

# Condo & Homeowner Association Frequently Asked Questions



Center For Neighborhoods

**2016 Neighborhood Summit**  
*Strong Leaders, Strong Community*



# Today's Workshop Goals:

- Gain a broad understanding of community associations
- Come away with viable action steps

# Moderator

Rich Chandler

*Paragon Management Group*



# Workshop Speakers

Bill Lieshoff

*Woods of Crescent Hill  
Condominiums*



Kimm Hudson,

CMCA, AMS, PCAM

Executive Director

*Community Associations Institute - KY*





# The Woods of Crescent Hill Condominiums



June 4, 2016

# POLL!

**How many here are currently living in a deed restricted community?**

**How many of those who are living in a deed restricted community serve on the Board of Directors?**

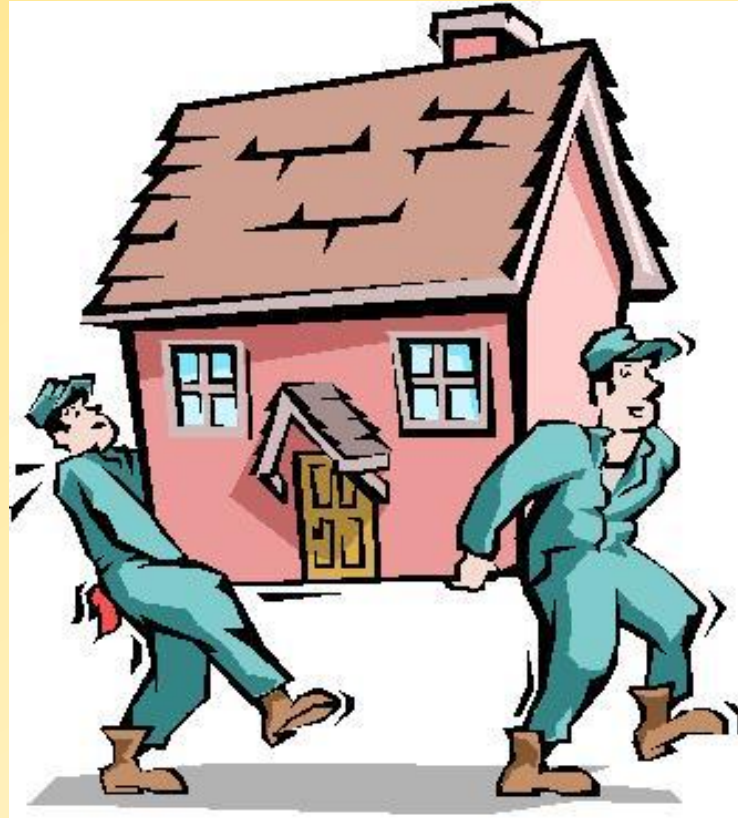


# What is the Purpose of a Community Association?

- A community association exists to provide for: The governance, business, and communal aspects of administering, maintaining, and enhancing a residential real estate development through the establishment of a system of property rights, binding covenants and restrictions, and rules and regulations.
- A community association provides a communal basis for preserving, maintaining, and enhancing homes and property.
- A Community Association combines the characteristics and activities of a local government, a business, and a community.



