

Governing Documents and the Honor System

So, you live in a common interest development. You've got your association's by-laws, CC&Rs and rules and regulations to contend with? What do you do about it?

You may be surprised. Many association homeowners do really read through the documents and know what they are supposed to do or not do. Others merely go along with the flow, taking hints from their neighbor's actions (which is okay - if the neighbor is right!) until they get a notice of noncompliance.

Generally, an association within a common interest development is legally obligated to perform three basic functions: to collect assessments; to maintain the common area; and, to enforce the governing documents.

If you receive a letter indicating you may be in violation, it is the association's attempt to do their job as prescribed in the By-laws, and uphold the governing documents that you accepted when you purchased the property. While you may perceive the letter as singling you out, it may really be the association's attempt to avoid becoming a police state. Board members and association managers cannot be on every corner watching for violations like Orwellian "Big Brothers." They should not have to be, you have a copy of the governing documents to read. Associations, therefore, rely mainly on the concerns by members in the community to determine what violations exist.

Based on the violation notice you received, you contact the association only to learn they did not know about other violations within the community. Now that the association has been informed, the board/management is obligated to send violation notices to those other owners as well.

What should the board/management do, once they are told or become aware of a violation? The association is obligated to treat all like violations in a similar manner. This prevents misunderstandings and confusion and allows the board to perform its job as efficiently as possible.

The main thing to remember is that an association, its board of directors and management are not a police force. The association mainly serves the limited functions listed above. They typically rely on the honor system, with periodic walkthroughs. With a little help and understanding from all owners, they community can work together to maintain the integrity of each individual property and continuity of the community at large.

Courtesy and common sense are the guidelines.