

# Understanding the Homeowners Association Concept

## *General*

The mandatory homeowners association is the cornerstone of a planned residential community. It gives continuity to the community, it preserves the architectural integrity, and it maintains the common properties. Properly run, it promotes the community concept and protects the community's property values. In many cases, it makes available recreational and other facilities that might not otherwise be affordable or available to homeowners and residents. The homeowners association can be the vehicle for the community communication and security, and it can protect and maintain the common easements and common services that exist for the benefit of each member of the association.

Automatic and mandatory homeowners associations are part of an overall concept of residential property ownership. Purchase of the home or lot brings with it membership in the association which provides the structure for operation and management of the residential community concept. Membership includes mandatory obligations, financial responsibilities, and a commitment to abide by the use restrictions and rules of the association.

The association's responsibilities may be limited to basic maintenance functions, or they may be expanded to include sophisticated and elaborate maintenance for the property and delivery of special services to individual homes. Association membership generally brings with it the obligation to pay assessments and the responsibility for each individual to contribute to the overall community's wellbeing. To be successful, the officers and directors must properly run the community, and it must have some level of participation by each of its members.

## *Responsibility of the Individual Member*

Members of the homeowners association have two responsibilities, one to themselves and to their individually owned property, and the other to the association and the community concept. The individual responsibility requires the member to occupy, maintain, and use the property in accordance with the restrictive covenants. By doing so, the member avoids the penalties and sanctions available to the association when enforcing the restrictions. By meeting the individual financial obligations, the member avoids the possibility of liens against the property and the levy of additional penalties and costs at the time delinquent assessments are collected.

The collective goal of the homeowners association is to maintain the quality of the property and the lifestyle envisioned by the planned residential development. Apathy by individual members can render the association ineffective and can destroy the community concept. To

maintain the quality of life that accompanies a well-maintained residential community, each individual member must to his or her part.

The success of the homeowners association will depend on how well each member meets and keeps the responsibilities that are established by the covenants creating the overall community concept.

### *Interrelationship of the Parts*

The parts of a planned residential community consist of (1) the individually owned lots or residences, (2) the common scheme or covenants and restrictions that govern the homes and occupants, and (3) the homeowners association that administers to the shared property and the community regulations. The parts of the community are melded together by the recorded restrictions. They encumber each individual lot or parcel of real estate, and they impose their conditions and responsibilities upon each lot owner. The recorded restrictions also grant membership rights in the homeowners association to each owner as an incident to the ownership of property in the community.

The parts of a planned residential community cannot be separated from one another once the covenants and restrictions are recorded and permanently encumber the parcels of property. Membership rights in the homeowners association are transferred automatically at the time that a piece of property in the community is transferred to the new owner. The covenants imposing financial obligations on each lot and restrictions on its use also remain with the property as a condition of ownership. The benefits of ownership, including the rights to use the common property and the benefits from the common services, are also transferred at the time of sale.