

## It's a bad idea to hire residents for HOA work

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*Q. Our condo bylaws state that "directors shall serve without compensation." Last October our HOA board contracted with a homeowner who is also a director for the community's lawn maintenance contract. In addition, the same director/homeowner was to receive compensation for handling complaints, getting quotes for work to be done, etc. Our board president also recommended that our secretary/treasurer be given an exemption from paying monthly HOA assessments, which was approved by the board. Now another homeowner/director is bidding for the housekeeping contract. Are we in violation of our bylaws with any of these three directors? We are paying for a service with the lawn maintenance, housekeeping, and complaint resolution, but can we consider the secretary/treasurer position to be a service? We have never compensated any HOA officers in the past.*

Technically, there is nothing "illegal" with an HOA entering into a vendor contract with a resident or an HOA board member. However, it is not a good practice, as there is great potential for conflicts of interest, especially if the vendor is a board member.

The board of directors is responsible for selecting and hiring vendors. Directors should avoid the appearance of impropriety, and contracting with yourself to do the landscaping or housekeeping certainly gives that appearance.

Your question states that your bylaws prohibit directors from receiving compensation, and that the board has nevertheless proposed paying one of the directors for the service she provides as secretary/treasurer, which is an "officer" position, not a board position. With HOAs, the officers are almost always directors as well, so the line between the services someone is providing as a director versus an officer is blurred.

In addition to the prohibition against compensation of directors in your bylaws, the N.C. Planned Community Act contains the following provision: ". . .[N]o financial payments, including payments made in the form of goods and services, may be made to any officer or member of the association's executive board or to a business, business associate, or relative of an officer or member of the executive board, except as expressly provided for in the bylaws or in payments for services or expenses paid on behalf of the association which are approved in advance by the executive board."

I believe that exempting the secretary/treasurer from payment of assessments as compensation for her services crosses this line, and I would strongly advise against it

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