



## **HOW TO ESTABLISH A HOUSE CORPORATION**

### A. THE ROLE OF THE HOUSE CORPORATION

A majority of chapters in Beta Theta Pi do have legally incorporated house corporations. Those house corporations have already gone through many, if not all, of the processes outlined in this section. The purpose of this section is, therefore, to aid alumni who are establishing a house corporation for the first time or reforming a house corporation which has existed in the past.

The house corporation plays a very important role in the continued existence and well-being of a chapter in the Fraternity. The typical house corporation performs the following functions:

- Owns and/or manages real estate for the chapter.
- Leases the chapter house to the undergraduate chapter.
- Maintains the physical structure and develops a long-term capital improvement plan.
- Maintains the equipment and furnishings.
- Anticipates future housing needs.
- Maintains accurate financial information.
- Obtains loans when necessary.
- Enters into contracts when applicable.
- Secures adequate levels of insurance.
- Ensures that any applicable taxes are filed properly.
- Hires and supervises all chapter employees, such as cook, housemother, live-in advisor.
- Collaborates with the undergraduate chapter to maintain positive relationships with chapter alumni.
- In some cases, serves in an advisory role to the undergraduate chapter.

Because of varying circumstances, not all house corporations are involved in each of these duties. For example, if the chapter is housed in university facilities, the university would assume many of the duties associated with maintaining the physical plant. This would not, however, relieve the house corporation of its other responsibilities. It is critically important that the housing corporation insures that all facility duties are being properly handled by either alumni, the house corporation or the chapter.

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For a house corporation to successfully conduct its affairs, it should be legally incorporated as a non-stock, non-profit corporation under the laws of the particular state in which the chapter is located.

While incorporation does involve certain filing and legal fees, the advantages far outweigh the disadvantages. A few of the advantages are as follows:

- Protects the members from personal liability for the organization's obligations and liabilities. (However, this "wall" can be breached if legal procedures are not carefully followed.)
- Allows for perpetual existence instead of limiting the organization to specific terms of office or life spans of the officers.
- Allows the house corporation to sue and be sued in its corporate name.
- Enables the house corporation to own real estate in the corporate name.
- Offers protection of the house corporation's name.
- Permits the house corporation to enter into contracts in the corporate name instead of individual member's names.
- Provides greater continuity for the transaction of business for the organization.

## B. REFORMING A DORMANT HOUSE CORPORATION

In the case of a group of alumni wishing to reform an old house corporation, a search must first be conducted to find the exact status of the old corporation. Several avenues may be helpful in finding the necessary information. Certainly the most accurate method is to contact the Secretary of State or other similar officer in your state or province. The Secretary of State should be able to determine:

- If a corporation ever truly existed.
- If the corporation is still recognized by the state or province.
- If a copy of the original Charter, Articles of Incorporation, and Bylaws are on file.

For the Secretary of State to perform this search, there will be certain critical information that must be provided. This information will include the exact name of the previous house corporation, possibly the address of the chapter house, or previous chapter houses occupied by the chapter, and the approximate date of incorporation. If this information is not readily available, check through the old chapter files, talk with older alumni, or call the Administrative Office as possible sources for the needed information.

Assuming the previous house corporation was legally incorporated, and the original Articles of Incorporation and Bylaws can be found, the alumni should very carefully review the documents and make any necessary additions, deletions, or corrections. In most cases, it will be better to simply restate the Articles of Incorporation and Bylaws rather than trying to amend them. This means completely rewriting them to comply with existing state laws.

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## C. FORMING A NEW HOUSE CORPORATION

A number of procedural issues must be determined when a group of alumni decide to incorporate a new house corporation. Many of these issues are practical in nature and may not require the use of an attorney. (Although it is best to work from the beginning with an alumnus who is a corporate attorney.) These issues include requesting an application form from the Secretary of State (or other similar official in your state or province), identifying who will serve as the original incorporators, determining the principal office of the corporation and of course, deciding upon the name of the new corporation.

There are a number of other procedural steps in which the alumni should obtain the input of legal counsel. These steps are the actual filing of the incorporation application, drafting the Articles of Incorporation and Bylaws, and filing the appropriate documents to the Internal Revenue Service.

**NOTE: It is very important to understand that the Internal Revenue Service filing is completely separate from the incorporation filing.** While the state or province may recognize the house corporation as a non-profit organization, this recognition would not in any way entitle the house corporation to Federal Income Tax-Exempt Status. To achieve tax-exempt status, filings must be made directly to the Internal Revenue Service. The reason this is included in this particular section is because most groups elect to file with the state and IRS simultaneously.

### 1. Membership in the House Corporation

Membership in the house corporation should be determined while developing the bylaws. There are several possibilities. This section will outline five alternatives. Any combination of these possibilities is feasible.

- a. All chapter alumni plus one class representative from each of the undergraduate classes. The chapter's class representative may be elected for three to four year terms, (for the remainder of their undergraduate years), but are permitted to vote only after two years of holding office. This establishes continuity within the undergraduate chapter and allows the chapter a direct link to house corporation decisions.
- b. All chapter alumni who have donated to the house corporation building fund during their undergraduate years. Each member has a vested interest in house corporation activities. The alumni who enjoyed their undergraduate years can foster, perpetuate, and improve that experience by assisting in the directing activities of the house corporation.

