

HOA governing documents and State HOA Law What you should know!

Read the HOA governing documents that define the controls, covenants and restrictions (CCRs) prior to home purchase. Understand, violations can result in fines and even foreclosure. When you move into an HOA your are giving up property rights to get the advantages of HOA living. If you are not of the temperament of conforming to the rules of the community maybe living in an HOA is not for you. Most of the horror stories about HOA governance could be avoided if the home owner read the CCRs and the HOA maintenance rules and responsibilities (see our Maintenance Guide).

There are of course justified complaints against an HOA Board for their non-compliance with CCRs and mismanagement of HOA resources. Home owners can legally pursue Board violations but must understand one characteristic of HOA law: HOA governing documents and State HOA law are very weak on enforcement from the homeowner's perspective. In fact, you will find little if anything written on enforcement in any law except allowing for mediation is an option. Resolving problems between HOA homeowners and HOA Boards and property management companies is left to our courts: a costly, time consuming, and litigious process out of reach for most homeowners. Pursuing your homeowner's rights will involve your hiring a lawyer with your limited funds and the HOA using your HOA funds (dues), their unlimited financial resources, and their lawyers to argue the case in court. If you lose you most likely will pay thousands of dollars for the HOA's legal costs.

Until States provide for an out of court, low cost, accessible dispute resolution process we urge homeowners to avoid the court system. Attempt to resolve issues with an HOA Board and if that fails home owners can always recall Board members and have the opportunity to vote for new representatives during the next election.

The main factor in good HOA governance is home owner participation. Home owner apathy, on the other hand, is the curse and cause of much HOA dysfunctional governance.

What is in place that gives the HOA the power to act begins and ends with the CC&Rs. The Declaration of Covenants, Conditions and Restrictions (CC&Rs) dictate the rules or restrictions the owners of the land must follow in all homeowners associations (HOA), property owners associations, and community associations. The CC&Rs are said to "run with the land," meaning that the restrictions for the property are in place no matter who owns the property. **Read the CC&Rs!**

Read the HOA Inspection, Documentation, Maintenance and Move-in Brochures available in the HOA Home Buying Kit

A guide to help home buyers match the profile of the HOA with their community requirements and expectations



HOA Home Buyer's Guide Profiling the HOA (and the right match for you)

**HOAs expect conformance not creativity
You fit into the community not the community fitting to you**

All HOAs are **not** the same

Different control, covenants, restrictions, amount of HOA dues, pet/child restrictions, parking rules, home business rules, etc.

Avoid post purchase blues by using this guide to research and profile an HOA and to see if it fits with your expectations

Read our HOA Maintenance Guide to understand what the HOA or you maintain!



**Not so quick! Do your homework.
Evaluate the HOA with this brochure**

#1: Read the HOA Governing Documents

You Should Know: covenants, controls, and restrictions and your HOA dues can be changed in the future!

Guiding Principle of HOAs
You give up something to get something



Buying a home in a Homeowners Association (HOA) is different. Learn what you should know BEFORE buying your home.

HOA Home Buyer's Guide Profiling the HOA (and the right match for you)

**Get answers to questions and issues in this guide
before you buy!**



A valuable checklist for HOA home buyers that will mitigate post purchase problems

**Read the HOA Governing Documents,
Understand the Controls, Covenants, and
Restrictions before Closing on the Home!**

The HOA Home Buyer's Worksheet and HOA Home Buyer's Maintenance Brochure are available with the HOA Home Buying Kit

MAY NOT BE REPRODUCED OR USED FOR COMMERCIAL PURPOSES WITHOUT THE EXPRESSED WRITTEN PERMISSION FROM THE COLORADO HOA FORUM

You Should Know: covenants, controls, and restrictions and your HOA dues can be changed in the future!

The Basics: Profiling the HOA

If it is important to you get it in writing.

Read the HOA governing documents. THIS IS A MUST, THEY WILL IDENTIFY WHAT YOU CAN AND CAN'T DO! Read our Documentation pamphlet

Your home ownership temperament? Are you willing to give up home owner's rights and live by community controls, covenants, restrictions?

Get the home inspected. Get it in writing what is to be repaired by you, the HOA, or home seller?
Any pending HOA issues with the home?

Read our home inspection guide

Understand: HOA covenants, controls and restrictions can be changed in the future!

Interview the HOA Board to get answers

HOA Governance:

HOA governing documents define the controls, covenants, and restrictions (CCRs), if not in compliance you will be fined, can lead to home foreclosure



Are there term limits on Board members to ensure that all who want to serve can serve?

Ask if there is an elected Board or is the HOA still under control of the developer who is making management and financial decisions for the community. When was last election?

Research the property management company: they run most HOAs

Who currently governs HOA: developer or home owners?

Any pending/active lawsuits

Any pending votes /changes to governing documents

HOA Dues, Fees, Special Assessments:

Confirm the amount of HOA dues

Separate fees for garbage and recycling

Any additional fees for using amenities, parking spaces?

