



COMMUNITY MANAGEMENT SOLUTIONS
I N C O R P O R A T E D

FREQUENTLY ASKED QUESTIONS

1. What is the difference between a Condominium, a Homeowners' Association (PUD) and a Co-op?
 - a. **Condominium** – *In a condominium the unit owner owns the interior portion of their unit in fee simple, the same way a free standing single family home is owned. The exterior is owned in partnership with all other unit owners in the Association. The Declaration will identify exactly where the joint ownership ends and the fee simple ownership begins. This will vary from Association to Association. The majority of maintenance responsibilities for the grounds and exterior of the building are conducted by the Association. A condominium may or may not be incorporated.*
 - b. **Homeowners' Association (PUD)** – *Each owner owns the entire unit, interior and exterior, up to a dividing point with the next unit. The ground underneath the home, as well as a certain distance in the front and rear of the unit, i.e. lot, is also owned by the unit owner. Any common ground or amenities are owned by the Association with individual, separate deeds. The maintenance responsibilities of the Association will vary dramatically from nearly nothing to almost complete maintenance as if it was a condominium. The specific maintenance responsibilities of the Association are identified in the Declaration. Early Homeowners' Associations were required to be incorporated to exist but after the Uniform Condominium Act was passed this requirement was no longer enforced.*
 - c. **Co-op** – *A Co-op must be a corporation. The corporation owns the structure and owners purchase stock in the corporation in order to be permitted to rent one of the apartments. In this instance many of the exterior and interior responsibilities for maintenance are conducted by the corporation. Financing is difficult to obtain on Co-op units because there is no ownership of the real estate, only stock.*

2. Why do I pay a monthly fee?

Monthly fees, frequently called assessments, dues, maintenance fees or by some other term, are the main resource for any Association to pay for the services that each owner is entitled to based on the Association's legal documents. Fees can vary dramatically from \$40 or \$50 a year for a single family homeowners association that may only take care of the entrance monuments and pay for insurance, to several thousand dollars per month for an exclusive high rise association with a full staff. It is important to understand the services that you receive for the fees that you pay and not to compare those fees to another association that does not receive the same services. The cost of running a swimming pool, for instance, will vary based on the size of the pool, the number of people that use it, how long it is open each day, whether it is operated by a volunteer committee or an outside contractor and if pool monitors are on duty. So, in conclusion, please read

the association legal documents and budget carefully to better understand your fee structure and the associations responsibilities.

3. What is a community association?

Three features make community association homes different from traditional forms of homeownership. One is that you share ownership of common land and have access to facilities such as swimming pools that often are not affordable any other way. The second is that you automatically become a member of a community association with all other homeowners, and as such must abide by the association rules. The third feature is that you will pay an "assessment" (a regular fee, often monthly, that is used for upkeep of the common areas).

There are many advantages to living in this kind of development. The community usually features attractive combinations of well-designed homes and landscaped open spaces. The houses may even cost less than traditional housing due to more efficient use of land. Parks, pools and other amenities, often too expensive for you to own alone, can be yours through shared ownership. So now you have a chance to own and enjoy the pool, tennis court, or other recreational facilities that may have been unaffordable previously. What's more, you won't have direct responsibility for maintenance, so you won't have to clean out the pool, fix the tennis court nets and you may not even have to mow your lawn. But that doesn't mean you'll never have to think about it.

The community association operates and maintains these shared facilities. Of course, you'll pay your share of the expenses and, as an association member, you'll have a voice in the association's decisions. The association may have one of a variety of names: homeowners association, property owners association, condominium association, cooperative, common interest community, or council of co-owners. To simplify matters, they are all frequently referred to using the umbrella term, community association or CA.

4. Why do I need to purchase a resale certificate when I sell my home?

According to Pennsylvania law, Pennsylvania Consolidated Statutes, Section 101, Title 68, Real and Personal Property, in the event of a resale of a unit by a unit owner other than a declarant, the unit owner shall furnish to a purchaser before execution of any contract for sale of a unit, or otherwise before conveyance, a copy of the declaration (other than the plats and plans), the bylaws, the rules or regulations of the association and a certificate containing seventeen statements of fact including:

- 1. A statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint on the free alienability of the unit.*
- 2. A statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner and any surplus fund credits to be applied with regard to the unit.*
- 3. A statement of any other fees payable by unit owners.*
- 4. A statement of any capital expenditures proposed by the association for the current and two next succeeding fiscal years.*

