

All Board members are expected to perform three basic duties on behalf of the cooperative and its owners: care, loyalty and obedience of the law. Qualified directors are focused, fair, respectful and attentive.

Resident-Owned Communities (ROCs) are governed by:

1. Minnesota Statute (e.g. Minnesota Statute 308A or 308B)
2. Their Articles of Incorporation
3. Their Bylaws
4. Their Community Rules

Laws Governing Boards of Directors

- *Duty of loyalty*
 - Position is to be used to advance the interests of the Cooperative and the community as a whole
 - Position cannot to be used for personal advantage or profit (Good faith)
 - Conflict of Interest – A Director must disclose and excuse him/herself from any action and discussion on a decision in which the Director has a special interest
 - Directors should excuse themselves from related discussions even to avoid an *appearance* of a conflict of interest
 - Confidentiality - All personal matters must be kept confidential
- *Duty of care*
 - Act with deliberation and care in overseeing operations of the Cooperative and community
 - Act as any other ordinarily prudent person would act under the same circumstances
- *Business judgment rule*

Decisions made by directors in the boardroom regarding corporate transactions are free from court intervention and director liability provided that all decisions made in this environment are carried out in good faith and with a rational business purpose.

What does an “ordinarily prudent” person look like?

- Common sense - Does this make sense to a 3rd party or outsider?
- Practical wisdom - Did you think about it?
- Informed judgment- attending meetings, raising questions, make good business decisions, and have the information

What is a conflict of interest?

A conflict of interest occurs when a person could personally benefit from a decision in a manner that is different and distinct from the benefit to other Cooperative members, residents, or Board members. If he/she acts in a position of authority on an issue in which they have financial or other interests, this is a conflict of interest.

How should a conflict of interest be handled?

- Any potential conflict should be presented in writing by the director with the potential conflict and provided to all board members.
- The affected Director should abstain from discussion and voting on the issue. An affected Director should not be in the room when the issue is discussed and/or a decision is being made.
- If a director is unsure whether an issue represents a conflict of interest, other board members should be consulted and the affected Director should defer to their judgment. Often, other directors may see a conflict more clearly than the person with the conflict.

Sources:

“Duties and Responsibilities of a Minnesota Cooperative Director.” Presentation. Bill Oemichen, MAC Education Conference. August 15, 2007.

Northcountry Cooperative Foundation. Cooperative Housing Toolbox: A Practical Guide for Cooperative Success, Minneapolis, MN: Northcountry Cooperative Foundation. 2003.

Minnesota Attorney General’s Office. Fiduciary Duties of Directors of Charitable Organizations. St. Paul, MN: Minnesota Attorney General’s Office Charities Division. 2007.