



TOWNE PROPERTIES

LEGAL DOCUMENTS AND ENFORCEMENT

Understanding the Legal Foundation of Your Association

Associations are considered corporations by law. Legal entities must adhere to specific governing documents, rules, and regulations. As a board of directors, every decision you make and action you take must follow the legal requirements established by your community.

Governing Documents: In addition to state, local, and federal laws, each association is governed by a series of documents which govern the association. Several legal documents govern associations. Once elected or appointed, a board member should familiarize themselves with the association's responsibilities.

Recorded Maps

Recorded maps are the first step in forming a community. They:

- Establish easements.
- Are recorded and binding.
- Require approval from governmental agencies.

Articles of Incorporation

The articles of incorporation establish your association as a legal entity. They:

- Set forth the purpose of the association.
- Establish membership and voting rights.
- Direct the Board to adopt bylaws (in most cases).

Declaration of Covenants, Conditions, and Restrictions (CC&Rs): This document contains a legal description and “declares” the property as a community association. It is filed with the county where the property is located and also recites the restrictions imposed for the betterment of the community.

The CC&Rs, sometimes called the covenant or the declaration, define the rights, duties, and obligations of individual property owners and the Board of directors. They:

- Are attached to the owner's deed.
- Are described as a “bundle of rights”.
- Run (are attached) with the land, regardless of ownership.

Bylaws: This document controls the internal governmental operation of the association itself. It too is filed with the county and defines aspects such as owner voting rights, number and term of board members, and association procedures.

The bylaws set forth the duties and terms of the officers and directors; they dictate how the association is run.



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Resolutions and Rules & Regulations: While the Declaration and Bylaws are generally written by the developer's attorney, the house rules are generally promulgated by the board. This document contains plain English language that covers information and conduct regulations of the association and the community's residents. Resolutions and rules & regulations are considered operating rules. They aren't included in the CC&Rs or bylaws, but they govern day-to-day operations within the association.

Resolutions: Formalize a Board decision to establish or clarify standards to govern the association. A resolution may not contradict the governing documents.

Resolutions clarify or expand on the governing documents. There are three types:

1. Administrative resolutions, which deal with internal processes.
2. Policy resolutions, which influence the rights and obligations of owners.
3. Special resolutions, which deal with individual situations.

As a whole, resolutions:

- Relate to the policies and decisions of the Board.
- Validate and support board operations.
- Require approval from the Board of Directors.
- Cannot contradict or change the bylaws, CC&Rs, or articles of incorporation.

Boards must ensure the governing documents give the Board the authority to adopt resolutions.

Rules & Regulations

Rules & regulations are like resolutions, but they are not as formal. They require approval from the Board of directors. The Rules & Regulations must be adopted by the board.

Architectural Guidelines

The CC&Rs and board-approved Architectural Guidelines govern the Architectural Review Committee (ARC) and help ensure the property owners comply with the community aesthetic defined in the CC&Rs. The guidelines:

- Establish the ARC, set requirements (such as the response time), and define the approval and appeal process.
- Must be consistent with the CC&Rs.

Rule Validity

Specific legal requirements govern resolutions, rules & regulations, and architectural guidelines. They:

- Cannot violate constitutional rights or add the contradict provision here.
- Must comply with federal, state, and local statutes.
- Must relate to the operation and purpose of the community.
- Must be reasonable, fair, and capable of uniform enforcement.