

## What Are the Different Assessments and Fees I Can Expect?

There are two types of assessments, regular and special. Regular assessments or dues that may be payable yearly, quarterly or monthly and go to the overall operation and maintenance of the association, as well as to the reserve fund and often to the HOA insurance and legal fees. Special assessments are those assessments made on a one-time basis for major repairs, replacement, or new construction, and may be assessed as well. There also may be monetary penalties or fines levied by an HOA against a homeowner for damage to the common area or imposed as a disciplinary measure for a violation of rules or regulations.

## Before I Consider Purchasing In an HOA, How Do I Get Information on the Association?

You can contact the HOA directly if you wish to receive a copy of their governing documents or other information. HOAs are required to be registered with the Division of Real Estate, and you can search for an association on the Center website. Provided with the registration is a reception number for the Declaration of Covenants of an association, which can be accessed at the clerk and recorder's office of the county where the property is located.

## Does the HOA Information Center assist with the Enforcement of the CCIOA, Bylaws and Covenants?

The HOA Information Center does not have investigative, regulatory or enforcement power and will not intervene in disputes between homeowners and their HOA. The HOA Information Center is a clearinghouse of information concerning the basic rights and duties of homeowners, declarants and HOAs under the CCIOA.



# Before You Purchase in an HOA



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Many of Colorado's new homebuyers will purchase their home in a development or condominium that is in a homeowners' association. It is important that you know some of the implications of buying in a particular HOA prior to purchasing your home. Common interest communities offer many benefits, but homeowners should understand that there are covenants, rules and regulations which can have a significant effect on how you live in your home and the decisions you make regarding your property.

### What is an HOA?

An HOA describes a certain type of real estate and form of home ownership, and a lifestyle that is becoming very common. Common interest developments are the fastest growing form of housing in the United States, and are also referred to as common interest communities, condominium owners' associations or property owners' associations. In an HOA, the owner of a unit or lot owns his lot or unit in addition to having a share of the common areas with other home or property owners. Typically, the purpose of an HOA is to control the appearance of the property, maintain the common areas, and to provide residents with shared amenities. Homebuyers who purchase in an HOA are responsible for paying their share of the dues and obeying the covenants, rules and regulations of the HOA.

### What does being in an HOA mean to me?

Being in an HOA means you receive the benefits of common ownership, which include providing you with shared neighborhood values, an opportunity to enforce uniform regulations, the ability to increase property values and to provide recreational amenities. Additionally, you agree to restrictions on the use of your property through covenants and rules. Decisions made by persons who you may not know can affect the use and enjoyment of your property, lifestyle, freedom, and finances. There may be decisions made by a few persons on an executive board or committee that do not reflect the view of the majority of homeowners in the community. If you do not agree

with decisions made by the board, your remedy is to use the democratic process. Seek election of other members of the HOA that are more sympathetic to your concerns, which may be a difficult process in an HOA where members are not active.

In addition to the mortgage, you will be responsible for paying HOA dues, which may change, and special assessments may be levied, which may require a large unanticipated capital contribution from the members of the HOA. As a homeowner, you will pay your share of assessments for as long as you own your property. When budgeting for a home purchase it is a good idea as a potential buyer to know what the dues currently are and to understand whether additional special assessments are projected. Prior to making a decision, the new homebuyers should speak with HOA members or attend a meeting of the board of directors, obtain a copy of the governing documents and know the financial health of the HOA. In addition, inquire whether there are any likely projects which would require large capital expenditures.

### How do I know if the home I am looking at is in an HOA?

According to Colorado law, during the negotiation of the purchase of the home, the seller is required to disclose whether the property is in an HOA. They should provide you HOA documents including a copy of the covenants, bylaws, most recent annual owners' meeting, minutes of any directors' or managers' meetings and most recent financial statements, if available, during the six-month period immediately preceding the date of the contract. Additionally, they are required to disclose whether there are known violations of covenants or HOA rules and regulations. Sellers also are required to disclose if special assessments or increases in regular assessments have been approved, whether applied or not.

### Do I have to join an HOA?

While membership in some HOAs is voluntary, most HOAs are mandatory. This means that membership is automatic upon purchasing your home, townhouse, or condominium in a common interest community.

### What Laws Govern Homeowners' Associations?

The Colorado Common Interest Ownership Act, frequently referred to as CCIOA (pronounced KIOWA), §38-33.3-101, C.R.S., et. seq., governs HOAs in Colorado. Additionally, it is a requirement that HOAs incorporate as a non-profit corporation, for-profit corporation, or LLC, which are governed by Colorado corporate laws. Foremost, the laws of contract and property, through the governing documents of the

HOA, govern the relationship between the HOA and the homeowner. The governing documents include the Declaration (also referred to as the Declaration of Covenants, Conditions and Restrictions or CC&R's as well as Declaration of Covenants), articles of incorporation, bylaws, and rules and regulations that govern the relationship of the homeowner to the HOA. Even if the governing documents expand on the rights of the homeowners they cannot contradict or diminish the rights provided in the CCIOA.

### What Are Covenants?

Covenants or restrictive covenants are a legal obligation in a deed by the seller upon the buyer of property to do or not do something. When a homeowner takes title of the property in an HOA, they are subject to the covenants of the subdivision that are enforced by the HOA. Typical covenants may include a prohibition against a certain color of house paint; a restriction on pets in a condominium; and restrictions on commercial vehicles on the property. In addition to covenants, many HOAs have rules and regulations that further restrict the use of the common area. The covenants contained in the declaration are considered to "run with the land", meaning that when you buy the property you have no say in whether to abide by them and you cannot modify them during the negotiation of the purchase of your home. Although the HOA can amend covenants, it takes at least a majority of the homeowners' votes to take such action.

### What are Bylaws?

Bylaws are the corporate legal instruments adopted by the HOA for the regulation and management of the HOA. They are required by Colorado corporate laws and generally set forth how members vote for the board of directors, the number and terms limits of the officers, and duties of the board and elected officers.

### Who are the Community Association Managers?

Some homeowners sitting on an executive board or committee may not have the experience or background required to run an association. Often HOAs hire professional community managers to perform the day-to-day management of the HOA. It is important as a homeowner to understand the distinction between the Board of Directors for your HOA and the community association management company. Whereas the management company is responsible for the day-to-day maintenance and upkeep of the HOA, the Board is ultimately responsible for all decisions of the HOA. Before purchasing in an HOA, you may want to learn the name of the management company and its reputation since they will also become part of your life in an HOA.