Any active/planned special assessments/lawsuits?

Any pending litigation that could result in a special assessment?

Conservation district, community development, metro district fees?

Compute your total cost of living in the HOA: dues, fees, mortgage (read our brochure on Total Cost of Living in HOA)



Mandatory golf or restaurant fees

Water/sewage/utilities: how provided-paid for
One time home sale fees?

Can the HOA be responsible for debt incurred by other than HOA (golf course)

Are additional dues paid to any "parent" HOA



HOA Insurance Costs vary by HOA:

Verify that the HOA carries insurance as required in the governing documents, what the insurance covers, and let your insurance agent know about HOA insurance coverage that can lower your rates.

HOA Home Buyer's Guide (and living in an HOA Community)

Condo Consideration: read governing documents, assigned parking, visitor parking spaces, covered parking, FHA approved for a loan, utilities included? Age-pet restrictions, . sound proofing, personal storage area, building security, sound mitigation, what is included in HOA fees, central or individual A/C-heat Read our Condominium Brochure

Foreclosures, Rentals, Liens, Multi-use, Vacation Rentals

The number of active foreclosures in the HOA? Can affect FHA loan Rental restrictions?

The number of rentals in the community. Can affect FHA loan

Any HOA liens on the property?

Utility bonds/obligations on property

Are vacation rentals permitted (Airbnb)

Multi-family occupancy allowed

HOA Financial Status:

Analyze the HOA's latest financial statement and get a confirmation of adequacy of the reserve fund. If the fund is inadequate a special assessment may be pending to replenish.

The number of homes that are in arrears on their HOA dues.

Outstanding loan obligations,

Pending insurance claims

Planned special assessments



Maintenance Free: not all HOAs are maintenance free. Review maintenance responsibilities of HOA related to snow removal, lawn service, tree trimming, house painting, cement work, etc.? Get the HOA detailed documentation. Read our Maintenance Guide.

General Restrictions and Special Needs:

Parking on the street or overnight parking in the driveway may be prohibited.

Children friendly?

Parking restrictions?

Pet rules and restrictions can be more defined and controlling versus local animal control laws.

Age restricted communities have rules concerning children living in your home or others who may be unrelated to you.

Smoking/marijuana restrictions: smoke free building and areas

If you have special needs due to a disability ensure the community meets your needs related to parking, walking, wheel chair compatibility sidewalks, swimming pool access and access to the clubhouse and community amenities.

Approvals for landscaping and capital improvements to your property will have to be preapproved by HOA: learn the limits

Verify who owns the mineral rights below the home?

Gain knowledge of any planned developments adjacent to HOA
HOA special insurance requirements?

Read our Move-in Guides: moving into the HOA is different, know what you should to avoid problem

Ask Questions?



Profile the HOA for compatibility with your life style, needs and expectations prior to purchase!



Quick List/In-person observations

Stop, Look and Listen: visit the community
Noise, open music, outdoor speaker restrictions

Visitor restrictions, visitor parking

Check out the schools/bus stops

Observe the condition of paint on homes, cracks in sidewalks and driveways, roofs on homes, etc.

Consider Your Temperament: can you tolerate someone telling you what to do? Can you obey rules?

Home Business Restrictions/Parking Business Vehicles

Golf course/restaurant: do your HOA dues subsidize the course?

Swimming pool and community amenity usage rules that may restrict children, when is it open

How are utilities, water, cable tv, police and fire services provided?

Gated or ungated: gated communities require access security, HOA maintains streets, complete own snow removal, traffic control limited, police patrol limited

Demographic restrictions: 55+ communities

Restrictions on pets: number, size, breed, dog run, controls over barking and leash law

Fences allowed? If so what type, height, etc.

Use of common areas for kids and/or dogs

RV rules and restrictions, parking rules?

Clubhouse usage and restrictions and hours

Can you add architectural additions, patios, swimming pool, cabana?

Can you have a garden, plant trees, add irrigation

Is the HOA a sub-HOA in which case a "parent" HOA may impose their restrictions/fees?

Observe the community to see if CCR's are enforced

Condo owners: parking policy and restrictions, do you own the parking space or is it HOA assigned?

Condo owners: policies on use of common owned areas, read our condominium guide for more detail

Is there any current effort to re-write the governing documents? If so why, special issues?

Do local police cruise neighborhood, enforce speeding and parking (if gated these services are limited)

School bus service within community?

Services/access for disabled: inspect don't accept

Bird feeders allowed?

Identify your property line vs HOA common area: you may want a garden area but there may be no space

Can you work on car in garage/driveway, where to park a third or outside care?

BBQ and Grill restrictions

Signs, flags, flag poles, outdoor lighting and ornaments rules

More Home Buyer's Help

Read the HOA Home Buyer's Inspection, Documentation, Maintenance Guide, and Move-in Brochures before you begin your home buying experience.