Understanding Homeowner Associations

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Homeowner associations (HOA) can serve as a guide to ensure property owners in residential settings maintain their homes and landscapes according to specific codes and standards. Despite the fact that millions of Americans are HOA members, the field of public affairs has paid scant attention to these governance entities (McCabe, 2011). These governing organizations are usually associated with condominiums, private urban developments and affluent (often gated and/or secured) subdivisions. HOAs are private governing bodies that are reshaping urban governance and service delivery in large parts of the United States (McCabe, 2011). Regarding net worth, a home is usually the largest investment for most Tennesseans, therefore homeownership is a part of personal or family financial management. Many consider HOAs as a manner to ensure property values remain high in a subdivision or planned unit development.

The following terms are commonly used in reference to HOAs.

Covenant – A specific agreement or regulation which is legally enforceable and is transferred with the deed to the new owner governing the use of a property. Also referred to as covenants, conditions and restrictions (CC&Rs), deed restrictions or restrictive covenants. (NeighborWorks America, 2016)

Homeowners association (HOA) – A group of homeowners within a defined community, neighborhood or complex who make decisions, pay to maintain and repair land and common areas, and/or enforce community rules and covenants. (NeighborWorks America, 2016)

Planned unit development – A type of property that is part of a subdivision and has common areas that are shared with all residents and maintained through a homeowners association fee. (NeighborWorks America, 2016)

Property Owners Association (POA) – An organization regulating and/or providing services for a land subdivision, which organization is created by covenants running with the land and whose membership consists of holders of units in the subdivision. (Natelson, 1986)

Subdivision – Land divided into tracts or parcels less than five acres of two or more lots, sites, or other divisions requiring a new street or utility construction. (University of Tennessee Municipal Technical Advisory Service, 2022)

It should be understood that covenants contain the guidelines by which properties are maintained by HOAs. Covenants typically provide property owners guidelines pertaining to minimum square footage of homes, accepted building materials (brick, siding, wood, etc.), pets, number of vehicles, street parking restrictions, gardens, home attachments, lawn and yard maintenance, storage units, and fencing standards.

HOAs

The purpose of an HOA is to establish and enforce covenants and restrictions governing land use (Cheung, 2005). If an HOA will be utilized in a subdivision, the developers will dictate it into the plan. Homeowners who buy property in the housing development must become members of the association (Cheung, 2005). When an HOA is in place, each new homebuyer is required as an initial condition of purchase to agree to abide by the terms of the private government—technically, the covenants, conditions and restrictions (CC&Rs) of the community association (Nelson, 2006).
HOAs are sustained fiscally through the collection of membership dues and operate as non-profit organizations. A board governs the organization and manages the subdivision’s shared properties such as clubhouses, pools, picnic areas, etc. If the subdivision is large with many homes and units, the HOA may employ a staff or residential management firm.

**Tennessee Law Pertaining to HOAs**


To ensure property owners abide by its covenant, HOAs may impose fines. Condominium HOAs may have the right to attach liens on delinquent members (NeighborWorks America, 2016). These liens can be foreclosed on if the condominium’s HOA documents permit it and the owner is notified through proper legal protocols.

The role of covenants regarding homeowners associations and property owners associations is to serve as the protocols by which subdivision, planned unit development or condominium complex properties will be maintained. It should be noted covenants remain active regardless of who owns the property. In other words, the restrictions are tied to the property. These restrictions can either be affirmative (property owner must do) or restrictive (property owner must refrain from doing).

**Things to Consider if Purchasing and Residence in a Planned Unit Development, Subdivision, Condominium/ Townhouse Units Governed by Associations**

- Get a report on the number of residents who are current regarding their HOA dues.
- Seek to get an up-to-date financial report of the HOA. If the HOA does not have enough financial reserve to make major upgrades such as paving a parking area or putting on a new roof, the members may have to pay additional assessments to ensure the project can be completed.
- Be sure the HOA has not filed bankruptcy or is involved in any lawsuit. Members may be assessed extra fees to pay for litigation costs.
- Make sure the property maintenance requirements are amenable to your personal goals and standards.
- Inquire about the seller’s dues status. If the seller is delinquent you may be responsible for those back payments.

**Starting an Association**

As many Tennessee rural counties transition to suburban communities, the residential landscape will change over the next decades. A benefit of manufacturing firms locating in Tennessee is the population growth created by transplants relocating with these firms or people seeking employment opportunities. As Tennesseans witness this growth, there are those who may feel their established subdivision may increase in value if the residents form a homeowners association or property owners association (HOA or POA).

Theoretically, if a planned urban development or subdivision is developed under the governance of a covenant, the developer will provide the owners with copies of the covenant. However, once a developer sells all the lots, the responsibility of enforcing the covenant is passed to the residents. At this point, residents may establish an HOA or POA. According to Nelson (2006), if a neighborhood of separately owned homes already exists, it is nearly impossible to create a community association such as an HOA or POA. It would be practically impossible to obtain unanimous consent among any significant number of residents (Nelson, 2006). However, if residents desire to establish an HOA or POA, it is highly suggested they follow the process to become a nonprofit organization.
References


