

KNOW YOUR RIGHTS: IS YOUR HOMEOWNERS ASSOCIATION TAKING LEGAL ACTION AGAINST YOU?

Sometimes owning a home can present problems. Not only can your neighboring homeowners cause you concern, but the homeowners association (“HOA”) can be difficult to deal with, too. This fact sheet provides some basic information about the purpose and functions of HOAs.

About 1 in 5 Americans live in residences governed by an HOA. While HOAs can offer services and amenities, homeowners can easily become unsatisfied with their governing neighbors. Some common problems homeowners face with their HOA boards are:

- “I didn’t know my home was in a homeowners association when I bought it. Am I required to pay the assessments?”
- “Why did I get fined for not cleaning up after my dog, but my neighbor did not?”
- “I’m paying my assessments on time, but no one comes to remove snow!”
- “Why was my neighbor allowed to build a deck but I’m not?”
- “I’m being billed for fines that I didn’t know about and don’t think are fair!”
- “Why is there a charge for a ‘Special Assessment’ on my bill?”
- “I’m behind on my assessments, why won’t the HOA agree to a repayment plan?”
- “Who is responsible for roof repairs?”
- “Am I required to go to HOA meetings?”
- “Who is in charge of the HOA?”

Frequently Asked Questions

When it comes to living in an HOA, you must abide by the rules and restrictions. While they are in place to better the Association and upkeep common areas, many homeowners have questions.

- What is an HOA?
- What is an HOA board?
- What are HOA fees and what do these fees cover?
- Why are there HOA rules and/or bylaws?
- How do I know my HOA rules?
- How does a member join the HOA board?
- How are members of the HOA board removed?
- What is a property management company?



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KNOW YOUR RIGHTS: HOA BASICS (continued)

WHAT IS AN HOA?

An HOA is an organization created by a real estate developer for the purpose of developing and managing a community of homes, town homes and/or condominium units. Typically, the real estate developer records a Declaration of Covenants, Conditions, and Restrictions (the "Declaration") in the land records for each home in the development so that prospective buyers are on notice that the property is subject to an HOA's conditions.

Most HOAs are corporations established under the Not-for-Profit Corporation Law. Similar to other corporations, an HOA is governed by a board of directors elected by the members and a set of rules called by-laws ("By-laws"). The Declaration provides the basis by which the association can enforce the members' obligation to pay assessments (and sometimes other fees) and the By-laws set forth the procedures for running the association (like when and how to call meetings of the entire HOA). The HOA, often through the board of directors, has the authority to enforce the Declaration and By-laws, as well as manage the common elements of the development.

WHAT IS THE PURPOSE OF AN HOA?

The primary purpose of the association is to protect and preserve the value of the privately and commonly used property. In furtherance of that goal there may be restrictions or rules that conflict with the desires of an individual owner. These rules typically exist for the general good of the entire community. A homeowner must have received copies of any rules and regulations that are not stated in the Declaration or By-laws before they can be held to them.

HOW DO HOAs WORK?

An HOA typically functions by collecting assessments from association members, which are then used to pay for the maintenance of the development (for example: snow removal, garbage collection, common road repairs, etc.). However, HOAs vary greatly in the services they provide. Books and records of financial transactions must be kept, taxes paid, and certain services provided to members. Usually the board has an annual budget prepared to estimate expenses, and then assesses each member a share of the costs. If you have questions about how your HOA is spending the assessments they collect, you can request to review the books and records.

WHAT ARE HOA/MEMBERS OBLIGATIONS?

If an association member does not pay assessments or is fined for not complying with documented rules, the HOA can sometimes seek to collect the overdue amounts by taking legal action in court.

Individual owners in a homeowners association have the opportunity to become involved and participate in the affairs of the community, and the responsibility to ensure that the association's actions obey the By-laws and Declaration.



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