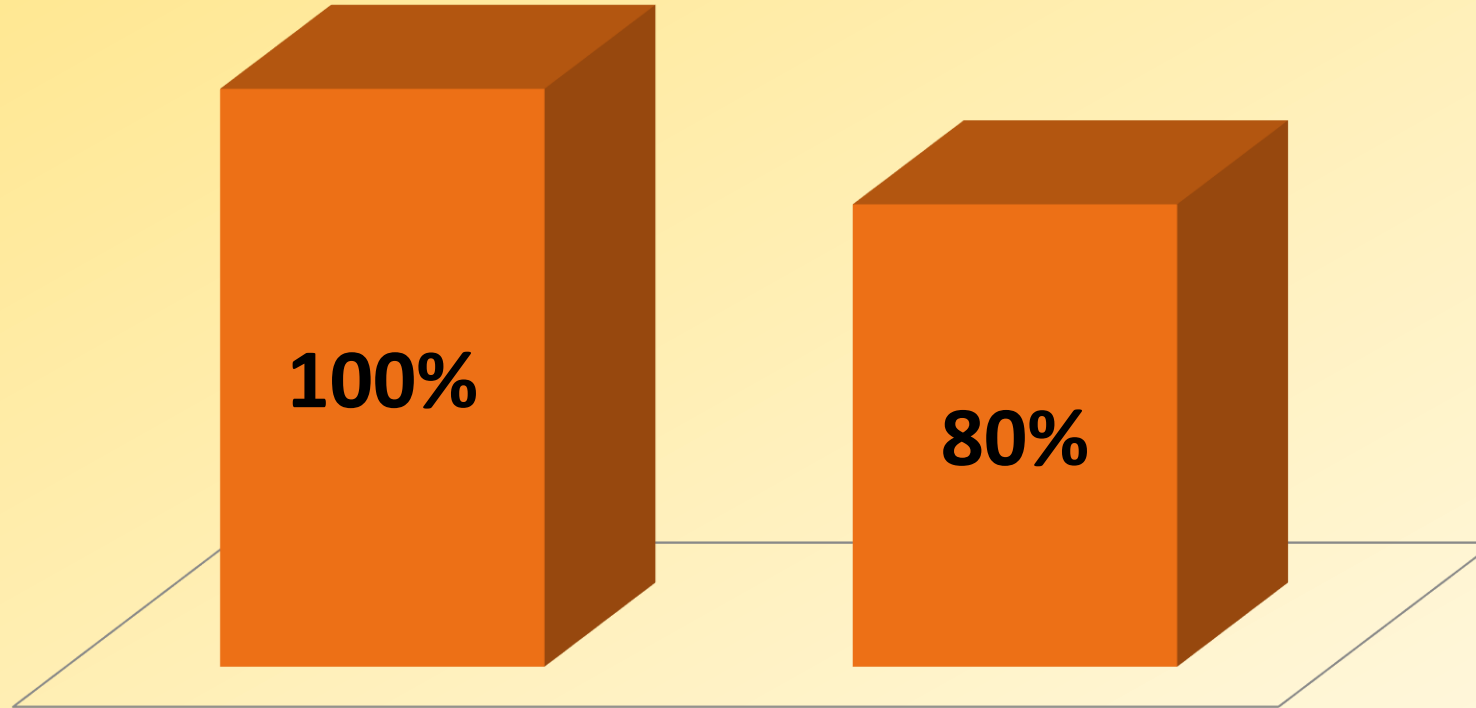
# How many of you are planning to move in the next 5 years?



June 4th, 2016

# Over 80% of all new residential building is in a deed restricted community!

## ■ Current Residential Building Statistics





# What you should know before you buy?

- How much are the assessments, and when are payments due?
- What do the assessments cover?
- What is not covered and, thus, what are your individual responsibilities as a homeowner?
- What procedures are in place to collect delinquent assessments?
- How often can assessments increase, and by how much?
- What is the annual budget?
- Does the community have a viable reserve to fund major, long-term maintenance and repairs?



# What you should know before you buy?

- Have special assessments been levied by the association on homeowners? If so, for how much and for what purpose?
- Are there restrictions on renting property?
- Do the architectural guidelines suit your preferences?
- Are there simmering issues between homeowners and the elected board?
- What are the rules with respect to pets, flags, outside antennas, satellite dishes, clotheslines, fences, patios, parking and home businesses?
- Are board meetings open to all residents?

# The Three Defining Characteristics of a Community Association

1. Membership is mandatory and automatic for all owners, it is binding to the land. This is unlike other associations whose membership is voluntary.
2. Certain legal documents (Master Deed, Covenants, Conditions & Restrictions, Articles of Incorporation, By-laws, Plat) bind all owners to be governed by the community association. These documents require mutual obligations to be performed by the individual owners and by the Community Association.
3. Mandatory lien-based economic charges or assessments are levied on each owner in order to operate and maintain the Community Association.

# There are three basic types of community associations:

Community association is a generic term used to describe residential developments in which each owner is bound to a real estate organization by a set of governing documents that require adherence to a set of rules and the payment of assessments. The money collected in assessments is used for the operation of the association.





