

HOAMCO – Best Practices



Community Association Characteristics

A community association is a group of owners who wish to provide a communal basis for preserving, maintaining, and enhancing their homes and property.

The homeowners association:

- Has possession and title to the common elements.
- Is responsible for the maintenance, administration and control of the project through the establishment of a system of property rights, binding covenants and restrictions and rules and regulations.
- Is a *service-oriented business*.
- Is a quasi-governmental entity: *a private government* delivering public services.

What makes a community association different from other voluntary, business and social organizations?

- Membership is mandatory. Each purchaser, by accepting a deed, becomes an association member and submits to the authority of the association and to the restrictions upon the use of the property contained in the Declaration of Covenants, Conditions, and Restrictions.
- The power to control the use and enjoyment of private property. No entity, other than a state, local or national government, has the capacity and, indeed, the responsibility to regulate private property as does the community association.
- The power to tax. Although an assessment is not a tax, it has the same effect and it, like the local property tax, is backed up by a lien right against the property or unit.

What is the legal basis for community management?

- State statutes
- Court decisions
- Governing documents, including:
 - ✦ Articles of Incorporation
 - ✦ Declaration, CC&Rs, Master Deed, Proprietary Lease, or Occupancy Agreement
 - ✦ Bylaws
 - ✦ Resolutions / Policies
 - ✦ Rules and Regulations

NOTE: The hierarchy of documents in New Mexico differs from that taught by CAI. The Declaration and Articles trump the Bylaws. There is no statute governing which document trumps between the Declaration and the Articles. In those situations, the Association will need to see if it has a provision in its governing documents addressing this issue.