

Understanding Homeowners Associations and Their Powers to Enforce Restrictive Covenants and Rules in Planned Communities

Overview

The number of homeowners associations (HOAs) in North Carolina continues to rise as developers build new residential subdivisions and condominium complexes throughout our growing state. Planned communities come in a variety of types and styles, such as single-family detached houses, townhouses, or condominium complexes. Despite the many differences as to how a planned community may look, these developments are similar in that they usually give the individual owners and residents the use of common property and facilities, like a pool, gym or play area, and provide for a system of self-governance through a homeowners association.

Under current North Carolina law, a developer must set up an HOA as a corporation before selling the first unit or lot. Like a company, the members of the HOA vote for an executive board that runs the affairs of the corporation and makes sure that all owners in the community follow the same rules. The rules in every community may be different, but you can find the rules in the form of restrictive covenants and a declaration. This article explores a range of issues dealing with HOAs and the restrictive covenants, or restrictions, which dictate how members of the community may use their homes and property.

Membership

If you buy a lot, home, townhouse, or condominium in a planned community, most likely you will automatically become a member of the HOA. Since most homeowners associations have to be set up like a corporation, you should consider yourself a member of that corporation. Just like other corporations, a homeowners association's success depends on how its members participate. Given your status as a member of the HOA, it is your responsibility along with the other owners in your community to ensure that that the association governs all members fairly and effectively.

Fees and Rules

Generally, a homeowners association has the power to establish its own Bylaws, which set the ground rules for its operation. Typically, an HOA is responsible for enforcing restrictions and for maintaining common areas and the community as a whole. At the outset of planning a development, the developer