# 1 - Planned Communities:



- Homeowner Association
- Townhouse Association
- Patio Home Association

Planned communities are the most common type of community association. Recent estimates indicate that 52–55 percent of all community associations are planned communities. In a planned community, each purchaser has exclusive ownership to a lot/unit, including the property the lot/unit sits on and the residential dwelling itself. Each resident generally owns an interest separate from the other owners, coupled with mandatory membership in an association.

## 2 - Condominium:

- Which may include a Townhouse or Patio Home Association



Condominiums are the second most common type of community association. According to recent estimates, 38–42 percent of all community associations are condominiums.

The condominium is a unique form of ownership where the owner typically only owns the air space, but not the physical boundaries of the unit or the land underneath the unit. The owner additionally holds a shared interest in the common area. The separate interest is usually contained within a building.

### 3 - Cooperative:

Cooperatives are the least common type of community association, constituting approximately 5–7 percent of all community associations. A corporation owns the building or other property that makes up the cooperative. An owner owns a shared interest in the corporation and the exclusive right to occupy or “rent” a specific portion of the cooperative—usually called an apartment.

In a cooperative, an individual:

- Owns stock or membership in the cooperative
- Holds a proprietary lease or occupancy agreement for his or her living unit
- A proprietary lease or occupancy agreement defines the member or stockholder's rights and obligations in relation to the living unit.
- The CA owns all of the real estate as a not-for-profit corporation.
- Notice how an owner in a cooperative has two legal relationships—one as someone who shares in ownership of the corporation and one as someone who holds a lease for a living unit.

The governance, business, and community activities of a community association are defined by:

1.

- Federal, State, and Local statutes

2.

- Court decisions

3.

- Association governing documents, including:

