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## **BUSINESS IMPROVEMENT DISTRICT (BID) BOARDS OF DIRECTORS: ROLES AND RESPONSIBILITIES**

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A Business Improvement District (BID), like every corporation, is controlled by its Board of Directors. As a board member, you have a great deal of responsibility. You are the representative of the constituents of the BID, and as such, your job is to ensure that the organization adheres to its mission and that its interests are protected. While the board certainly delegates tasks to the BID's employees, you and the other members of the board are ultimately responsible for the BID's actions.

The power of the board comes from its actions as a group; no individual director can control the BID or make decisions on its behalf. Being a board member is serious business. By serving on a board, you are in the exciting position of being able to shape and contribute to important initiatives that impact your community. All that is required is that you be informed, responsible and exercise your best judgment. Organizations need good board members, and communities need good organizations.

In carrying out your duties, the most important documents for you to have and understand are the BID's Certificate of Incorporation, District Plan, and By-Laws. These documents outline the purpose of the organization, the structure of the board, criteria for membership, quorum and voting rules, officers' roles and responsibilities, board meeting policies and more. They also guide the activities and the operation of the BID. It is important that every board member familiarize him/herself with these documents and keep them handy for easy reference.

### **Standards of Care Required by a Director**

"Standards of Care" is a legal term defining the obligations of a board member. They require that each director discharge his/her duties "in good faith and with that degree of diligence, care, and skill which ordinarily prudent people would exercise under similar circumstances in like positions."

- First, directors must act in good faith. Their decisions must benefit the BID and all of its members (not just some of them). Biased board members may have to be tempered when they threaten the Board's objectivity.
- Second, although directors may seek the advice of others, they must use their own judgment in coming to a decision. They should use their common sense, practical wisdom and informed judgment. The law specifies that the responsibility of each director varies depending on the background he/she may have. For example, a director who is an accountant is expected to use that knowledge in fulfilling his or her role on the board.

### **A Director's Responsibilities**

The officers and the staff run the day-to-day operations of the BID, while the board is responsible for overseeing the general operation of the organization. Most directors do this by reviewing periodic reports submitted to them by staff. In general, directors are not personally responsible for actions or omissions of

officers and staff if these people have been prudently selected and the directors “reasonably” rely upon them. However, directors are required to take corrective action if they know of any activities that are not in the best interest of the BID.

A director has the right to inspect all of the BID’s books and records and receive reports from its officers, employees and agents. If the staff or the officers refuse to honor a reasonable request for information, you may have reason to be suspicious. If the information is not forthcoming, you may have no recourse but to resign. In severe situations, you may have an obligation to take other appropriate actions, such as notifying the members of the BID or the State’s Attorney General.

Directors, when acting in good faith, will also rely upon financial statements of the BID if an officer of the BID or independent accountant represents them as correct. If you know that the reports are inaccurate or incomplete, and you still rely solely upon them, you are not exercising good faith.

It is also the director’s obligation to perform the job diligently. What does that entail? Here are some suggestions:

- A director should attend all board meetings and take responsibility for seeing that meetings are held regularly. Directors should take adequate time to prepare for meetings and ensure that an agenda is distributed prior to each board meeting. Directors should ensure that a written record of each board meeting is distributed in a timely fashion to all directors and ratified at the following meeting.
- A director should carefully review and understand the BID’s Certificate of Incorporation and District Plan, as well as its By-Laws and see to it that they are maintained and enforced.
- A director should actively participate in establishing the strategic goals, objectives and policies of the BID and ensure that these objectives are being met and that policies are being carried out.
- A director will also determine the structure that will enable the board to meet their objectives. Committees comprised of board members, based on their skills and strengths should be established. These committees will be responsible for oversight of existing programs, development of new resources and development of new initiatives.
- A director should be familiar with the facilities, personnel and programs of the BID and observe its activities.
- A director should participate in electing or appointing the officers and staff of the BID and in advising them, approving their actions and auditing their performance.
- A director should be aware of the responsibilities delegated to officers and staff of the BID and reassess such authority regularly.
- A director should be concerned with the orientation, composition and continuity of the board through regular elections and the filling of interim vacancies.
- A director should obtain sufficient information about all proposals before the board to be able to make informed judgments.
- A director should ensure that an effective reporting system to the board on the affairs and future development of the BID is established and maintained.
- A director should obtain and review information from outside sources which deal not only with the BID but with other BIDs and other businesses and activities in related areas in order to stay informed of best practices.

## **Financial Responsibilities**

To carry out your financial responsibilities, you should:

- Eliminate all conflicts of interest. A director is a fiduciary of those he/she represents. Thus, you must act for the benefit of BID and not for personal gain. The directors should have no personal interest in the BID or its transactions, either direct or indirect (as through family members of organizations in which the director holds a significant interest as an investor or a shareholder).
- Safeguard and approve changes in the BID's assets, ensure the protection of those assets and be certain that sufficient assets are maintained for the timely fulfillment of the BID's objectives. You should know about the level and type of the BID's funding. If there are employee benefit plans, you must act with an especially high standard of care to ensure that the plans are being managed for the benefit of the employees.
- Approve important financial, business and policy matters of the BID and see that all taxes are paid.