform his duties in good faith, in a manner the director believes to be in or not opposed to the best interests of the corporation and with such care as an ordinarily prudent person would use under similar circumstances in a like position. NMSA 53-8-25.1
2. Directors are entitled to rely on information, opinions, reports and statements prepared or presented by
 - (A) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
 - (B) legal counsel, public accounts or other experts;
 - (C) a committee of the board that is properly established, if the board reasonably believes the committee merits confidence. However, the director will not be considered to be acting in good faith if the director has knowledge concerning the matter in question that would cause such reliance to be unwarranted.
3. A director cannot be held personally liable unless the director failed to perform his duties in good faith, and such acts by the director constituted willful misconduct or recklessness.