



## Homeowners Associations: Frequent Asked Questions

### Question: What is a Homeowners Association (HOA)?

Answer: It is a non-profit corporation registered with the State of North Carolina and managed by a duly elected Board of Directors. Its purpose is to maintain all common areas and to govern the community in accordance with the provision of the legal documents: CC&Rs, Bylaws and Articles of Incorporation. All members of the homeowners association financially support the corporation. Membership is both automatic and mandatory.

### Q: What does the Association do?

A: The Association is a non-profit corporation managed by a Board of Directors elected by the owners. The Board is responsible for the management of the association's funds, the enforcement of the deed restrictions and the maintenance of common area property.

A management company is contracted by the Board of Directors to provide such services as: collection of assessments, covenant enforcement, supervision of subcontractors, obtaining bids for subcontracted services, providing financial statements and collection reports, as well as a general clearing house for problem solving, communications with homeowners and the Board of Directors and to serve in an advisor capacity. The management company reports directly to the Board and all decisions are made by a majority vote of the Board of Directors or when the Board is not in session by the Board of Directors President.

### Q: What is the common area?

A: It is the land for the use and enjoyment of the members of the association. This includes facilities like playgrounds and/or walking paths in detached homes communities and hallways and/or building structures in condominium communities.



**Q: What is a Master Association?**

A: Master-planned communities are often comprised of several distinct homeowners associations. In such cases the Master Association is the umbrella organization that provides services that are common to all the individual Associations, such as contracts for pond maintenance, trash collection, common landscape, etc.

**Q: Is Berkeley Property Management the Board of Directors?**

A: No. Each HOA has its own Board of Directors formed from members of the association (i.e. homeowners) who were elected to represent the association. The Board makes the decisions about the HOA and directs the community manager (in this case, Berkeley Property Management, LLC) to carry out the decisions. The community manager acts as the administrator for the association, handling paperwork, collecting assessments, hiring contractors, maintaining records, etc. The community manager also provides expertise based on their knowledge and experience with HOAs. The community manager enhances the Board's ability to govern the association by implementing their decisions. Otherwise, being on the Board, especially roles like President and/or Treasurer, might become full-time jobs, which would be difficult because being on the Board is a volunteer job.

**Q: What is the Board of Directors?**

A: The HOA is a corporation and therefore a governing body that is required to oversee its business. The Board of Directors is elected by the homeowners, or as otherwise specified in the bylaws. The limitations and restrictions of the powers of the Board of Directors are outlined in the association's governing documents.

**Q: Who decides how my assessments are being spent?**

A: The Board of Directors, under the authorization of the bylaws and covenants.



**Q: Why do I have to pay Association Fees?**

A: All owners are required to pay association fees by the governing documents of their association. The fees may be due annually, semi-annually, quarterly or monthly. They fund the operations and maintenance of the common property and are used to provide services for the benefit of all owners. Late fees are applied if a member does not pay their association fees by the due date.

**Q: What do the Association Fees cover?**

A: Association fees pay for common area landscape maintenance, repairs and maintenance of common areas, including trees, parks, playground equipment, stone walls, etc. The HOA fees provide for improvements desired by the association, as selected by the Board of Directors and for specific services, as outlined in the HOA legal documents, to the owners.

**Q: What are the Governing Documents?**

A: The Governing Documents for the association are the Articles of Incorporation, Bylaws, Declaration of Covenants, Conditions and Restrictions (or Declaration of Condominium) plus any Rules and Regulations, Resolutions or guidelines that have been established by the association.

**Q: What are the CC&RS?**

A: The Covenants, Conditions and Restrictions (CC&Rs) are the governing legal documents that set up the guidelines for the operation of the planned community as a non-profit corporation. The CC&Rs were recorded by the County recorder's office of the County in which the property is located and are included in the title to your property. Failure to abide by the CC&Rs may result in a fine to a homeowner by the association.



**Q: What are the Bylaws?**

A: The Bylaws are the guidelines for the operation of the non-profit corporation. The Bylaws define the duties of the various offices of the Board of Directors, the terms of the Directors, the membership's voting rights, required meetings and notices of meetings and the principal office of the association, as well as other specific items that are necessary to run the association as a business.

**Q: Where can I get a copy of the Governing Documents?**

A: You received a copy at, or prior to, closing on your home. If you need another set, it is available through your association and/or its managing agent. Your Governing Documents are recorded instruments, so they are also available through the county in which your association is located.

**Q: Why did I receive a violation letter? My HOA is too strict.**

A: Most violation or inspection letters are just to bring an issue to the homeowner's attention. Inspections of communities happens routinely to ensure there are no issues with the common property, any contractors that may be doing work in the common area and to ensure there are no covenant violations.

If there is an issue, the homeowner, in question, will get a notice. About 99 out of 100 times the homeowner will fix the problem shortly after receiving the HOA violation letter. In the rare case where a homeowner refuses to adhere to the covenants, further action may be taken, included daily fines (up to \$75 per day).

**Q: Why do I see violations in my neighborhood? The HOA is too lenient.**

A: The community manager completes HOA inspections on a regular basis as agreed upon with your Board of Directors. When there is a



violation, a notice is sent, and a reasonable amount of time is given for the homeowner to bring the issue into compliance. If the issue is not resolved in an appropriate number of days or weeks, second, and if necessary, third notices are sent.

At this point, the homeowner will be asked to speak to the Board of Directors at a Board meeting regarding the issue. The Board will vote and make a decision regarding how to resolve the issue and the community manager will notify the homeowner and ensure the decision is implemented. This process can take some time, often several weeks or even months, because the Board of Directors understands that due process must be given on all HOA violations, even those that appear to be “clear cut” to other HOA members.

**Q: Aren't the rules and covenants made to settle neighbor disputes?**

A: No. The covenants exist to protect the appearance and value of the neighborhood as a whole. The Board cannot get involved in neighbor vs. neighbor disputes that do not deal with the covenants or where it would not be possible for them to know the facts of the situation with any certainty.

**Q: What is a deed restriction?**

A: It is part of the Declaration of Covenants, Conditions and Restrictions (or Declaration of Condominium) that you agreed to when you bought your home. Through this document, you agreed to certain standards of maintenance, upkeep and behavior in order to make the community as attractive as possible for yourself and your neighbors and to maintain or enhance your property values.

**Q: Why do I need to comply with the deed restrictions?**

A: When you purchase a home in a deed-restricted community you automatically agree to comply with the restrictions then in place.