

# Association 101 e-book

## What Are Governing Documents?

- All documents that regulate the community life
- Documents may vary depending on the type of Association (Condo, HOA, PUD etc.)
- State law- Maintenance Declaration
- Deed Restrictions/ CCRs
- Bylaws
- Rules and Regulations
- Plats of Survey and Easement Agreements (may be separate, often included in the Declaration)
- Basic Condominium/Townhome Legal Documents
- State Enabling Statute-permits the creation of condominium/townhome form of ownership and prescribes the basis of determining ownership interest, rights and obligations of the owners, duties association, and the process of dissolution of the condominium and powers of the subdivision of Condominium/Townhome Plat-describes the location and nature of the common elements and the units
- Condominium Declaration or Master Deed-defines the units, common and limited common elements, and is a collection of covenants imposed on the property to provide for:
  - The basis for allocation of percentage ownership interest
  - The obligation of each owner to share in funding the cost of association operations
  - The power, authority, and responsibility of the association in its operations and in making and enforcing rules
- Individual Unit Deeds-comprises the individual unit deed

## Common HOA Words and Phrases and what they mean to you

### Articles of Incorporation

Creates the association as a corporation under state corporate statute and defines its membership and sets forth the process for creating the board of directors, voting procedures, etc.

### Bylaws

Implements, in specific detail, the provisions of the Declaration and the Articles of Incorporation regarding the association operations, including delineation of the meeting process, election procedures, powers and duties, board meetings, committees, insurance requirements, rule-making and enforcement process

### Rules and Regulations

- Sets forth the operational powers or provisions and the use restrictions adopted by the association
- Legal Docs for Homeowner Associations and the Hierarchy of such documents

### **Subdivision Plan**

Describes the location and nature of the common property and the individual lots

### **Property Deeds**

Comprise the individual lot deeds and the deeds to common property which give a legal description of the property

### **The Declaration of Covenants, Conditions, and Restrictions (CC&Rs)**

The Declaration of CC&R's is the collection of covenants imposed on all property within the development and provides:

- For automatic association membership of all owners and the basis for voting rights
- The obligation of each owner to share in funding the cost of association operations
- Certain restrictions (architectural control and other rules) on the use of the property and the association's enforcement powers
- Sets forth the power and authority of the association to own and maintain the common property and to make and enforce rules

### **Articles of Incorporation**

- Creates the association as a legal entity under state corporate statute; defines the board powers and responsibilities of the association and its membership; and, sets forth the process for creating the board of directors, voting system, etc.
- Bylaws-implements, in specific detail, the provisions of the CC&Rs and the Articles of Incorporation regarding the association operations, including delineation of the meeting process, election procedures, powers and duties, board meetings, committees, insurance requirements, rule-making and enforcement process
- Rules and Regulations-sets forth the operational powers or provisions and the use restrictions adopted by the association

### **Applicable Civil Rights Laws**

- Prohibition against racial discrimination as stated by the Civil Rights Act of 1866
- Equal Credit Opportunity
- Fair Housing Amendments Acts, 1988
- Board is prohibited from discrimination in exercising its 1st right of refusal
- Persons with disabilities (at own expense) must be allowed to make accommodations per the Americans with Disabilities Act, 1993

### **Capital Reserves**

The Board has the obligation to repair and replace major capital facilities, buildings, and equipment of the association. The ideal method of providing for these future expenses is the

establishment of a capital reserves system and budget to assure that such funds are available when needed. With knowledge that the future holds predictable major expenditures for repair and replacement of facilities and equipment, the association could begin the gradual accumulation of funds through a reserve account to meet all or a portion of that expense when it comes due

## **Who makes up the Board of Directors and what are their responsibilities?**

A Board of Directors is an elected or appointed group of individuals chosen to jointly supervise the activities of a community association.

Below are some of the common responsibilities each member of the Board may hold. Depending on the management agreement, some of the following responsibilities can be turned over to a managing company, such as BC Communities.

### **President**

- Chief executive officer and leader of the association
- Presides at all meetings of the board and membership
- Executes legal documents on behalf of the association
- Sets meeting agendas and controls all meetings
- Represents the board before the residents
- May have nominating, if not appointment, responsibility for all committees

### **Vice President**

- Performs all of the duties of the president in his/her absence
- Typically shares some of the burden of the president regarding appearances, liaison, public hearings, etc.
- Usually assigned liaison responsibility to specific staff or contractors, and to specific committees

### **Secretary**

- Prepares and distributes board and membership meeting agendas, minutes, and materials referred to in minutes
- Maintains minutes and book on all meetings
- Maintains book of resolutions
- Maintains all official records, including official correspondence, contracts, membership roster, etc.
- Receives, verifies, and maintains all proxies
- Attests, by signature, to the legitimacy of certain documents

### **Treasurer**

- Works with appropriate staff, contractors, and committees to develop and submit annual operating budget for approval
- Maintains adequate records of all association financial transactions
- Maintains roster of disbursement of funds, as authorized
- Prepares period financial reports- Arranges, subject to board approval, an independent audit of financial affairs
- Perspectives of Board, Homeowner, and Manager

## **What is a Property Manager and what is their role?**

A reputable and respected Property Manager possesses great skills in multitasking, communication, working with contracts and are detailed oriented. Many skills can only be mastered through years of experience in the field. BC Communities proudly has over twenty years of experience and a reputation of providing the highest quality service to community associations throughout the Delaware, Maryland, and Pennsylvania area.

Some of the responsibilities a Property Manager will fulfill are:

- Provide advice and administrative, managerial, and operational counsel to the association's governing body
- Exercise diligence in performing duties on the board's behalf in an efficient manner
- Account for financial activities covered by the Management Agreement
- Perform onsite property inspections
- Solicit and evaluate bids for association services
- Supervise maintenance activities and contractor performance
- Oversee and authorize payment for primary association services
- Abide by, enforce and be familiar with the community's bylaws

## **How each group works together for the greater good of the homeowner**

Although there may be a group of professionals working together to maintain and/or improve your community, each role may have a different perspective in which their roles and responsibilities are influenced by.

### Board of Directors' Perspective

- Concentrate on maintaining the value of the property and a good quality of life for the residential community
- Have a goal of governing smoothly to ensure resident satisfaction
- Responsible for enforcing rules
- Responsible for establishing and keeping budget on track to keep the community thriving

### Homeowner's Perspective

- Most homeowners care a great deal about residences, from the quality of people living in their community to the condition of neighboring properties
- Desire excellent service from property managers and decisions from the Board that will provide a good quality of life and improve the community
- May not agree with all rules and regulations set by the Board, and seek assistance in making their voice heard
- Look to a trusting property manager to help them navigate the Bylaws and other governing documents

### Property Manager's Perspective

- Gracefully work to balance the wishes of homeowners and needs of the Board, within the management company's ability
- Problem-solve to mediate between the Board, Homeowners, Community persons and other parties involved in a property related conflict
- Must be multi-task oriented with a great attention to detail with experience to best assist Homeowners and support a Board of Directors.