

# In condo association, who's really in charge?



HERO IMAGES



**PAMELA DITTMER MCKUEN**  
*Community Living*

It takes a village to run a community association.

This village typically is composed of an elected board and its officers, unit owners, perhaps a few committees and a hired manager. Each one has roles to play and responsibilities to carry out for the good of the association.

Some roles and responsibilities are defined by governing documents, such as the association's declaration or the Illinois Condominium Property Act. Others are specified in a management contract, and still others may be carried out by custom or preference.

"The way things are and the way things are supposed to be sometimes run askew," said association attorney Mark Rosenbaum at Fischel & Kahn in Chicago. "Some boards give up and let the president or whoever the main driving force is do whatever it wants.

There also are associations where the property manager drives everything and tells the board what to do. And sometimes the property manager just does everything and tells the board after the fact, and everyone says yes."

Very small associations often are run by a committee of the whole, regardless of what any documents say, he added.

So who is actually in charge of the village?

Association law makes clear the board is responsible for the operation and administration of the association. Board members make the final decisions, although they can and often do hire expert help such as managers, accountants and engineers.

"Ultimately, the board is the one responsible that will get sued for breach of fiduciary duty if things don't go well," Rosenbaum said.

Homeowners elect board members, who in turn elect their officers. The votes of all board members carry equal weight.

"The president typically is the management company's liaison to the board," said Cathy Ryan, president at Property Specialists in Rolling Meadows. "Outside of running the meetings, presidents have no extra power or authority than any other board member, although a lot of them think they do."

Boards often share the workload with those not on the board by forming committees or commissions for limited assignments on limited issues. Landscaping, social and financial research missions are common. Such groups have no spending authority, but the board might allocate a certain dollar amount with an approved vendor — say, \$500 for summer flowers.

"They can't sign a contract," Ryan says. "Ultimately, the board has to put its name on any contracts."

Rosenbaum pointed out the distinction between committees and commissions; condo law does not address this difference, but the Illinois General Not-

For-Profit Corporation Act does. Committees must be made up of a majority of board members. The same isn't required of commissions.

"If the board wants to have a group of owners do the legwork on a particular matter and then tell the board what it has found, a commission is the way to go," he said.

"Committees or commissions play an important advisory role by lending their expertise and time to specific tasks," said Judy Ziner, vice president of operations at Lieberman Management Services in Chicago.

Many boards hire professional managers who bring their experience, education and oversight to association operations. Their role is defined by contract.

"The board is the ultimate authority in decision-making while management is in charge of implementation and oversight," Ziner said.

Or, as Ryan, president of the Rolling Meadows property management company, put it: "We tell our potential clients, 'You be the macro, we do the micro. Let us do the legwork and fact-finding and bring it to you in a way that you can direct policy.'"

It's up to the board to decide how much authority it wants to assign its manager, Rosenbaum said.

"There is no one management agreement in the Chicago area," he said. "The board can negotiate. They can say, 'We want you to do this but not this. Here's our laundry list.' You just need to document it."