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- c. All chapter alumni and current undergraduate chapter officers. Alumni brothers and those who are currently directing the chapter can work together in formulating financial policies and planning for the future.
- d. Area alumni, chapter alumni, and chapter undergraduates who have contributed to the building fund. This permits those alumni who are logistically unable to assist their own chapters, to participate with the local chapter and give the house corporation diversity. This is a good model for newly developed chapters.
- e. All chapter alumni are automatically members of the Corporation. Undergraduate members have ex-officio status and may attend house corporation meetings. This is the most popular format.

When establishing the membership of the house corporation, serious consideration should be given to: (i) legal requirements, (ii) ability of members to become involved and to meet, and (iii) the effects on the undergraduates and the alumni who do not participate. For the most effective alumni participation, the house corporation membership should have the broadest possible base.

This broad base of membership serves many purposes: (i) it is an incentive to the undergraduate brothers to stay in contact and to understand “Once a Beta, Always a Beta, Everywhere a Beta,” (ii) it provides an attachment to the undergraduate chapter after graduation, (iii) it is a vehicle in maintaining alumni interest for the future, and (iv) it channels alumni energies towards assisting the active chapter.

All alumni should realize that their participation and interest are necessary for the chapter’s strength, stability, and continuity. Once the membership has been established, a Board of Directors can be elected.

## 2. Board of Directors/Officers

The board of directors is a body elected from the house corporation membership and responsible to it for all operations of the corporation. The directors are generally elected at the annual house corporation meeting to serve terms, on a staggered basis, from one to five years. The directors should represent a large cross-section of the membership. The board meets, perhaps monthly, to administer the policies of the house corporation. These policies are formed directly from the house corporation bylaws and house corporation meetings. In the event the bylaws are not fully operable, the board may establish new bylaws or update the current ones.

At the meetings, the Board should review the chapter house lease and contracts pertaining to the chapter and its members, such as agreements with the housemother, cooks, auditors, or other outside personnel. Generally, people contracted for particular responsibilities are hired

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by the board and as such are paid by house corporation funding through the lease of the chapter house.

The board should establish and/or maintain all funds for mortgage debt, taxes, insurance, and maintenance of the chapter house. It should also plan for future chapter house renovation or construction.

At the first board meeting, after the annual house and corporation meeting, the directors should elect officers:

- a. A president to preside at all meetings of the board of directors and the annual house corporation meeting and serve as chief executive officer of the corporation.
- b. A vice-president to serve in the president's absence and/or incapacity.
- c. A secretary to: (i) maintain minutes of the board of directors and house corporation meetings; (ii) issue notices for all meetings; and (iii) circulate appropriate information to board and corporation members.
- d. A treasurer to: (i) be responsible for all house corporation funds; (ii) keep accurate records of all financial transactions; (iii) prepare an annual budget for review and approval of the corporation board; (iv) file all necessary forms to the Internal Revenue Service (or its Canadian equivalent); and (v) make a full annual financial report to the house corporation and send a copy to the Administrative Office.

Between board meetings, all business should be handled by an executive committee, perhaps composed of the officers and another board member or two. Of course, the composition of the executive committee needs to be stipulated in the corporation bylaws and can be constituted as the membership desires. (The chapter advisor and financial advisor could also be valuable *ex-officio* members of the executive committee as well as the board.) (Refer to Exhibit 1 for a sample Articles of Incorporation and Exhibit 2 for a sample Bylaws.)

## D. ARTICLES OF INCORPORATION

The articles of incorporation establish the legal basis for a house corporation's existence. The articles are usually broad in scope, leaving the more specific details of the internal operations to the bylaws. Typical requirements for articles of incorporation are:

- The name of the corporation.
- The period of duration (usually perpetual).
- The purpose or purposes for which the corporation is organized.
- Any provisions, not inconsistent with law, which the incorporators elect to set forth in the Articles of Incorporation for the regulation of the internal affairs of assets on dissolution or final liquidation.

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- Address of its initial registered office and the name of its initial registered agent at such address.
- The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as the initial directors.
- Name and address of each incorporator.

Particular attention should be given to the purpose clause since it could have direct ramifications in regard to the tax-exempt status. House corporations qualify for tax exemption with the IRS as a 501(c)(7) organization.

Samples of articles of incorporation are posted on [www.betathetapi.org](http://www.betathetapi.org).

## E. BYLAWS

Bylaws are rules adopted and maintained by a house corporation to define and direct the internal affairs of the organization. Bylaws are supplementary to the articles of incorporation and are generally more specific. Like the articles of incorporation, the bylaws can have direct ramifications on the tax-exempt status with the Internal Revenue Service.

Well-developed bylaws usually include the following:

- A restatement, in greater detail, of the house corporation purposes.
- Qualifications of membership, classes of membership, expulsion and resignation procedures.
- Notices, times, places, and minutes of meetings.
- A complete description of the officers or directors of the corporation. This description should include authority, qualifications of directors, election, and terms of office, duties, removal procedures, and compensation, if any.
- Filling of vacancies in officers' or directors' positions.
- Identification of any standing or special committees.
- A description of the financial policies to be followed by the corporation. This might include sections regarding a bank depository, fiscal year, audits and financial reports, and methods of disbursing funds.
- Amendment procedures.
- Dissolution procedures, including the disposition of surplus assets or all assets at dissolution.

Samples of bylaws are posted on [www.betathetapi.org](http://www.betathetapi.org).