

A nighttime photograph of a city skyline with illuminated buildings and a stone bridge with arches over a body of water. The sky is a mix of orange, red, and blue.

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Does the Municipality Govern Your Community?

- No!!!
- Who Should You Contact?
 - Property Management Company
 - Self-Managed → Board of Directors

3 Types of Residential Communities

- Single-Family Homes
- Townhomes
- Condominiums

Governing Documents

- Articles of Incorporation
- Declaration
- Bylaws
- Rules and Regulations (if applicable)

*Collectively, these are the governing documents for your community.

Order of Hierarchy of Governing Documents

1. Articles of Incorporation
2. Declaration
3. Bylaws
4. Rules and Regulations (if applicable)

The document of a higher priority prevails over a document of a lower priority. Said another way, any item contained in a lower document must not be in conflict with a higher document.

Conflicts Between the Governing Documents

- Conflict Between the Declaration and the Rules and Regulations. Declaration prevails.
 - For example, a rental restriction.

Do All Communities Have The Same Governing Documents?

- No!
- Each community's governing documents are unique to that community.

What Are The Differences Between The Governing Documents?

- **Declaration** – Day to Day Functioning of the Community
- **Bylaws** – Procedural Aspects of the Community

Typical Items Found In The Declaration

- Common and limited common elements,
 - Assessments,
 - How much can assessments be increased annually,
 - Maintenance obligations,
 - Architectural control, and
 - Use of the Units.
- ❖ Needs to be recorded to be effective.

Typical Items Found In The Bylaws

- Voting
 - Voting By Proxy / Voting By Mail Ballot
 - Meetings
 - Annual Meetings / Special Meetings
 - Quorum
 - Board of Directors – Number, Term, Powers, Removal
 - Roles of Officers – President, Secretary, Treasurer
 - Operation of the Property
- ❖ Normally, not recorded.

Typical Items Found In The Rules and Regulations

- Parking
- Animals
- Exterior Decorations
- Grills / Fire Pits
- Basketball Hoops
- Items on Deck/Patio/Balcony
- Late Fees / Collection Policy

Minnesota Common Interest Ownership Act

- Minnesota Statutes Chapter 515B
- MCIOA
- Also, called the Act
- Enacted **June 1, 1994**

What Communities Are Governed By MCIOA?

- Associations created on or after June 1, 1994, are by default governed by MCIOA
 - But is that simple???
 - No.

Single-Family Homes

- Normally, not subject to MCIOA unless the community amended its governing documents and “opted-in.”

Townhomes

- If enacted BEFORE June 1, 1994, Not subject to MCIOA unless the community amended its governing documents and “opted-in.”

Condominiums

- If the community is a condominium and not a single-family home or a townhome, it is by default governed by MCIOA regardless of when it was created.

Examples

- A condominium that was created in 1983 IS governed by MCIOA.
- A townhouse that was created in 2005 IS governed by MCIOA.
- A townhouse that was created in 1993 is NOT governed by MCIOA.

How Can You Tell If Your Community Is Governed By MCIOA?

Single-Family Homes

- Declaration will be called a Declaration or a Declaration of Covenants, Easements, and Restrictions.
- Page 1 or Page 2 of the Declaration will note the community is a single-family home and not subject to Minnesota Statutes Chapter 515B.

Townhomes

- Look at the date the community was enacted.
 - On or before June 1, 1994???
- Before June 1, 1994, the Declaration will often be called a Declaration or a Declaration of Covenants, Easements, and Restrictions.
- After June 1, 1994, the Declaration will often be called Declaration of Common Interest Community No. ____.

Condominiums

- Page 1 of the Declaration will reference Minnesota Statutes Chapter 515, 515A, or 515B depending upon when the community was enacted.
- The Declaration for this type of community will often say Condominium No. ____, Apartment Ownership No. ____, or Common Interest Community No. ____ on the face of the document.

Who Does the Board of Directors Answer To?

- The Board of Directors is comprised of a group of volunteer homeowners.
- The Board of Directors ultimately answers to the homeowners in the community because the various directors are elected to the Board by the homeowners in the community.
- If you do not like how your community is being run, get on the Board of Directors.
 - Unfortunately, it is a thankless job.

Fiduciary Duties of the Board of Directors

- The Board of Directors owe fiduciary duties to the homeowners in the community.
 - Duty to Act in Good Faith
 - The Board of Directors must do what they think is the best for the community as a whole.
 - Duty to Collect Dues/Assessments from the Homeowners
 - Duty to Avoid Self-Dealing and Conflicts of Interest

What Are The Benefits Of Living In A Homeowners Association?

- Ensures that the community maintains a specific level of decorum through its architectural controls.
 - Helps preserve property values in the community.
 - Homes are traditionally kept up.
 - Amenities – pool, gym, clubhouse, trash removal, cable tv, parks, playgrounds, snow removal, social events, etc.
 - Increases community involvement which leads to a safer community.
 - Maintain common areas of community
 - Maintain roofs and exteriors of homes.
 - Provide lawn care and snow removal.
- ❖ No two communities are exactly the same.

Questions?

Thank you