

HOMEOWNER ASSOCIATION DOCUMENT ADVISORY FOR BUYERS

When selling a property located in a Common Interest Development (“CID”), the law requires Sellers to provide Buyers with several types of documents that are created and maintained by the Homeowners Association (“HOA”). Because the HOA material often consists of numerous pages, Buyers may not take the time to thoroughly review these important documents prior to removing their HOA document review contingency and/or proceeding with their purchase. It is critical that Buyers carefully review all HOA documents to determine for themselves if the property they are acquiring meets their current and future use and enjoyment of the property.

AS A BUYER, YOU ARE STRONGLY ADVISED BY YOUR BROKER TO REVIEW ALL HOMEOWNER ASSOCIATION DOCUMENTS, WITH APPROPRIATE PROFESSIONALS, IF NECESSARY, TO UNDERSTAND THEIR CONTENTS, AS THESE DOCUMENTS WILL GOVERN, AFFECT AND, IN SOME CASES, LIMIT YOUR CURRENT AND FUTURE USE AND ENJOYMENT OF THE PROPERTY.

While it is important to review and understand all transaction documents that you receive, you should pay special attention to the following issues which are frequently areas of concern for Buyers of property located in a CID:

- 1. Covenants, Conditions and Restrictions:** The CC&R's are the main provisions governing the HOA, how it is run, and basic rights, duties and obligations of the HOA and individual members. CC&R's are recorded documents and after the HOA is formed, it is extremely difficult to change the CC&R's.
- 2. Rules and Regulations:** If promulgated by the HOA, the Rules and Regulations usually detail how the HOA will handle routine, day-to-day matters often affecting common area usage, expenses, etc.
- 3. Minutes:** Most HOAs prepare Minutes summarizing their Board of Directors' Meetings. The Minutes often detail past, current and future (proposed) events, issues, and expenses such as existing or planned litigation, repairs, improvements or needed changes in the dues and/or additional assessments. The Minutes must be reviewed thoroughly because these documents are often the best source of information as to what will be happening with the common area, the individual units and your ability to use and enjoy the property after escrow closes.
- 4. Financial Information:** To the extent that there are detailed financial accounts regarding the funds that have been paid to and/or owed to the HOA, you should pay particular attention to the rate of delinquency, the adequacy of the funding of the reserves, any current or planned assessments, and any operating losses. The financial information from the HOA may be contained in numerous documents, including but not limited to: Pro Forma Operating Budget, Assessment and Reserve Funding Disclosure Summary, Financial Statement Review, Assessment Enforcement Policy, Insurance Summary, and Regular, Special and Emergency Assessments.
 - A. It is essential that you understand the financial status of the HOA: For example, have the reserves been properly and adequately funded? Are there many delinquent dues and assessment payments, etc. The financial status of the HOA could impact your future costs of owning the property.
 - B. Any documented comments regarding pending or future assessments are critical information and will usually appear in the Minutes of the Board of Directors, and on the HOA disclosure form itself.
 - C. If there are special or emergency assessments, Buyers need to know if those assessments are currently due in full or whether they are due only in monthly installments. If you are not certain, you should request that the HOA clarify that information. The Purchase Agreement will determine whether the assessment payment will be paid by the Seller at Close of Escrow, or whether the payments are prorated and you, as the Buyer, will be responsible for the monthly payments after Close of Escrow.

D. If you have any questions or concerns about the financial status, strength or stability of the HOA, contact your accountant who may be able to provide a professional assessment of the HOA's finances.

E. There are independent services available which will review the HOA documentation and give an opinion of the financial status of a HOA for a fee, which is typically \$300.00 to \$500.00 depending upon the services to be provided and the extent of the HOA documentation. Buyers should consider this to be a good investment when buying CID property. Your real estate broker can provide additional details about these services but real estate licensees are not qualified to assess the financial viability of any HOA.

5. Noise: Due to noise and other factors, HOAs often restrict the type of floor and/or wall material that can be used in certain units and/or the number of pets. You should directly contact the HOA Board to determine whether or not the property can be used for your intended purposes. You should also determine whether or not the property meets your subjective personal preferences and needs.

6. Common Areas: Those portions of a CID that are not wholly owned by the individual homeowners are designated as "Common Areas." Usually, the CC&R's and/or the By-Laws will define what constitutes the Common Areas, how they are used, who gets to use them, and who is responsible for maintenance. Some Common Areas may be available for use by all members and their guests, such as a lobby or garden. However, some Common Areas may be "Restricted" or "Exclusive Use" Common Areas with access limited to homeowners (this is often true with swimming pools and spas), or may be restricted to just one homeowner, such as a roof deck, balcony or patio. In some instances, the homeowner may be responsible for maintenance of certain Restricted or Exclusive Use Common Areas. You should determine for yourself whether there are any restrictions affecting the Common Areas which could impact your intended use and enjoyment of the property.

7. Parking and Storage: You should determine for yourself whether or not the allotted parking space(s) are adequate to park your vehicle(s) in the assigned spaces by actually parking in those spaces. Parking space(s) and storage space(s), if any, may be described in a Condominium Map or in the Preliminary Report issued by a Title Company. The actual markings, striping and numbering of these space(s) may not accurately reflect the actual spaces and may be in conflict with the space(s) designated in the recorded documents. It is therefore crucial that you personally determine if the parking and storage space(s) that are designated in the recorded documents are actually the space(s) being transferred to you and that those space(s) are acceptable for your needs and intended uses.

8. Litigation: Many CID's have been involved in, or are presently involved in, or may become involved in, litigation regarding the design, construction, maintenance and/or condition of all or a part of the Development. Whether or not these lawsuits are successful, litigation is expensive and the cost of such legal actions may impact not only the adequacy of the HOA reserves but also the amount of current or future assessments.

9. Special Needs: HOA documents may limit the number and size of pets but only if the HOA accommodates "service" and/or "companion" animals. HOAs on their own, or because of local ordinances, may limit or completely ban smoking and/or vaping in common areas or units. The ability for new Buyers to rent units and/or ability to operate any type of business in the units may also be limited or completely forbidden. Therefore, it is important that you review ALL HOA documents to ascertain whether there are any limitations on your particular needs or planned use of the property.

10. Brokers: Real estate licensees who forward HOA documentation to you have not verified and will not verify that information unless they agree to do so in writing.

The undersigned Buyer acknowledges receipt of this 2-page Advisory.

Buyer: _____

Date: _____

Buyer: _____

Date: _____