

Top Ten Claim Drivers¹

Be Aware of the Most Common Non-Profit Community Association Directors & Officers' Liability Claims to Mitigate the Risk

Start the New Year off right! Take a look at the top reasons community members bring a claim against the association. Learn from what others have experienced so that this year can be your best

#1 Claim Driver: Discrimination

- Discrimination claims can appear in many ways so take care and consider a homeowner's request carefully
- If you grant one homeowner's request, but deny another homeowner's similar request, it can lead to a discrimination or selective enforcement claim
- Consider a homeowner's request for an assistance animal to make sure you do not violate the Fair Housing Act (FHA) or the Americans With Disability Act (ADA)
- Engage in the interactive process with the homeowner when in receipt of a request for an accommodation

#2 Claim Driver: Maintenance/Repair of Common Elements

- Maintaining the community is vital to the enjoyment and safety of the homeowners
- Conduct regular inspections to help identify necessary maintenance needs
- Caring for and repairing common areas can be costly so prepare by funding reserves adequately
- Consider conducting a reserve study to help determine what funds are needed in the short and long term

#3 Claim Driver: Improper Assessments

- Make sure assessments are fair and applied to all equally
- Provide sufficient notice when special assessments are levied
- Be transparent as to why a special assessment is being made

#4 Claim Driver: Architectural Review Decisions

- Respond timely to architectural requests from homeowners

- Act consistently when making decisions
- Follow the association's bylaws as they appear in the Covenants, Conditions, and Restrictions (the CC&Rs)

#5 Claim Driver: Breach of contract

- Follow your fiduciary duties as a board member which require you to put the association's needs above your own
- Make decisions based on sound judgment
- When entering a contract with an outside vendor, research who will do the best job for the best price
- Understand your financial and contractual responsibilities and obligations

#6 Claim Driver: Intentional Acts

- Act responsibly and honestly in handling association funds to avoid fraud, theft or misappropriation allegations
- Record financial transactions to avoid allegations of misrepresentations
- Provide notice to a homeowner of entry to prevent a claim of invasion of privacy, trespass and/or wrongful entry

#7 Claim Driver: Harassment

- Treat homeowners fairly and avoid singling any homeowner out
- Have a procedure to address complaints timely
- Work to create an environment where homeowners feel their concerns are addressed

#8 Claim Driver: Records Request Compliance

- Communicate with homeowners
- Maintain proper records

#9 Claim Driver: Board Election Disputes

- Know the state and local legal requirements that should be followed when conducting board elections
- Consider engaging the assistance of counsel in drafting election guidelines
- Follow election procedures as outlined in the association's by laws

#10 Claim Driver: Defamation

- Be aware of what is written in the association's newsletter, website and any material distributed within the community
- Consider creating a forum for disputes to be heard and addressed
- Set standards as to what behavior will not be tolerated

For more information and a broad overview of these topics see:

<https://www.ihginsurance.com/Risk-Education/Other/What-it-Means-to-be-a-Member-of-the-Board-An-Onboarding-Guide>

¹Based on CNA claims data from January 2021 to December 2023.

²42 U.S. Code § 3604

³42 U.S. Code § 12101

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