

## HOAs are a throwback to medieval feudalism

Preposterous? A wild thought? You say that: *according to the national HOA business 'educational' trade group, HOAs are the best example of local democracy at work. So, make your point, convince me! OK, I will!*

### A comparison between fiefdoms and HOAs

	<u>Medieval fiefdom</u>	<u>Modern HOA</u>
1. creation	The Lord of the Manor owns the land and subdivides the Manor by means of contracts with others, known as Vassals. It is a one-on-one contract with the Lord.	The Developer buys the land and divides the land amongst unknown and unidentified purchasers of the lots. The Developer is the Lord of the Manor
2. the contract	The Vassals, among other things, agree to pay taxes and to defend and fight battles for the Lord on call. The Lord agrees to allow the Vassals to work the land and will protect them from outside intrusions and influences.	The owners, known as members, enter in a fixed, unchangeable, top-down contract with the Developer – the declaration of CC&Rs. Under the contract, the members accept obligations and restrictions and are allowed to use the common areas. The Developer agrees to maintain the property and to keep up property values.
3. the ruling power	The Lord of the Manor rules absolutely.	The Developer rules and controls major aspects of the contract, which are inviolable and protecting the Developer's interests. However, the Developer is not permanent.
4. the HOA 'magna carter'	In 1215 the Vassals rebelled against the Lord's absolute power and forced the Lord into an agreement granting them certain rights. It is the first step toward democracy.  (King John signed the	In contrast to the feudal Lord, the HOA Developer never had any intention of remaining on his property forever. His intent was to sell off all his property and move on, but he had to provide for the governance of the subdivision.  The CC&Rs contained provisions for the ultimate control and management of the

**Medieval fiefdom**

**Modern HOA**

agreement. His brother was Richard the Lionheart. Both are found in the Robin Hood tale.)

subdivision. It created a mandatory HOA association with compulsory fees, giving the illusion of a democratic institution.

But, as with the medieval Magna Carta, the freedoms of the owners were very restricted by contract, essentially because the 14<sup>th</sup> Amendment protections of individual liberties and freedoms do not apply to private organizations like HOAs.

The CC&Rs enabled the Developer’s “court” – his chosen and loyal followers – to serve as directors on the Developer free HOA.

5. the failure to form democratic republic or direct democracy

Democracy progressed over the years from the Magna Carta to a full-fledged democratic republic with the Lord (King) as a limited, honorary figure.

HOA governments failed to develop and progress to true direct democracies where all important matters were subject to a vote by all the owners.

Neither have HOAs developed and progressed into full-fledged republics as the declaration clearly established an authoritarian form of government. Voting in a one-party system does not make a true democracy!

The declaration lacks effective democratic institutions and processes to permit a truly democratic society to emerge. The corporation form of government with its board of directors is not, and has never been, a democratic institution. The board is to serve not the people, but the legal person known as the HOA much as a fascist form of government would function.

The owners have not been able to overcome the obstacles that prevented the emergence of a democratic community.

6. one-party governments

Representative democracies, or republics, evolved into a ‘winner-take-all’ system, where there are basically 2

HOAs have never developed a multiple party system representing varied interests to compete for the control or dominance of the board of directors, as found in public governments.

	<u>Medieval fiefdom</u>	<u>Modern HOA</u>
	<p>parties; or into some proportional system that allows a voice for multiple parties to become a government, as in Europe.</p>	<p>The corporate form of governance does not allow for political democracy. It is set up for hostile takeovers where opposing interests act on their own, with their own funds, and campaign to influence others to vote for their candidates and proposed changes. There are no ‘public’ debates or town hall meetings of members to persuade others to vote their way.</p>
<p>7. the heavy hand of the Lord of the Manor</p>	<p>If the Lord dies or is conquered, then the new Lord controls the Vassals and can set new terms and conditions at will. The Vassals are never free.</p>	<p>The owners have a very high bar to overcome, as set in the declaration, by-laws and pro-HOA statutes, in order to establish democratic reforms.</p> <p>When, and if, the Developer must surrender control to the owner dominated association under the statutes, his heavy hand remains unchanged. Over the 54 years of HOA existence, very, very few covenants of substance have changed that would allow for democratic processes and institutions to be established.</p> <p>The heavy hand of the Developer, the modern HOA Lord of the Manor, remains as solid as ever.</p>