5. *A statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified project.*
6. *The most recent regularly prepared balance sheet and income and expense statement, if any, of the association.*
7. *The current operating budget of the association.*
8. *A statement of any judgments against the association and the status of any pending suits to which the association is a party.*
9. *A statement describing any insurance coverage provided for the benefit of unit owners.*
10. *A statement as to whether the executive board has knowledge that any alterations or improvements to the unit or to the limited common elements assigned thereto violate any provision of the declaration.*
11. *A statement as to whether the executive board has knowledge of any violations of applicable governmental requirements or knowledge of the existence of any hazardous conditions with respect to the unit, the limited common elements assigned thereto or any other portion of the condominium.*
12. *A statement of the remaining term of any leasehold estate affecting the association and the provisions governing any extension or renewal thereof.*
13. *A statement as to whether the declaration provides for cumulative voting or class voting.*
14. *A statement as to whether an agreement to terminate the association has been submitted to the unit owners for approval and remains outstanding.*
15. *A statement of whether the association is a master association or is part of a master association or could become a master association or part of a master association.*
16. *A statement describing which units, if any, may be owned in timeshare estates and the maximum number of time-share estates that may be created in the association.*
17. *A statement of whether the declarant retains the special declarant right to cause a merger or consolidation of the association and, if so, the information describing such right which was supplied by the declarant, if any.*

5. **What is the role of the Board of Directors?**

A community association may be a non-profit or mutual-benefit corporation or it may be an unincorporated association--in many ways, a business. As its governing body, the board of directors is responsible for making sure that the association is properly maintained, that its bills are paid, and that its funds are invested wisely.

Officers typically are chosen by their fellow board members at the first meeting of a newly elected board. Board members often get the job because they want it, not because they're the most qualified. Still, officer positions shouldn't be looked upon as a popularity

contest. Officers, along with the entire board, wield very potent authority on your community's behalf.

This doesn't mean that your board runs the association by itself, from the ground up. It can and should delegate its authority to professionals--managers, attorneys, accountants, and others--to conduct the day-to-day business of the community. But the contact points for those professionals are almost always the president and the other officers, whose decisions and actions ideally are guided by their sense of fiduciary duty to their community.

THE OFFICERS:

THE PRESIDENT

Let's begin at the top. In most (if not all) associations, the president is the chief executive officer, the head of the corporation. The powers and duties of this position are far-ranging. It's the president who most often talks to the manager, who finalizes meeting agendas, and who, when necessary, serves as the spokesperson for your community.

Experience

Unfortunately, many communities appoint a newly elected board member as president. This can be disruptive, even counterproductive, to the smooth running of an association. It can take a board member six months to a year just to understand the issues facing the board. Plus, some decisions are made in executive sessions. No matter how involved people are before joining the board, it's unlikely that they have a complete picture of association business--simply because certain discussions are privileged information. If at all possible, choose a president who has served at least one year on the board and is therefore familiar with everything on the association's plate.

Meetings

One of a president's primary duties is presiding over board and annual meetings. This is never as easy as it sounds. When chairing a meeting, the absolute best thing a president can do is to keep the board focused on its agenda. A good president will allow for comments from other directors but still maintain control of the meeting. If the board can't come to a decision on an issue, the president should not hesitate to figure out why--or table the issue until further information is obtained.

Contracts

Some governing documents also assign the president the responsibility of signing any contracts entered into by the association. However, there are important checks on this power; the president must have the approval of the board to enter into a contract. But, if the president does sign a contract without board approval, the association is still obligated to the vendor.

Limits

It's crucial, then, that the board member chosen to serve as president understands the scope, limits, and obligations of the position. The president has only the authority that has been granted by the entire board, and the position should never, ever be mistaken for a dictatorship.

A good president will always urge board members to share their ideas and encourage the board to consider each one. Many board members think that if only they were to become president, then their agenda would become the focus of the board. This is a big mistake.

It only builds animosity among the rest of the board and gives residents no choice but to see the officers as self-interested and unprofessional.

VICE PRESIDENT

The role of the board vice president is relatively simple. Please don't take this to mean that this officer is unimportant. Far from it. The vice president acts in the place and stead of the president in the event of absence, inability, or refusal to act. The board may also assign additional duties as needed.

Some boards have more than one VP, each assigned to a different area (finance or operations, for example). In such a case, the chain of presidential succession is dictated by the order in which each VP serves--first vice president, second vice president, and so on.

THE SECRETARY

The processes over which the chief executive presides generate a lot of paper. That's where the board secretary comes in. To start, the secretary is responsible for making sure that meeting minutes are not only recorded but also kept in a safe place.

Minutes

Worried because your secretary doesn't know shorthand? Relax. The secretary doesn't usually have to physically write or record the minutes; often this chore is delegated to a staff member. (Smaller, self-managed associations might not have any staff, in which case the secretary would be required to write down the minutes.) What is most important is that the secretary reviews the minutes and makes any corrections before the rest of the board approves them.

