

SIGNS OF A ROGUE BOARD:

Volunteers who agree to serve on an HOA Board of Directors are usually well intended people working in the best interests of the homeowners they serve. Occasionally, an errant soul will land on board, and bring down the office by disrespecting the covenants' rules and regulations regarding board members, fiduciary responsibility and ethical behavior. Spotting the signs of rogue activity,, addressing the conduct, and clearing house of the bad operators will bring peace, harmony, and fiduciary responsibility back to the board,

Rogue Behaviors. Watch Out!

- The board holds secret meetings.
- The board makes decisions in private, including voting in executive session on public matters.
- The board shows signs of favoritism with certain homeowners.
- The board ignores the responsibility to use competitive bidding for contractors, awarding bids to friends instead.
- Board President has, and uses, power over other board member(s) to influence their votes (ie: Bd President is the employer or landlord of the other board member)
- Board President takes actions against, or verbally abuses, members (public or other board members) that disagree with him
- The board or individual board member is guilty "self-dealing"
- The board or individual board member has a personal or political agenda that influences decisions.
- The board or individual board member is more impressed with the power of the office than the interests of the community.
- The board or board member does not welcome homeowner feedback, and discourages open communication.
- The board ignores the law &/or covenants and makes up their own rules.
- The board or some board members vote in blocks with a pattern of members voting together, ignoring legitimate criticism and concerns voiced by other members or homeowners
- The board violates election rules, lies about new candidates and otherwise follows a pattern of behaviors/actions designed to keep the ruling "clique" in power.

Addressing the Conduct

When rogues are on board, the association must meet, review the covenants, revise business practices, and revisit Robert's Rules of Order. Every board member, including the president, must reaffirm their commitment to service. When rogue behaviors are suspected, a smart association will draft an updated ethics code that each officer endorses.

In addition to revising an ethics code, the association can create a permanent record of officer infractions by mentioning the incident in the meeting minutes and issuing letters of reprimand to offending officers. The association's legal counsel should draft the written reprimands, especially when an entire board is rogue.

Clearing House and Restoring Order

When the whole board is rogue, replacement of the entire cast is the only logical move.

Dismissals require legal counsel because of the severity of the motion and the potential liability to all homeowners. This measure should be handled carefully.

Some states have aggressive procedures in place for rogue HOA boards. For example, Arizona requires that all HOA decisions are 'reasonable' and in the best interests of the community. When boards are guilty of faulty voting patterns, their decisions can be set aside and individual board members can be held liable for their actions. Even though HOAs routinely carry D&O (Directors and Officers) Insurance, when blatant abuse of a board member's power is clear, the insurance company can void the indemnity provisions that would have protected the board member.

When rogues are so bad that insurance won't even cover them, it's time for them to go. Left untamed, rogues can ruin an association's business and destroy community morale. Spotting and documenting bad behavior is a prerequisite to removing rogues and restoring order.

Read the covenants, and then call the lawyer. A special election to replace one officer or all of them will get the board from rogue to right, and the association from lost to found.