

It's No Big Deal, Until It Is: Why Vendor Contracts Matter for Community Associations

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A key role of most community associations is to engage contractors, service providers, and vendors (all together, "vendors") to assist the community with its everyday needs.

These services can range from community management, landscaping, pool maintenance, pest control, and common area repairs, just to name a few. Typically, the association's board of directors or community managers are responsible for evaluating and hiring these vendors to perform such services. For a better understanding of the functions of the community association board of directors, please check out [Heavy Is the Head That Wears the Crown: Board of Director Authority in a Community Association](#). Although it is tempting to breeze through the hiring process with little more than a phone call, it is crucial that community associations utilize vendor contracts to define the relationship and to protect themselves. These contracts are vehicles to, among other things, define the services the vendor will provide to the community, how and when the vendor will be paid, and what happens if something goes wrong. For a better understanding of what a community association is all about, please check out [Unwrapping the Riddle: What is a Community Association](#).

Risks and Concerns

In many circumstances, contracts with vendors are often just purchase orders or signed statements with no terms. Without a suitable vendor contract in place, community associations risk exposure to a host of potential problems. Addressed below are several key issues that community associations should consider when negotiating agreements with vendors who fail to utilize vendor contracts.

Termination – Is it over yet?

Picture this, a community association hires a landscaping company to perform various landscaping services throughout the community for a period of two (2) years. Fast forward six (6) months ...while the relationship started out rosy, things have gone downhill fast. The problems are multiplying like weeds. Literally. How does the association get out of the contract and find a new landscaping company? The answer here may be problematic if the association did not utilize a vendor contract and the only correspondence between the association and the landscaping company is a short string

of emails and a few invoices. In this case, the association will likely have to try and convince the landscaping company to voluntarily release it from the contract. Not likely.

A termination provision in a vendor contract outlines the method and terms by which each party can get out of the contract. A well-drafted termination provision can alleviate much of the headache that might otherwise result from the parting of ways. Depending on the type of project and the scope of services, the termination provision should be drafted to adequately cover the association in the event the association desires to terminate the contract, or protect the association from the vendor walking off a project whenever it desires.

Injury Liability – Who is on the hook?

Using the example with the landscaping company, what happens if the landscaper causes damage to community property, one of its employees gets injured, or worse, a member of the association is injured? One need only use their imagination to think of situations where something is damaged or someone is injured and the question becomes, "who is responsible?"

One way to protect your association from liability for injuries or property damage is to include provisions regarding insurance, indemnification, and the vendor's status as an independent contractor. Each of these provisions will better protect the community association in the event injury or damage occurs as a result of the vendor's actions. Many savvy associations require vendors to provide proof of insurance and list the association as an additional insured, or at the very least require the vendor's insurance company to notify it of a change or cancellation in the vendor's insurance.

Scope of Work – What services?

It is of utmost importance that the vendor contract spells out, as specifically as possible, the parties' understanding of the services to be provided and the cost of those services. Without this contractual agreement, the association may have to foot the bill for services it did not explicitly request, or in the alternative, the association may have to pay additional amounts for services the association assumed were included in the price for services.

Conclusion

Despite how straightforward the process may seem, community association boards and community managers should utilize vendor contracts when hiring vendors to clearly frame the relationship of the parties and protect the interests of the association. Making sure that your association implements and requires contracts with its vendors at the outset can save the association time, money, and resources in the event the relationship with the vendor does not go as planned. If you need help getting a vendor contract in place, do not hesitate to reach out to your community association legal counsel, they can help you along the way.

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