

## CHAPTER 17

## PLANNED COMMUNITIES

## ARTICLE 1. GENERAL PROVISIONS

## § 33-1901. Applicability

This chapter applies to all planned communities.

## § 33-1902. Definitions

In this chapter and in the community documents, unless the context otherwise requires:

1. "Association" means a nonprofit corporation or unincorporated association of owners created pursuant to a declaration to own and operate portions of a planned community and which has the power under the declaration to assess association members to pay the costs and expenses incurred in the performance of the association's obligations under the declaration.

2. "Community documents" means the declaration, bylaws, articles of incorporation, if any, and rules, if any.

3. "Declaration" means any instruments, however denominated, that establish a planned community and any amendment to those instruments.

4. "Planned community" means a real estate development which includes real estate owned and operated by a nonprofit corporation or unincorporated association of owners, created for the purpose of managing, maintaining or improving the property, and in which the owners of separately owned lots, parcels or units are mandatory members and are required to pay assessments to the association for these purposes.

## § 33-1903. Board of directors; powers

Unless reserved to the members of the association, the board of directors may impose reasonable charges for the late payment of assessments and, after notice and an opportunity to be heard, may impose reasonable monetary penalties on unit owners for violations of the declaration, bylaws and rules of the association. The penalties shall be enforceable in the same manner as unpaid assessments.

## § 33-1904. Meetings

Notwithstanding any provision in the declaration, bylaws or other documents to the contrary, all meetings of the association and board of directors are open to all members of the association and all members so desiring shall be permitted to attend and listen to the deliberations and proceedings provided, however, that for regular and special meetings of the board, association members who are not board members may not participate in any deliberation or discussion unless expressly so authorized by a vote of the majority of a quorum of the board, except that any portion of a meeting may be closed only if the closed portion of the meeting is limited to consideration of either of the following:

1. Employment or personnel matters for employees of the board or the association.
2. Legal advice from an attorney for the board or the association.
3. Pending or contemplated litigation.
4. Pending or contemplated matters relating to enforcement of the association's documents or rules.



### § 33-1905. Association financial and other records

A. All financial and other records of the association shall be made reasonably available for examination by any unit owner and his authorized agents.

B. Books and records kept by or on behalf of the association and the board may be withheld from disclosure to the extent that the portion withheld relates to any of the following:

1. Personnel matters or a person's medical records.
2. Communication between the board and an attorney for the association.
3. Pending or contemplated litigation.
4. Pending or contemplated matters relating to enforcement of the association's documents or rules.
5. Meeting minutes or other records of a session of a board meeting or association meeting that is not required to be open to all members pursuant to section 33-1904.

C. The association shall not be required to disclose financial and other records of the association if disclosure would violate any local, state or federal law.

### § 33-1906. Resales of units; information required; definition

A. Except for a sale in which a public report shall be issued pursuant to section 32-2183 or a sale which is exempt pursuant to section 32-2181.02 and unless otherwise waived in writing by the purchaser, a unit owner shall furnish to a purchaser before conveyance of the unit, a copy of the bylaws, the rules of the association, the declaration, and a dated statement containing:

1. The phone number and address of the president of the board of directors.
2. A statement setting forth the amount of common regular assessment and the unpaid common regular assessment, special assessment or other assessment, fee or charge currently due and payable from the selling unit owner.
3. A statement as to whether a portion of the unit is covered by insurance maintained by the association.
4. A statement as to whether the unit owner has knowledge of any alterations or improvements to the unit that violate any provision of the declaration.
5. A statement as to whether the unit owner has knowledge of any violations of the health or building code with respect to the unit.

B. A person damaged by the failure of the unit owner to disclose the information required by subsection A of this section may pursue any and all remedies at law or in equity against the unit owner.

C. For purposes of this section, unless the context otherwise requires, "unit owner" means the seller of the unit title and excludes any real estate salesperson or real estate broker who is licensed under title 32, chapter 20, and who is acting as a salesperson or broker.