



MINNESOTA
HOMEOWNER
ASSOCIATION 101

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AGENDA

- **What is a homeowner association?**
- **How is a homeowner association formed?**
- **What are CIC types of Common Interest Communities**
- **Governing documents, hierarchy, conflicts, differences**
- **General HOA Governance and MCIOA - Minnesota Common Interest Ownership Act**
- **Board of directors**
- **Fiduciary duties of the board**
- **What is given during the board transition?**
- **Rules and Consequences**
- **Dispute resolution, litigation, arbitration**
- **Annual meeting**
- **HOA municipality/City governance**
- **Other applicable laws**
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WHAT IS A HOMEOWNER ASSOCIATION?

A group that incorporates under state law to maintain the common elements of the community and to ensure that the property values are not adversely affected by any individual member of the community or external person.

How is a homeowner association formed?

AN ASSOCIATION IS GENERALLY FORMED AS A MINNESOTA CORPORATION OR NONPROFIT CORPORATION UNDER STATE LAW BY FILING DOCUMENTS AND ACQUISITION OF REAL ESTATE. SOMETIMES FORMED AS A COOPERATIVE BUT NOT AS COMMON.



What are CIC Types of Common Interest Communities

Common interest community is the physical real estate. A community will need both an association and CIC.

Condominium – generally apartment style.

Planned Community - Townhomes or can be individual platted lots single family homes.

Cooperatives – subject to 308A or 308B. Not very common in MN.

Governing documents, hierarchy, conflicts, differences

When there is a conflict, the following order generally governs:

1. Plat – Public – Filed with County - <https://www.hennepin.us/en/residents/property/plats>

CIC plat contains subdivision plat or registered land survey

2. Articles of incorporation – Public -Filed with the secretary of State

Nonprofit, for profit or cooperative.

3. Declaration – Public – Filed with County

Describes the common elements, homeowner units, and description of community

4. Bylaws – Internal document

5. Rules and Regulations – Internal document

EACH COMMUNITY WILL VARY ON THESE DOCUMENTS!

General HOA Governance and MCIOA - Minnesota Common Interest Ownership Act 515B

Most community associations formed after June 1, 1994, are governed by this act. Make sure to check with your association or county records to determine if it applies.

515B.3-103 BOARD OF DIRECTORS, OFFICERS, AND DECLARANT CONTROL.

(a) An association shall be governed by a board of directors whose appointment or election shall occur no later than the date of creation of the common interest community and shall be reflected in the association's records. Except as expressly prohibited by the declaration, the articles of incorporation, bylaws, subsection (b), or other provisions of this chapter, the board may act in all instances on behalf of the association. In the performance of their duties, the officers and directors are required to exercise (i) if appointed by the declarant, the care required of fiduciaries of the unit owners and (ii) if elected by the unit owners, the care required of a director by section [302A.251](#), [308B.455](#), [308C.455](#), or [317A.251](#), as applicable. The officers and directors appointed by the declarant shall have a duty to fulfill, and to cause the association to fulfill, their respective obligations under the declaration, bylaws, articles of incorporation, and this chapter and to enforce the provisions of the declaration, bylaws, articles of incorporation, and this chapter against all unit owners, including the declarant and its affiliates, in a uniform and fair manner. The standards of conduct for officers and directors set forth in this subsection shall also apply to the officers and directors of master associations in the exercise of their duties on behalf of the master association.

Board of directors

The board of directors are elected to help run the association through budgeting, rule enforcement, record maintenance, and future planning.

Budgeting - taxes, maintenance (roof, lawn, pets, pool, HVAC)

Rule enforcement – the board will generally determine **rules unless amendment by members.**

Record maintenance (bills, vendors, government, maintenance and warranties, insurance)

Future planning - assessments, taxes, zoning, growth of the community, and rule addition or revision.

Fiduciary duties of the board

This depends on who appointed the board members.

Once 50% of the authorized units are conveyed then within 60 days with at least one third of the board being elected at that time by the unit owners.

The board members are fiduciaries to the unit owners. If elected by members depends on structure.

If a nonprofit then 317A.251

If a for profit corporation then 302A.251

If a cooperative then 308B.455

The board need not be completely unit owners. A majority of the ongoing board members must be unit holders.

If declarant appointed the board members are subject to 515B.3-120(a)

- (1) cause the association to be operated and administered in accordance with its articles of incorporation and bylaws, the declaration and applicable law;
- (2) be subject to all fiduciary obligations and obligations of good faith applicable to any persons serving a corporation in that capacity;
- (3) cause the association's funds to be maintained in a separate bank account or accounts solely in the association's name, from and after the date of creation of the association; and
- (4) cause the association to maintain complete and accurate records in compliance with section [515B.3-118](#).

What is given during the board transition?

515B.3-120 (b) At such time as any period of declarant control terminates, declarant shall cause to be delivered to the board elected by the unit owners **exclusive control of all funds of the association, all contracts and agreements which are binding on the association, all corporate records** of the association including financial records, **copies of all CIC plats** and supplementary CIC plats, personal property owned or represented to be owned by the association, assignments of third-party **warranties** relating to common element improvements or other improvements the association is obliged to maintain, repair, or replace, if not in the name of the association, and, to the extent they are in the control or possession of the declarant, copies of all plans and specifications relating to buildings and related improvements which are part of the common elements, and **operating manuals and warranty materials** relating to any equipment or personal property utilized in the operation of the common interest community. The declarant's obligation to turn over the foregoing items shall continue to include additional new or changed items in its possession or control. Declarant shall not be obligated to assign any third-party warranty to the extent assignment is prohibited by the warranty or applicable law or otherwise prevents the declarant from enforcing the warranty.

Rules and consequences

These rules must not conflict with applicable laws or governing documents. They will generally apply to day to day operations. Common rules may include: noise, pets, parking, property storage, events, and even renting like Airbnb.

If there is a conflict with the Declaration then an amendment is needed.

The homeowner per the MCIOA is to be given notice of intent to fine plus and the option to state their version of the facts prior to the fine becoming effective. The Board must also ensure the rules were in place with prior notice to ALL homeowners and enforced with all similarly situated homeowners.

If the Board determines that the fine complies with applicable laws and after hearing the homeowner they can take the following actions:

1. Written warning
2. Seek costs
3. Seek attorney fees
4. Monetary Fine
5. Injunction
6. Lawsuit for foreclosure and eviction

DISPUTE RESOLUTION/LITIGATION/ARBITRATION

How do we solve our problem?

Depends on the problem but some may be solved informally or through writing.

The next stage may be a hearing with the board if significant.

If unsatisfied with the board determination, then mediation, arbitration or litigation.

Mediation generally voluntarily and non-binding

Arbitration generally binding

Litigation (lawsuit) is binding.

Resources: State and Hennepin law library who also has access to volunteer lawyers

If a significant problem or lack of payment then foreclosure and redemption

<https://www.hennepinsheriff.org/en/services/foreclosure-sales/Slide-out-group/foreclosure-sale-process>

Annual Meeting – 515B.3-106

Members must meet at least annually to review the annual report, hold elections for the board, and discuss rules and regulations.

The board or members can also call for special meetings with no less than 7 days' notice to discuss issues that cannot wait for a regular meeting.

Homeowners have the right to attend all meetings unless closed through notice.

(c) The annual report shall contain at a minimum:

- (1) a statement of any capital expenditures in excess of two percent of the current budget or \$5,000, whichever is greater, approved by the association for the current fiscal year or succeeding two fiscal years;
- (2) a statement of the association's total replacement reserves, the components of the common interest community for which the reserves are set aside, and the amounts of the reserves, if any, that the board has allocated for the replacement of each of those components;
- (3) a copy of the statement of revenues and expenses for the association's last fiscal year, and a balance sheet as of the end of said fiscal year;
- (4) a statement of the status of any pending litigation or judgments to which the association is a party;
- (5) a detailed description of the insurance coverage provided by the association including a statement as to which, if any, of the items referred to in section [515B.3-113, subsection \(b\)](#), are insured by the association; and
- (6) a statement of the total past due assessments on all units, current as of not more than 60 days prior to the date of the meeting.

HOA Municipality/City governance

The City of Brooklyn Park does not weigh in on areas where the Association has authority unless it contradicts a city ordinance. The Board and its staff will be the contacts day to day.

City ordinances and laws will affect how the HOA operates.

For instance, the city may require rental licenses, regulate smoking (including marijuana), noise, time(s) for events.

Other applicable laws (not exhaustive)

Fair Debt Collection Practices Act

Minnesota Human Rights Act

Fair Housing Act

American with Disabilities Act

United States Bankruptcy Code

The Servicemembers Civil Relief Act



THANK YOU!

Additional Resources:

<https://www.brooklynpark.org/>

Minn. Stat. § 317A

Minn. Stat. § 515B

<https://www.ag.state.mn.us/consumer/Publications/CondoTownAssoc.asp>

<https://www.hennepinsheriff.org/en/services/foreclosure-sales/Slide-out-group/foreclosure-sale-process>