- Declaration, CC&R, Master Deed, Proprietary Lease, or Occupancy Agreement

- Articles of Incorporation
- Bylaws

- Resolutions or Policies
- Rules & Regulations

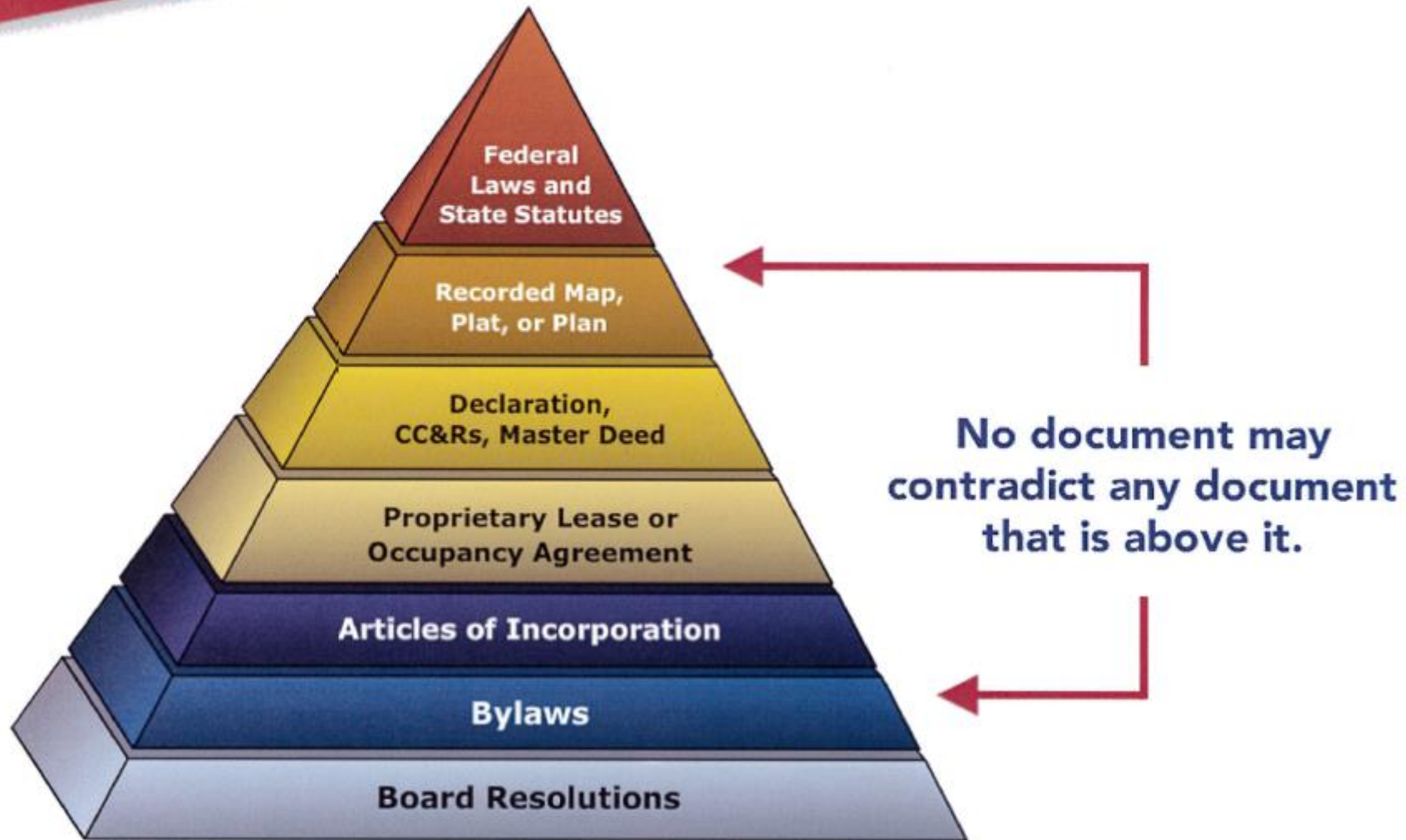


The purpose of a community association's governing documents is to provide for the legal structure and operation of the community.

The documents:

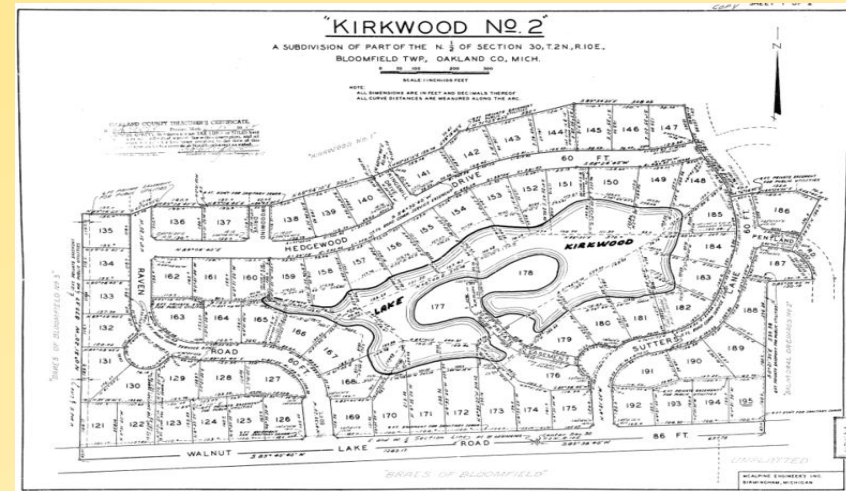
- Define the rights and obligations of both the Association and its owners
- Create a binding relationship between each owner and the CA
- Establish the mechanisms for governing and funding the Association's operations
- Set forth rules and standards for the:
  - ✓ Protection of both owners and the community
  - ✓ Enhancement of property values
  - ✓ Promotion of harmonious living

# Hierarchy of Documents



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# Recorded Map, Plat, or Plan



Some form of map is an essential document for a condominium or a planned community. A map or plat or plan is recorded in the local land records before any lots or units shown on it are sold. The purpose is to show the precise location of each lot or unit, as well as the common areas. The format and content will differ according to local requirements.

