



*The Legal Stuff  
About HOAs*

**Board Training Series**

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**Chapter 2: Legal Considerations**

## **Know the Legal Name of Your Association**

- Associations often have similar names, especially with master & sub-associations.
- The correct legal name of your association is found in the Articles of Incorporation.
- Be sure that contracts, meeting minutes, notices, insurance policies and other legal documents contain the correct legal incorporated name of the association.

## **Maintain Current Registered Agent & Registered Address Information**

- This information is often out of date and references the original developer or filing attorney
- The consequence is that the association may not receive Service of Process in the event of a lawsuit or other important notices such as public hearings.
- Check online with your respective Secretary of State Corporations Division for the forms, instructions and fee schedule.

## **Chain of Governing Laws**

### 1. Federal Laws:

Examples include the Fair Housing Act, Americans with Disabilities Act, and more.

### 2. State General Statutes:

Examples include the Indiana HOA Act and the statutes governing Non-Profit Corporations.

### 3. Local Government Ordinances:

Examples include ordinances governing abandoned vehicles, animal control and on-street parking.

## **Chain of Governing Documents**

1. The Association's Declaration of Covenants, Conditions and Restirctions (CC&R's)
2. The Plat which is a recorded map/survey of property lines, common areas and easements.
3. The Article of Incorporation
4. The Association's Bylaws
5. Other Assocaition Rules, Regulations and Resolutions

## **Know Your Governing Document Provisions**

### Examples of Covenant Provisions:

- Membership Classes
- Declarant Control Period
- Rights/Responsibilities
- Assessments/Liens
- Easements
- Architectural Control
- Covenant Restrictions
- Amendments
- Covenant Term/Dissolution

### Examples of Bylaw Provisions:

- Annual Meeting
- Board Meetings
- Special Meetings
- Board Size
- Board Terms
- Elections
- Quorums
- Proxies
- Amendments

## **Selecting/Using an Attorney**

Types of Legal Services that may be required:

- Collections, Liens, Foreclosures
- Covenant Enforcement
- Advice regarding changes in laws and best practices
- Drafting rules and regulations
- Amendments to Governing Documents
- Litigation
- General Council

Be sure to use an attorney/firm with HOA practice experience.

Supermajority are typically required to amend the covenants. Survey the membership prior to spending association funds on legal fees.