

What is a Homeowners Association?

By Linda A. Bartel-McGinnis

A homeowners association is an organization established to govern a private community. Typically it owns and manages some common property for owners of private houses or condominium/townhome units. By buying a lot and/or home, an owner automatically becomes a member of the homeowners association of which it is a part. Most homeowners associations are corporations established under the Not-for-Profit Corporation Law. A homeowners association is similar to other corporations – it is governed by a board of directors elected by the members and a set of rules called by-laws. Books and records of financial transactions must be kept, taxes paid, and certain services provided to members in accordance with the governing documents. Usually the board has an annual budget prepared to estimate expenses, and then assesses each member a share of the costs.

Homeowners associations vary greatly in the services that they provide. The developer establishes the scope of the association initially by setting out the services and expenses in the association's budget. The declaration (a.k.a. CC&Rs) provides the means by which the association can enforce the members' obligations and the by-laws set forth the procedures for running the association. Generally, the developer controls the association at first and relinquishes control to the individual owners some years later.

The individual owner in a homeowners association has the opportunity to become involved and participate in the on-going affairs of the community and the responsibility to assure that the association's actions conform to the by-laws and declaration.

The individual owners, who assume positions of responsibility as officers and directors of homeowners associations, will be the key to its success or the catalyst for its failure. The association is created to preserve the concept of planned residential living, and the officers and directors are charged with the responsibility of insuring its success.

Leaders of the homeowner association are, in most cases, volunteers and residents of the community. They are confronted with enforcing the covenants and restrictions among their neighbors and balancing community goals and the rights of individual owners.

The officers and directors carry out their duties within the formal confines of the governing documents, the rules of parliamentary procedure and applicable law. Collectively, these formal standards assure fairness and uniformity for community residents and present a unique challenge to the community leaders.

Members of the homeowners association have two responsibilities. One to themselves and to their individually owned property, and one to the association and the community concept. The

individual responsibility requires the member to occupy, maintain and use the property in accordance with the restrictive covenants. By doing so, the member avoids the penalties and sanctions available to the association when enforcing the restrictions. By meeting the individual financial obligations, the member avoids the possibility of liens against the property and the levy of additional penalties and costs at the time delinquent assessments are collected.

The collective goal of the homeowners association is to maintain the quality of the property and the lifestyle envisioned by the planned residential development. Apathy by individual members can render the association ineffective and can destroy the communication concept. To maintain the quality of life that accompanies a well-maintained residential community, each individual member must do his or her part. The success of the homeowners association will depend on how well each member meets and keeps the responsibilities that are established by the covenants creating the overall community concept.

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