

## Decision Paper

### Tahoe Donner Board of Director Code of Conduct

#### PROPOSAL

The proposal before the Board is to adopt one of two model Board Member Codes of Conduct. One is from Adams/Stirling, a large law firm exclusively serving homeowners associations, and the other is from ECHO, a nonprofit corporation dedicated to assisting California homeowners associations. This is an effort to move forward on the issue by adopting a code developed and vetted by expert organizations.

#### BACKGROUND

The Board is not obliged to adopt a Code of Conduct. Nothing in Tahoe Donner's governing documents or state law requires it. Indeed, the Board of Directors has only had a specific Code of Conduct for four of the past forty-four years.

Tahoe Donner bylaws and state law do impose fiduciary duties on Directors and prohibit conflicts of interest. Those obligations were acknowledged and accepted by the current Board in Resolution 2017-2 approved on September 2, 2017.

There is a strong desire by some members for the two Directors elected in 2017 to sign the Code of Conduct approved by the 2016 Board. These Directors have declined to do so, expressing concerns about some of the language in the 2016-7 Board of Directors Code of Conduct and Ethics. This Code provides mandatory responsibilities for the Directors using vague phrases ("understand and abide by ...other Association documents," "respond to member inquiries through established procedures," etc.), defines "confidential information" too broadly and implicitly limits the ability of Directors to interact with employees. The 2016 Code was not reviewed by Tahoe Donner's legal counsel. There was no 2015 Code of Conduct.

However, nothing precludes the Board from adopting a Code of Conduct that does not conflict with our governing documents or state law. Rather than spend Board time parsing the language of the 2016 Code, the present proposal is for the Board to adopt one of two model codes of conduct.

The first model is the Sample "Ethics Policy For Directors and Committee Members" prepared by the law firm of Adams/Stirling. This large law firm is devoted exclusively to the representation of Common Interest Developments such as Tahoe Donner. This policy is informed by their years of experience in advising and representing hundreds of HOAs. Note that the policy also covers committee members. The second model is from ECHO, the Educational Community for Homeowners, a nonprofit corporation dedicated to assisting California homeowners associations.