

"FREQUENTLY ASKED QUESTIONS ABOUT HOMEOWNERS' ASSOCIATIONS"

Buying a home is a big investment. Homeownership frequently includes automatic membership in a homeowners' association (HOA). There are rights and obligations that come with being a member of an HOA. The information below attempts to give you a basic understanding of what membership in an HOA may involve. To better understand what membership in a particular HOA might involve, you should review that HOA's governing documents and consider seeking the assistance of legal counsel to answer any questions you may have.

(1) WHAT IS AN HOA?

Washington law defines an HOA as a legal entity in which each member is an owner of residential property that is subject to the HOA's jurisdiction as a result of certain recorded governing documents. The law governing homeowners' associations, chapter 64.38 RCW, provides more information in this regard.

(2) WHAT ARE THE GOVERNING DOCUMENTS OF AN HOA?

The principal governing document of an HOA is often known as the Declaration of Covenants, Conditions, and Restrictions and Easements (CCRs). Other important HOA documents may include Articles of Incorporation, Bylaws, Rules, and Policies.

(3) WHAT SERVICES AND AMENITIES ARE PROVIDED BY HOAs?

The services and amenities provided by HOAs vary greatly from community to community. These may include common areas such as a swimming pool, tennis court, playground, trails, community center, or even a golf course. Some HOAs provide landscaping services for homeowners, and some even paint and maintain the exterior of homes.

(4) WHAT OBLIGATIONS DOES AN HOA HAVE?

Each HOA is different, but the most common HOA roles include maintaining common areas and amenities, administering and enforcing use and architectural restrictions, adopting budgets, and collecting assessments.

(5) AM I REQUIRED TO BE A MEMBER OF THE HOA?

Generally, the governing documents for an HOA make membership mandatory for all owners within the community. The HOA's governing documents are essentially a legally binding contract between the owner/members and the association. If you have questions about your legal rights and obligations as a member of the HOA, you should consult an attorney.

(6) HOW DOES MEMBERSHIP IN AN HOA AFFECT THE OWNERSHIP OF MY HOME?

By virtue of your membership in an HOA, you will have various rights and obligations as described in the governing documents. These may include restrictions on the use of your property, architectural controls on future

improvements of your property, and the obligation to pay assessments, also known as dues, to the HOA.

(7) WHO IS IN CHARGE OF AN HOA?

HOAs are typically governed by a board of directors or board of trustees elected by the homeowners. The board's responsibilities and power depend upon the HOA's governing documents.

(8) HOW DOES THE HOA ENFORCE THE GOVERNING DOCUMENTS?

The governing documents of an HOA typically give it wide-ranging powers to enforce its covenants, rules, and policies. This may include the power to file a lawsuit for damages or injunctive relief or fine an owner who does not comply with the restrictions.

(9) WHAT HAPPENS IF I DO NOT PAY MY HOA ASSESSMENTS?

The governing documents likely give your HOA the power to place a lien on your home or take other legal action if you fail to pay properly levied assessments. If you do not pay your assessments on time, this might result in the foreclosure of your home by the HOA.

(10) WHAT IS THE DIFFERENCE BETWEEN AN HOA AND A CONDOMINIUM ASSOCIATION?

A condominium association is a specialized type of homeowners' association. A condominium association is created under different statutes than those that apply to HOAs. Unless your governing documents state that your community is a condominium created pursuant to the Washington Condominium Act, chapter 64.34 RCW, or the Horizontal Property Regimes Act, chapter 64.32 RCW, it is not a condominium.

(11) WHAT HAPPENS IF ONE OF THE COMMON AREAS OF MY HOA MUST BE REPAIRED OR REPLACED?

Well-managed HOAs will normally include an amount for reserves in their annual budgets. In this way, a portion of the assessments you pay is set aside and builds up over time to pay for expensive repairs or replacements. You should review the HOA's financial statements to determine if this is true for your HOA.

(12) WHAT IS THE AMOUNT OF THE ASSESSMENTS THAT CAN BE CHARGED BY MY HOA?

If you are a new buyer, you are entitled to a resale certificate that will provide this information. Otherwise, this information should be provided to you as part of the HOA's annual budget process. If you have questions, you should consult the HOA's manager or a member of its board of directors.

(13) CAN ASSESSMENTS BE INCREASED?

Typically, the governing documents allow for assessments to be adjusted based on the HOA's annual budget. The law governing homeowners' associations

requires that an HOA's annual budget be ratified by its members. This is a good opportunity to ask questions as to how budget changes will affect your assessments.

(14) CAN MY HOA RESTRICT THE TYPES OF IMPROVEMENTS I CAN MAKE TO MY HOME?

Depending on your governing documents, your HOA may have certain architectural or design guidelines and restrictions. If it does, there may be restrictions on the exterior appearance of your home, and you may be required to submit plans and specifications for approval before you make any changes to the exterior or build any additions or other structures.

(15) WHAT TYPES OF USE RULES MIGHT AFFECT MY HOME?

The HOA's governing documents may contain rules relating to trees, landscaping, pets, satellite dishes, clotheslines, fences, parking, home businesses, rental of homes, and other issues. You should carefully read the governing documents to understand the nature of these restrictions.

(16) AS A MEMBER OF AN HOA, CAN I RENT MY HOME?

The answer to this question depends on the governing documents for the particular community. Some governing documents prohibit all rentals, some limit the number of homes that can be rented at any time, while others have no restrictions on leasing.

(17) WHEN DOES MY HOA MEET?

In Washington State HOAs must hold a meeting of the membership at least once each year. Notice of the date and time of the meeting must be provided to you by the officers of the association. Your HOA's board will likely meet more often. If you would like information concerning the board's meeting schedule, you should consult the HOA's manager or a member of the board.

(18) CAN I ATTEND THE REGULAR MEETINGS OF MY HOA'S BOARD OF DIRECTORS?

Board meetings are generally open to members of the HOA to observe, but not to participate in. The law governing homeowners' associations permits a board to consider certain sensitive topics in private (executive session), and to exclude HOA members from that part of the board's meeting. Review the HOA's overriding documents, particularly its bylaws, to determine your rights.

(19) AS A MEMBER OF AN ASSOCIATION, CAN I OBTAIN COPIES OF THE HOA'S RECORDS?

The law governing homeowners' associations provides that the records of the HOA must be made available for review by owners during normal business hours at the office of the HOA or its managing agent.

(20) HOW CAN I DETERMINE WHETHER THE HOA OF WHICH I AM

CONSIDERING BECOMING A MEMBER FACES ANY SERIOUS FINANCIAL PROBLEMS?

As a purchaser of a home within an HOA, you may request a resale certificate that will provide you with information regarding the financial condition of the HOA and whether it is involved in any litigation. However, you should also ask the seller questions to get a clear picture of the HOA's financial condition.

(21) DO THE BENEFITS OF BELONGING TO AN HOA OUTWEIGH THE BURDENS?

This is a question you should consider when the home you want to buy is part of an HOA. Some of the typical benefits and burdens are described above. Studying the governing documents for the community in which you are considering purchasing a home is an important step. Consider exploring this question with your seller, real estate professional, attorney, and other advisors. You may also wish to speak with neighboring homeowners about the community and the HOA."