

Before You Buy Your Home

Know what you're buying!

You're buying a new home...and maybe a community as well. You're attracted by the location...and maybe the pool, playground, pond, landscaping and uniformly attractive appearance of your neighbors' properties. Before you make a final decision, ask if the home (lot or unit) is part of a property owners' association, a condominium project, or a cooperative – that is, a homeowner association, or HOA.

What are homeowner associations, and why do they exist?

HOAs exist to protect the investment and enhance the value of the property owned by the members. They are authorized by local government bodies, but not governed by them. HOAs are required by statute to be registered and file an annual report with the Community Association Liaison's office, but there is no single governing agency or authority. Each HOA is a separate, private legal contract between a home owner and the association. By buying the home (lot or unit) you become a party in a legally binding contract – membership in a unique association of homeowners, governed by its own rules, restrictions and obligations.

Do you know your rights and responsibilities under the contract?

Once signed, contracts are legally binding between the home owner and the association. DO review the entire set of governing documents, before you sign! If you do not understand the "fine print," seek legal counsel.

Before you buy, carefully review the governing documents.

Virginia law requires the seller of a lot to obtain a disclosure packet from the association and provide it to the purchaser. The packet should contain Covenants, Conditions & Restrictions (CC & Rs), Articles of Incorporation, Bylaws, and other documents including the association's annual budget and reserve fund summary.

A seller of a condominium unit must provide a resale certificate packet to the purchaser that contains similar information. Both types of packets are specific to your lot or unit, and they will identify any outstanding violations or assessments.

If you are the first purchaser of a condominium unit, the developer must provide a Public Offering Statement (POS). You may cancel the contract within 10 days of receiving the POS.

Read the disclosure and resale certificate documents completely. Do you understand, and can you live with, all terms, including restrictions on flag display, plantings, fences, sheds, play structures, satellite dishes, lawn maintenance, pets, home-based businesses, parking, renting, etc.? **You may cancel the sales contract within three days after receiving the disclosure packet or the resale certificate, without a reason or penalty, in accordance with statutory requirements.**

If you buy the home but do not review or sign the governing documents, you still are a member of the association and subject to all rules and responsibilities!

Questions You Should Ask

The Buck Stops Here:

Assessments, Dues and Communication

How readily are you offered information on the association's finances, and its budget? Is the association financially stable, and is there a reserve fund for future projects? If not, will you have to pay special assessments to replace and repair aging amenities? What are your dues, and are they monthly, quarterly, or annual? How often are dues increased? How are late dues collected, and what are the fines and penalties?

Who controls the association – the developer (or “declarant”) or the homeowners? If the community's developer has not turned the HOA over to the residents, what is the target date and/or criteria? Often, the governing documents state that when a certain percentage of homes or units are occupied, perhaps 51% or 75%, the developer must turn control of the community to the homeowners. Is the transition process defined?

Does each dues-paying owner get a vote in Board elections and important HOA decisions? Do co-owners get 1 vote or 2? How many votes does the developer get?

What are the Committees, and how active are they? Are Committee members appointed or elected by owners? How do homeowners communicate with their association — through its Board or manager, or both? How are owners notified of Board meetings? When is the annual meeting and election of Board members? In what way does the association seek – and use – homeowner input? What are the means of communication between owners in the community?

What are the association's obligations?

Who maintains the exterior of your property? Who will provide security, trash collection and snow removal? What common property, amenities and staff must be supported with homeowners' dues? If your documents say “maintenance free,” there is still a cost to you!

Do you know your rights as a homeowner in an association?

If your community has a governing body, collects mandatory assessments and maintains common areas, it falls under the one of the following statutes:

- Property Owners' Association Act
- Condominium Act

These laws define your rights (e.g., to review association records, to be notified of Board meetings) as well as the rights of associations (e.g., to levy special assessments, to suspend a member's right to use association facilities or services for nonpayment of dues).

If you have questions about implementation of these statutes, you may contact the

Community Association Liaison
804-367-2941

or cicliaison@dpor.virginia.gov

The Liaison is your point of contact on issues relating to the governance, administration, and operation of common interest communities. The Liaison assists those who live in, operate, or are interested in common interest communities in Virginia and can give non-binding interpretations of statutes governing such communities. The Liaison's website features links to educational resources and to statutes.

While the Community Association Liaison can discuss potential violations of statute, the Liaison has no authority over any community association. However, the Liaison can recommend dispute resolution and mediation services.

The Real Estate Board is not authorized to enforce provisions of HOA statutes except condominiums and cooperatives under developer control.

All community associations in Virginia are required to register with the Real Estate Board and pay a fee to the **Common Interest Community Management Information Fund**.

The Fund promotes the improvement and more efficient operation of common interest communities. Awards from the Fund are made on an annual basis in a competitive bidding process and have been used to produce the following resources:

- **Seminars to provide updates on the latest trends in legislation, business and management and self-improvement of association operations**

Produced by the Property Owners Association of Virginia (or POAVA, www.poava.org)

- **Seller Disclosure Resale Information Brochure**

Produced by the Washington Metropolitan Chapter of the Community Associations Institute (or WMCCAI), which serves the Washington, D.C. metropolitan area (www.caiddc.org)

Other Virginia chapters include:

- Southeastern Virginia Chapter serves the Hampton Roads area, www.sevacai.org
- Central Virginia Chapter serves the Richmond area, www.cvccai.org

Community Associations Institute
(or CAI National, www.caionline.org)

- **Guides on rights and responsibilities of Boards of Directors and owners, financial reporting, and conflict resolution for common interest communities**

Produced by Radford University College of Business & Economics
(gnac.radford.edu/realestateguides.html)

- **A study to identify and describe the nature and scope of CIC issues in VA**

Produced by Old Dominion University's Center for Real Estate and Economic Development Virginia Common Interest Community Resource
(www.odu.edu/bpa/creed/cic/cic_welcome.htm)

- **This brochure and free meetings throughout Virginia to raise public awareness of the Liaison**

Produced by Alia Writing & Marketing Services, LLC (aliamarketing@comcast.net)

The first known community association was founded in 1840. As homeowner associations, property owners' associations, condominiums, and cooperatives proliferate and provide increasing choices, buyers need information to understand the new options.

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