A map or plat or plan defines an owner's or a community's title to property. On an operational level, it helps determine:

- Who is responsible for maintaining a particular piece of property
- Whether a property improvement is properly located

# Covenants, Conditions & Restrictions (CC&R) or Master Deed:

- Define the portions of the development owned by the individual owners and those owned by the community association—if any
- Creates interlocking relationships binding all the owners to one another and to the Association for the purposes of maintaining, governing, and funding the development
- Establishes protective standards, restrictions, and obligations in areas ranging from architectural control to prohibitions on various activities in order to promote harmonious living
- Creates the administrative framework for the operation and management of the Association although many of the specific administrative details are spelled out in the bylaws
- Provides for a transition of control of the Association from the developer to the owners



# Proprietary Lease or Occupancy Agreement

A proprietary lease or occupancy agreement in a cooperative defines the member or stockholder's rights and obligations in relation to the living unit.

The proprietary lease or occupancy agreement:

- Identifies the premises that the stockholder is permitted to occupy exclusively
- Defines the term of the lease and the rent (sometimes called maintenance) that is payable by the stockholder
- Establishes the powers and obligations of the cooperative's board of directors
- Defines the events which would result in the termination of the proprietary lease

# Articles of Incorporation



An Associations corporate structure is established when the developer files articles of incorporation with the Kentucky Secretary of State.

The Articles of Incorporation:

- Bring the corporation into existence
- Define its basic purposes and powers
- Indicate whether stock will be issued
- Indicate whether there will be a board of directors—and if so, identify the initial board

# Bylaws

Bylaws are the written rules that control the internal affairs of an organization.



Bylaws address such topics as:

- Requirements for membership in the community association
- Requirements for membership meetings
- Voting rights of member owners
- Procedures for electing the board of directors
- Procedures for the board of directors to elect officers
- General powers and duties of the board
- Provision for indemnification of officers and directors—except in cases of gross negligence or willful misconduct

# Resolutions

Rules and regulations for all three types of community associations are also established by means of board resolutions. A resolution is a motion that follows a set format and is formally adopted by the board of directors.

- Policy Resolutions (rules for the use of common areas and recreational facilities, architectural guidelines, enforcement procedures.)
- Administrative Resolutions (operating procedures, collection procedures, etc.)
- Special Resolutions (decisions about an alleged rule violation or authorization of a lawsuit)
- General Resolutions (adoption of the annual budget or approval of a contract)



# Apples to Apples



No two associations are ever alike....

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# Available Education



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# Community Associations Institute (CAI) helps you build and sustain a better, more prosperous and successful community.

- We help you avoid costly, time-consuming mistakes and missteps.
  - We give you the information, access and tools you need to succeed.
  - We help *you* become the expert.
- 
- Nearly half of CAI's 30,000 members are volunteer leaders comprised of board members, committee members, and other involved homeowners.

## Here is what you get when you join CAI as a homeowner leader:

- We help you avoid costly, time-consuming mistakes and missteps.
- We give you the information, access and tools you need to succeed.
- We help *you* become the expert.
- Nearly half of CAI's 30,000 members are volunteer leaders comprised of board members, committee members, and other involved homeowners.

**June 9, 2016 11:30 am – 1:00 pm \$25**  
**Wildwood Country Club – 5000 Bardstown Road**

**Aging in place is a phenomenon that is not relegated solely to traditional retirement communities. A growing number of individuals have chosen to remain in their homes and familiar surroundings, rather than move to traditional retirement destinations. This trend has created what is known as naturally occurring retirement communities (NORCs).**

**The challenges of working and living with aging residents and multiple generations are ever present. This seminar "Aging in Place" updates options and provides a fresh look at the on-going evolution of community association living.**

**Register online at [www.cai-ky.net](http://www.cai-ky.net)**





# October 13, 2016

9 am – 2:30 pm

Continental Breakfast & Lunch Included  
\$10 per person!

## Choose two education sessions:

- Almost Free Legal Advice
- The Importance of Reserve Studies
- Directors and Officers Insurance

## Network with other Community Association Leaders!

- Have you ever wondered what other associations are doing? This is a perfect place to find out!



## Connect with Community Association Business Partners!

- It's Budget Season! Do you have projects scheduled for the next year? Are you considering bidding out contracts? This is a great opportunity to meet professionals who service community associations!

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# Questions / Discussion



June 4, 2016

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