

Before You Purchase Property In A Homeowners Association (HOA)

Did You Know...

1. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions (CC&R'S) that are provided for your review before you purchase your home. The CC&R's become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&R's together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in this community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&R's, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&R's and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.

2. YOU WILL HAVE TO PAY OWNER'S ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in this homeowners association, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of this Homeowners Association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are assessed by this Homeowners Association and are due on January 1 of each year. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the Association has the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In this Homeowners Association common grounds, landscaping, entrance gate and care of our private roads must be maintained and replaced as needed. If the Association is not well-managed or fails to maintain adequate reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.

3. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments when due, the Association usually has the power to collect them by selling your property in a non-judicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the Association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

4. YOU MAY BECOME A MEMBER OF A HOMEOWNERS ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. This development was turned over to homeowner control in January 2001. Now the Association, and its executive board are responsible for assessing homeowners for the cost of operating the Association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the Association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professionals to carry out these responsibilities.

Homeowners Associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the Association and its executive board are governed by state laws, the CC&R's and other documents that govern the Homeowner Association, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the Association or its governing bodies even though the decisions are ones which the Association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decision made by the Association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic process of the Association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If persons controlling the Association or its management are not complying with state laws or the governing documents, your remedy is typically to seek to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the Association's cost in defending against your claim.

5. THE ASSOCIATION IS REQUIRED TO PROVIDE PROSPECTIVE BUYERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR HOMEOWNER'S ASSOCIATION?

The law requires this Homeowners Association to provide to a prospective purchaser a copy of the community's governing documents, including the CC&R's, Association Bylaws, and rules and regulations. Also required is a copy of the Association's financial statement, operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements.

6. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A HOMEOWNER'S ASSOCIATION THAT ARE GUARANTEED YOU BY THE STATE?

You have the right:

- To be notified of all meetings of the Association and its executive board, except in cases of emergency.
- To attend and speak at all meeting of the Association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.
- To provide a written request to inspect and examine financial and other records of the Association.
- To be notified of all changes in the community's rules and regulations and other actions by the Association or board that affect you.

7. QUESTIONS?

Although they may be many, you should take the time to read and understand the documents that will control your ownership of your property in this Homeowners Association. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand.