

The Village 

MacArthur Commons

*Owners Guide to
Association Membership*

OWNERS GUIDE TO ASSOCIATION MEMBERSHIP

THE VILLAGE AT MACARTHUR COMMONS HOME OWNERS ASSOCIATION

A COMMUNITY ASSOCIATION

A Community Association is a group of homeowners who wish to provide a communal basis for preserving, maintaining and beautifying their homes and property. Membership in the Association is automatic and mandatory upon acceptance of title.

THE PURPOSE OF A COMMUNITY ASSOCIATION

Community Associations are formed for the purpose of providing for the maintenance, beautification and administration of residential real estate developments through the establishment of a system of property rights and binding covenants and restrictions. These rights and restrictions are contained in a written document called the Declaration of Restrictive Covenants. In a Homeowners Association, the owner owns a lot and the Association owns all common property.

AN ASSOCIATION AS A MINI-DEMOCRACY

In many respects Community Associations are miniture democracies where the Declaration is a kind of constitution for the Association. The Association also has Bylaws which provide for the election of directors by the members, dates of meetings and other various provisions concerning the procedures for operation of the Association. The Board is similar to the Board of a business corporation and are assigned the responsibility of operating and administering the Association for the mutual benefit of the members.

CREATION OF A COMMUNITY ASSOCIATION

The Homeowners Association came into being upon the filing in the office of the local recorder of deeds or registrar of titles of a written declaration which subjected the real estate therein described to certain covenants, conditions and restrictions. The Declaration and Bylaws are the "title documents" which are placed of record against the title to all of the real estate in the development and created covenants "running with the land". This means that the obligations and restrictions in the Declaration and Bylaws is binding upon the real estate itself, as well as the owner, and automatically remains in effect against the title each time a home or other portion of the property is sold.

INCORPORATION

The Association has been incorporated as a not-for-profit corporation under the Texas Non-Profit Corporation Act. Incorporation is desirable because it shields the members against liability for acts of the Association, and it causes the Association to be subject to the Texas Corporate laws.

ROLE OF THE BOARD OF DIRECTORS

The Board of Directors of a community Association is elected by the owners and is responsible for the administration and operation of the Association. The developer is permitted to designate the initial members of the Board who serve as directors until control of the Association is transferred to the Owners.

The Boards functions are similar to those of the Board of Directors of a business corporation, but the actions of the directors are circumscribed by the quasi-governmental nature of the Association.

The powers and duties of the Board is specified in the Declaration and Bylaws, and the provisions of the Texas Non-Profit Corporation Act. Directors are expected to act in a "prudent" manner in arriving at decisions and formulating policies and in a "reasonable" manner in implementing their decisions and operating the Association on a daily basis. Boards should consult with professional advisors such as attorneys, accountants, insurance consultants, engineers and professional management companies during the decision making process. Boards may delegate their authority to a managing agent or to committees, but they cannot abdicate their responsibilities. The ultimate responsibility (and liability) for decisions affecting the Association remains with the directors so they must always be concerned that their decisions are based on factual and accurate information.

Directors should also pay careful attention to maintaining even-handed, non-discriminatory policies in enforcement, assessment collection and similar areas.

THE POWERS AND DUTIES OF THE BOARD OF DIRECTORS

The powers and duties of the Board of Directors of The Village at MacArthur Commons Home Owners Association shall include but not be limited to the following:

1. Establish reasonable Rules and Regulations.
2. To construct, reconstruct, manage, maintain and keep in good order, condition and repair all of the common property.
3. To prepare an annual budget.
4. To determine the amount of assessments.

5. To collect delinquent assessments.
6. To enter into contracts.
7. To establish a bank account.
8. To keep and maintain full and accurate books and records and to cause annually a complete audit of the books and records by an outside certified or public accountant.
9. To prepare an annual statement showing receipts, expenses and disbursements.
10. To meet at least once each quarter, provided that the meetings may be held by phone or other device which allows all directors present to participate.
11. To designate, hire and dismiss personnel.
12. To pay all charges for utilities and other services.
13. To prepare and file all necessary tax returns.
14. To administer and enforce the provisions of the Declaration and Bylaws.

Many Homeowner Associations hire a professional management company to perform the above duties under their supervision. If a professional management company is not retained, then the Board of Directors must perform all of the above functions themselves during volunteer time and can receive no compensation.

PROVISIONS OF THE BYLAWS

The Bylaws of The Villge at MacArthur Commons Home Owners Association provides the framework and guidelines necessary for the administrative operation of the Association. Some of the provisions of the Bylaws are, but are not limited to, the following. This is a summary of the actual Bylaws contained in your Documents.

1. VOTING

- A. Votes - Each member has one vote for each lot owned.
- B. Majority - Majority of members is 51% present in person or by proxy.
- C. Quorum - A quorum is constituted at a meeting if 35% of the members are present in person or by proxy.
- D. Proxies - Votes may be cast in person or by proxy. No person, other than an officer, may cast more than one vote by proxy, other than
- E. Proof of Ownership - Except for persons buying from the Declarant, any person buying a lot must immediately provide a copy of the title to the Association.

2. MEETINGS

- A. Annual Meetings - Annual meetings (after the first meeting), shall be held on the third Thursday of the third month at 7:00 P.M.
- B. Special Meetings - Special meetings may be called by the President of the Board or by petition of 10% of the voting membership.
- C. Notice of Meetings - Notices shall state the time, place, and in the case of special meetings, the purpose, to each member at least 10 days, but no more than 30 days prior to a meeting.

3. DIRECTORS

- A. Number and Qualification - After the Declarant control period there shall be 5 members elected to govern the affairs of the Association.
- B. Election and Term - 3 of the members initially elected shall serve a 3 year term, and two members shall serve a 2 year term.

4. OFFICERS

- A. Officers - Officers are elected at the first annual meeting and shall serve one year terms. Officers shall be a President, one or more Vice-Presidents, a Secretary and a Treasurer.
- B. President - The President is the chief executive officer of the Association. He shall preside at all meeting of the Board and Association.
- C. Vice-President - Each Vice-President shall have powers and duties assigned to him by the President and shall perform the function of the President in his absence.
- D. Secretary - The secretary shall record the votes, keep all minutes of the meetings, serve notice of meetings and keep a current list of Homeowners and addresses.
- E. Treasurer - The Treasurer has the responsibility for keeping full and accurate books and records.

5. ASSESSMENTS

- A. Duty to Pay - No member may exempt himself from liability or the payment of assessments.
- B. Purpose - Assessments, charges and fees levied by the Association shall be used for promoting the recreation, safety and welfare of the members, for administration, improvements, maintenance, repair, operation and management of the common property.

6. OTHER

- A. Abatement and Cure of Violations - Any violation gives the Board the right to enter upon the lot on which such violation exists and abate and remove, at the expense of the owner, any violation which exists.
- B. Indemnification - The directors, officers, agents and employees of the Association shall not be liable to the Association for any mistake in judgement or negligence (except for breach of fiduciary duty or intentional misconduct) in the performance of their duties. The Association SHALL purchase and maintain insurance on behalf of directors, officers, agents or employees of the Association against liability.
- C. Accounts - The Association shall have an operating account, a replacement reserve account and a working capital fund. The fiscal year shall be a calendar year.
- D. No Compensation - No officer or director or member may receive any profit from the Association and the Association may never pay a salary or compensation to a member, director or officer.
- E. Insurance - The Association must obtain public liability insurance in the amount of at least \$2,000,000.00 per occurrence, and property insurance coverage for common property including walls, fences and landscaping against casualty.

PROVISIONS OF THE DECLARATION

1. ASSESSMENTS

- A. Due Date - Assessments are delinquent if not paid by February 1 in the year which they are due.
- B. Annual Dues - Dues are paid annually at an amount deemed necessary by the Board of Directors to operate the Association.
- C. Special Assessments - In the event extra funds are needed, the Board may levy a special assessment. Funds needed for any other reason must be voted upon by 51% of the members in attendance at a special meeting called for that purpose.
- D. Default - No owner may exempt himself from paying any assessments. In the event of default, interest at the highest lawful rate will be charged until paid.
- E. Lien and Foreclosure - A lien has been created against each lot to secure payment of delinquent assessments.

In the event an owner fails to pay his assessments, notice of this lien will be posted and foreclosure proceedings will begin.

2. PROTECTIVE COVENANTS

- A. Use limitations - Lots may be used for residential purposes only. Campers, mobile homes, boats, trailers or motor homes cannot be parked on the street but only in enclosed garages or driveways. (Except contractors sales models)
- B. Landscaping - All lots shall be landscaped within 180 days after occupancy. All plants, shrubs, grasses and trees shall be well watered, maintained, cut and cared for so as to have an attractive and uniform appearance.
- C. Duty of Maintenance - Owners and occupants have the responsibility to keep their property in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes prompt removal of litter and trash, lawn mowing, tree and shrub pruning, watering, keeping lawns and plants alive and free of weeds, keeping driveways and parking areas and exterior of all structures in good repair, repair of exterior damages and regular exterior painting.
- E. Enforcement - If any Owner or occupant fails in any of the foregoing duties, the Association may give such person written notice giving him 10 days to perform the required maintenance. Failure to do so will allow the the Association to enter upon the property and perform the maintenance for the owner at the owners expense.
- F. Common Property - The common property of the Association is, private alleys, the MacArthur easement and its' landscaping and irrigation, the Chisholm Trail easement and its' landscaping and irrigation, the perimeter fence and the grassy area between the perimeter fence and the edge of the alley

The above provisions of the Declaration is a summary of the provisions found in your documents.