Signatures

The secretary is also obligated to sign any documents that the board approves. You wouldn't think this responsibility is subject to interpretation, but occasionally a secretary will think that, for instance, because they voted "no" on a particular issue or because they were not in attendance at the board meeting for which minutes are presented, they refuse to sign the document. It needs to be explained to the secretary that they are obligated in their capacity as board secretary to sign. Their only alternative is to resign from the position.

THE TREASURER

Finally, we get to the bottom line. The board treasurer ensures that all monies are deposited in the appropriate accounts (reserves or operating), that bills are paid in a timely manner, that financial statements are prepared, that an annual audit is performed (if required), and that an annual budget is created and distributed to members. In every way, the treasurer is the steward of an association's finances.

Professionals

As with the other officer positions, whenever necessary the treasurer should rely on professionals. Very few treasurers are CPAs or have a background in association accounting. And they don't have to. What is important is that the treasurer understands the position and uses good business judgment when making decisions.

6. What is fiduciary responsibility?

Each board member, officer or not, has a fiduciary duty to the members of the association.

Unfortunately, "fiduciary" is an overused word, and its meaning isn't very well known. A fiduciary, according to Webster's New World Dictionary, is "a person who holds something in trust for another."

Board members should work together with one goal in mind: to make their community a better place to live. The officers should lead the way. It's not a popularity contest, nor is it even brain surgery. Rather, it's neighbors giving of their time to the community and, one would hope, making a difference.

7. Ten tips for Board Members:

An officer is still a board member. And any board member can benefit from these 10 tips.

1. *Rely on the advice and recommendations of professionals.*
2. *Read and understand your governing documents.*
3. *Educate yourself. Find out what is required to be an effective board member.*
4. *Refrain from micromanaging your manager or staff.*
5. *Listen to the community. Don't view your board slot as a position of power but rather as one of service.*
6. *Don't get caught up in the wants and desires of special-interest groups.*
7. *Look at the big picture. Work toward achieving the goals and mission statement of your community.*
8. *Work together. Be respectful of your fellow board members' opinions and decisions. Some votes won't be unanimous, and that's okay. It's not personal--it's just business.*
9. *Conduct yourself in a professional manner. Board meetings aren't social events.*
10. *Relax. Don't take everything--including yourself--so seriously. You're merely a homeowner volunteering your time.*

8. If I am not happy with my community association, can I withhold my assessment and put it in an escrow account?

No. Under Pennsylvania Statute the escrowing of funds is specific to rental property, not community association property. By failing to pay your assessments when due, the homeowner will be liable for late payment and collection costs. It is far better to pay your assessment and seek other resolution to the issues you're encountering such as meeting with the Board of Directors.

9. As part of the resale packet I received a number of legal documents, what do they mean to me?

Declaration – *The Declaration is the superior document that creates the association and will identify what is common area or common property vs what is privately owned. It*

also identifies common services and establishes the Board of Directors. This document can only be revised or modified by a vote of the owners.

Bylaws – *The Bylaws, previously called Code of Regulations, identify the operational procedures for the association; the powers and duties of the Board of Directors, how the Board is elected and the term of office, establishes requirements for the meetings of the owners and quorum requirements, identifies the assessment payment method and late dates, identifies responsibilities of the owners and rules and regulations, most likely identifies the minimal insurance needs and other daily operational procedures. This document can only be revised or modified by a vote of the owners.*

Rules and Regulations – *The Rules and Regulations are established by the Board of Directors and may not conflict with the Declaration or Bylaws but will expand upon statements made or identify requirements not specified in these documents. The rules and regulations have to do with parking, control of pets, architectural regulations, use of common amenities etc. and since they are established by the Board, they can be revised or modified by the Board.*

Policies – *are established by the Board of Directors for consistency in operating the association. Some of these policies may have to do with how to process a maintenance request or how to proceed on the collection of assessments that are not paid on time, how to prepare and conduct an owners meeting or run for a position on the Board and numerous other operational procedures.*

10. I own my own home why do I have to ask permission to make changes to the exterior?

While homeowners look only at their own property, the Board makes decisions based on the impact on the entire community. An individual owner may prefer a color of paint but it may not match the other units in the building. An owner wanting to install an out building on their property or create a garden may not realize how this would impede the landscape maintenance or effect their neighbors property value if not maintained. Many associations were built with a certain style in mind and someone adding a deck or larger patio may not be aware and use the same style. It is the responsibility of the Board or committee to take all these factors into consideration when evaluating each alteration request to maintain the uniformity of the community.