

The Association & The Board



WHAT ARE THE GOVERNING DOCUMENTS?

The Governing Documents provide for the legal structure and operation of a community. They consist of:

1. Declarations of Covenants, Conditions and Restrictions AKA “The Declarations”
2. The Bylaws
3. The Articles of Incorporation.



ARTICLES OF INCORPORATION

The Articles of Incorporation establishes the corporation that runs the association. The Articles will contain the initial board of directors, mailing address for the company, registered agent, purpose of doing business, and provide for general legal powers to operate as a corporation.



BY-LAWS

The By-laws govern how the Association operates and contain the information needed to run the Association as a business. For example, the bylaws cover matters such as:

- Who can be on the board
- How often the Board holds meetings
- How to remove annoying board members
- How the meetings are conducted
- How many people are on the board
- Membership voting rights



DECLARATION

The declaration of covenants, conditions, and restrictions (CC&Rs) are recorded with in the Official Records. Some examples of items you will find in the Declarations are:

- Power to restrict tenants and buyers
- Authority to collect a security deposit from tenants
- Authority to do an eviction on erring tenants
- Provisions for the bases for denial of tenants and buyers
- Rules governing leasing and resale, owners responsibilities and Association board responsibilities
- Pet restrictions



HOW CAN MY ASSOCIATION CHANGE THE GOVERNING DOCUMENTS?

- Simple Amendment(s) – just a few provisions—and sometimes a great initial strategy!
- Complete Amendment and Restatement of Documents—important to make documents clear and rules understandable.



PROPERTY MANAGER PERSPECTIVE

Property managers cannot give legal advice, but they can (and should!) be recommending to you that you update your docs if they are old and providing information regularly about statute updates from classes they attend and literature they receive!



What is the Board?

The Board is the Representation for the Association and is responsible for the administration of the Association.



What is a Fiduciary Relationship?

Officers and directors must keep the interests of the association above their personal interests, and must discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner they reasonably believe to be in the best interest of the association.



Who's on the Board?



Unless the By-Laws say otherwise...

- **President:** Presides over all meetings of the board and the membership; executes contracts and other documents; assumes general charge of day-to-day operations and can order actions in furtherance of board policies.
- **Vice-President:** Vested with President's powers in absence; usually chairs boards such as architectural review.
- **Secretary:** Keeps and maintains records, records custodian.
- **Treasurer:** Custodian of funds, overseeing financials