

PRINCE WILLIAM COUNTY
CLEAN COMMUNITY COUNCIL
HOMEOWNERS' LEADERSHIP INSTITUTE



POWERS AND RESPONSIBILITIES OF A
HOMEOWNERS' ASSOCIATION

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COURSE OUTLINE

I. DISCUSSION OF RELATIONSHIP BETWEEN HOMEOWNERS' ASSOCIATIONS AND THE COUNTY

- The County does not regulate homeowners' associations

- Unless the covenants expressly provide it (and this will be very rare), the County does not have legal authority to enforce covenants

- The County encourages associations to be active and enforce their covenants, because this helps the County achieve its community maintenance goals.

II. WHAT LEGAL PROVISIONS ESTABLISH THE RIGHTS AND RESPONSIBILITIES OF HOMEOWNERS' ASSOCIATIONS?

- Covenants (also called Declarations)
- Organizational documents of the association

Articles of Incorporation

Bylaws

- Contracts to which the association is a party
- Law of Virginia (the Property Owners' Association Act, §55-508 through §55-516.2, VA Code Ann.) The provisions of the Property Owner's Association Act should be read as the minimum requirements for associations.

NOTE: Where the covenants, organizing documents and law of Virginia all have provisions about the same matter (such as when notices must be given to members of meetings), the *most stringent* provision will apply (example: suppose the covenants are silent, the bylaws say notice of meetings must be sent to members 5 days in advance of all meetings, and §55-510(E) says notice must be sent 14 days in advance of the annual meeting, 7 days in advance of every other kind of regular meeting– the Virginia Code provisions control because they are the most stringent.

III. DISCUSSION OF RESPONSIBILITIES

(these are the requirements imposed by Virginia Law; others may be imposed by the covenants and organizational documents of the association)

- To meet (§55-510(E))

- To provide notice of meetings to members (§55-510(E))

- To conduct meetings in a particular way (§55-510.1)

- To keep records (§55-510)

- To make records available to members (§55-510)

- To provide members with a free means of communicating among themselves and with the Board of Directors (§55-510.2)

- To provide the required disclosure package when a member wishes to sell his or her property (§55-511, §55-512)

- To establish and maintain cash reserves for the maintenance and replacement of facilities (§55-514.1)

- To file an annual report with the Real Estate Board (§55-516.1)

IV. POWERS OF A HOMEOWNERS' ASSOCIATION

- To enforce the covenants by suit (§55-515)

- To make rules and regulations for the use of the common areas (§55-513)

- To make rules and regulations in any other area of responsibility assigned by the covenants to the association (example: architectural control). (§55-513)

- To suspend a member's right to use facilities or services for nonpayment of assessments (§55-513)

- To assess charges against any member for violation of the covenants, rules, or regulations (§55-513)
 - (before charges can be assessed, the association must give the member a hearing on the alleged violation; charges cannot exceed \$50 for a single offense or \$10 per day for any offense of a continuing nature. Charges can't be assessed on continuing offenses for longer than 90 days)

- To levy special assessments for the maintenance and upkeep of common areas and other association responsibilities (§55-514)

- To place a lien on member property for unpaid assessments (§55-514, §55-516)

- To make corrective amendments to the covenants (§55-515.2)

V. MEMBER RIGHTS

- To amend covenants (§55-515.1)

- To enforce compliance with the covenants against all other members (§55-515)

- To overturn, by majority vote, rules and regulations adopted by the associations' board of directors (§55-513(A))

- To record any public portion of an association meeting (§55-510.1(B))

- To overturn, by majority vote, special assessments adopted by the association's board of directors (§55-514)

- To display a U.S., Virginia, armed forces, or military valor or service award flag, unless specifically prohibited by the association's rules and regulations or architectural guidelines provided in the disclosure packet (§55-513.1)