

**WE PETITION THE OBAMA ADMINISTRATION TO:**

**Defend the citizenship of all Americans living in HOAs, to protect their privileges and immunities as citizens, and to end the secession of HOAs from our system of constitutional democratic government.**

***We the People of America*** living in homeowners associations (HOA, POA, CID, CIC) throughout the country, having petitioned the state legislatures for redress but our repeated petitions have been answered only by repeated injury, hereby petition the Obama Administration for justice.

***Whereas***, it is estimated that some 63.4 million Americans, 20% of the population, live in an HOA, a percentage greater than any one minority group;

***Whereas***, state acceptance and support of HOA private, de facto governments has created HOAs governments that have seceded and exist as independent principalities within America;

***Whereas***, state laws and court opinions have acknowledged the private contractual nature of de facto private local governments, and thereby have supported and assisted in the acceptance of local governments not subject to the US and state constitutions;

***Whereas***, the legally enforced Declaration of Covenants, Conditions and Restrictions (CC&Rs) running with the land constitute a court upheld private contract that shields the HOA from the application of the 14<sup>th</sup> Amendment as it applies to due process and the equal application of the laws;

***Whereas***, the common law doctrine of equitable servitudes and constructive notice permit a simple filing of the Declaration with the county clerk's office to be sufficient to bind homeowners, sight unseen and without explicit consent, to a waiver and surrender of their constitutional rights, and the equal application of the laws and due process protections;

***Whereas***, a 2007 industry study conducted by Zogby found that HOAs favor educated, upper income, and senior non-minority people;

***Whereas***, it is the public policy of the states to support and defend HOA corporate governments that are undemocratic, oppressive and deny members the rights and freedoms enjoyed by others not living in HOAs, to wit:

- (a) there are no substantive civil penalties against violations of the governing documents or state laws by the officers or directors of the association sufficient to serve as a detriment to future violations; yet laws exist that permit substantial fines against HOA members, and permit the foreclosure of the member's home where substantial payments are often made not to the HOA but to its attorney;
- (b) that to enforce my rights under or compliance with the governing documents I must file suit in civil court against the HOA attorney who is paid from member assessments and who represents the HOA entity and not its members;
- (c) that current court holdings permit ex post facto amendments to the Declaration that may alter the CC&Rs existing at the time of purchase, binding me to the amendment without my consent, rendering the "contract" at signing worthless;
- (d) the governing documents contain due process protections that are lacking requirements for an independent tribunal, the right to introduce or confront witnesses, or the right to introduce and challenge contrary evidence;
- (e) that in any dispute with the HOA, and contrary my rights under the federal fair debts collection practices act (FDCPA), the courts require continued payment of your assessments even while the dispute continues;
- (f) that there are no equivalent clean or fair elections procedures as found in public government elections to protect the integrity of the HOA election process; and
- (g) that a member has no alternative but to sue the HOA for its refusal to permit the member to view all of the association's documents, books and records, other financial documents, and other association information that the HOA is required to provide members by law.

### ***How Therefore,***

***We the People*** hereby ask the Obama Administration by executive order and otherwise to defend the citizenship of all Americans living in HOAs and to protect their rights, freedoms, privileges and immunities guaranteed by the US Constitution; and

***We the People*** hereby ask the Obama Administration to demand that Congress enact legislations incorporating the following:

Wherefore, the members of the association, having not waived or surrendered their rights, freedoms, privileges and immunities as citizens of the United States under Article IV, Section 2 and Section 1 of the Fourteenth Amendment, the CC&Rs or Declaration for any planned community, condominium association or homeowners association shall state that, or be amended to comply with,

“The association hereby waives and surrenders any rights or claims it may have under law and herewith unconditionally and irrevocably agrees 1) to be bound by the US and State Constitutions, and laws of the State within which it is located, as if it were a subdivision of the state and a local public government entity, and 2) that constitutional law shall prevail as the supreme law of the land including over conflicting laws and legal doctrines of equitable servitudes.”