

OWNER RIGHTS AND RESPONSIBILITIES IN COLORADO COMMON INTEREST COMMUNITIES

An article to help owners understand their rights and responsibilities.

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Orten Cavanagh Richmond & Holmes, LLC
Community Association Attorneys

Denver • Phone 720.221.9780 • Fax 720.221.9781
Colorado Springs • Phone 719.457.8420 • Fax 719.457.8419 • Toll Free 888-841-5149
Email: info@ocrhlaw.com • Web: www.ocrhlaw.com

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**OWNER RIGHTS AND RESPONSIBILITIES
IN
COLORADO COMMON INTEREST COMMUNITIES**

A. INTRODUCTION – THE IMPORTANCE OF EDUCATION/ORIENTATION

Owners can maximize the benefits of living in or owning property in a common interest community by better understanding the history, purpose, and function of their owner association. Two ways to become oriented to your association are: (1) to read and review your governing documents; and (2) to attend an owner education program.

Educated owners can focus and be more effective in influencing their owner association when they have:

1. been introduced to the operation of their owner association;
2. awareness of their role and actions they can take as owners; and
3. sensitivity to role of association leaders (officers and board members) who serve as volunteers.

B. BASICS OF OWNER ASSOCIATIONS AND COMMON INTEREST COMMUNITIES

1. What is a common interest community?

A common interest community is comprised of individual owners who are obligated to pay mandatory (not voluntary) assessments to an owners association.

2. What is an owners' association (or association)?

A corporation, legal entity, of which owners are automatic and mandatory members.

3. What is the basis of the association?

The legal basis of owner associations is their governing documents and supporting or enabling law (statutes—federal, state and local), regulations and case law.

4. What are governing documents?

Governing documents include the declaration, the plat or map, the articles of incorporation of the association, the bylaws and the rules, regulations and policies and procedures of the association.

C. RIGHTS OF OWNERS

Subject to your governing documents, each owner has the following rights:

1. Use of the Property Owned. Individual owners have the right to use the property they own.
2. Use of Common Property. Individual owners have easement rights to use “common property” (sometimes referred to in the governing documents, and referred to, in the Colorado Common Interest Ownership Act, as “common elements”).
3. Association Pursuit of Objectives/Goals Stated in the Governing Documents. Owners have the right to have the association pursue the stated objectives, goals and purposes of the association, including:
 - (a) Property values are protected and enhanced.
 - (b) Quality of life and living is protected and enhanced.
 - (c) Allocation of property maintenance, between owners and the association, is understood.
4. An Accountable, Responsive, Transparent and Competent Association. Owners have the right to an accountable, responsive, transparent and competent owners association.
 - (a) “accountable” is defined as (courtesy of M-W.com):
 - i. subject to giving an account: answerable (held her *accountable* for the damage)
 - ii. capable of being accounted for: explainable
Synonym see: responsible
 - (b) “responsive” is defined as (courtesy of M-W.com):
 - i. giving response: constituting a response: answering (a *responsive* glance> <*responsive* aggression)
 - ii. quick to respond or react appropriately or sympathetically: sensitive

iii. using responses (a *responsive* liturgy)

(c) “transparent” is defined as (courtesy of M-W.com):

- i. free from pretense or deceit: frank
- ii. easily detected or seen through: obvious
- iii. readily understood
- iv. characterized by visibility or accessibility of information especially concerning business practices
Synonym see: clear

(d) “competent” is defined as (courtesy of M-W.com):

- i. proper or rightly pertinent
- ii. having requisite or adequate ability or qualities: fit (a *competent* teacher) (a *competent* piece of work)
- iii. legally qualified or adequate (a *competent* witness)
- iv. having the capacity to function or develop in a particular way;
specifically: having the capacity to respond
Synonym: see sufficient

- 5. Participation in Governing the Association. Owners can participate in governing the association by attending meetings, serving on committees, standing for election to the board of directors and electing the board of directors.
- 6. Access to Records. Owners have the right to relevant or appropriate association books and records.
- 7. Use of Funds. Owners have the right to prudent association expenditure of fees and other revenues or funds by the association.
- 8. Allocated Interest in Association Funds. Owners have the right to an allocated interest in association funds, not as a form of stock or membership, but as a part of the owner’s property. The association’s reserve funds for replacement and improvements are a part of each owner’s property (as a part of their Lot or Unit).
- 9. Property Maintenance. Owners have the right to live in a community where the property that is the obligation of the association to repair is maintained according to established standards.
- 10. Fair Treatment. Owners have the right to fair treatment by the association, community leaders and managers regarding financial and other association

obligations. This includes the opportunity to discuss payment plans and options with the association before foreclosure is initiated.

11. Copies of Governing Documents and Other Relevant Documents. Owners have the right to receive all documents especially those that address rules and regulations governing the association. These documents should be provided prior to purchase and closing, or upon the owners joining the community, or at any time while a member of the association.
12. Appeal of Association Decisions. Owners have the right to appeal (to the board) those decisions of the association that affect them.

D. RESPONSIBILITIES OF OWNERS

Subject to the governing documents, each owner has the responsibility to:

1. Understand what they own. Owners have the responsibility to understand, generally, and when necessary, specifically, what they own. This includes condominiums and the difference between their unit and the common property, and also planned communities and the association's ownership of the common property.
2. Pay assessments and other proper charges of the association. Owners have the responsibility to pay assessments imposed by the association and other proper charges of the association. These obligations of the owner must be met on a timely basis.
3. Read and comply with the governing documents of the community.
 - a. This includes the obligation to pay association assessments and proper charges of the association on time (see above). Owners should contact association board members and/or the manager, if necessary, to discuss financial obligations and alternative payment arrangements.
 - b. Owners must comply with restrictive and affirmative covenants in the declaration. This aids in maintaining property according to established standards.
 - c. Owners must also comply with rules, regulations, policies and procedures of the association.
 - d. Ensure that those who reside on the owner's property (e.g., tenants, relatives, and friends) adhere to applicable covenants and all rules and regulations.

4. Maintain separate liability insurance and casualty insurance. Owners must maintain (as to their separate property interests/ownership) their own liability insurance for accidents within the property). Owners must also maintain casualty (or hazard or property) insurance on property in their Lot/Unit which is not insured under a property insurance policy maintained by the association.
5. Vote. Owners have the responsibility to vote in community elections and on other issues.
6. Duties and Responsibilities of the Association, Board Members and Manager. Owners must understand, at least generally, and when needed, specifically, the duties and responsibilities of the association, board members and the manager. Owners have the responsibility to know what the association and its board/officers/managing agent can do for them and cannot do. Too often, an association and its leaders are expected to solve all problems and cover all unexpected losses. These expectations are typically broader than the association's authority or required actions under the governing documents.
7. Property Maintenance. Owners have the responsibility to understand who is required to maintain components of the community so that property to be maintained by the owner is properly maintained.
8. Serve on the Board. All owners have a responsibility to run for and serve on the board, as representatives to the owners. Board members serve the interests of the entire community, known as a duty to manage, that requires good faith and the care of ordinary prudent person in a similar position. As a representative of private governance of the community, the board and those elected to it seek to further the best interests of the community.
9. Treat association leaders honestly and respectfully. Just as owners are to be treated honestly, fairly and with respect by the association and its leaders, owners are responsible for treating the association and its leaders with honesty and respect.
10. Offer comments to the board, the association and management. Owners have the responsibility to offer comments to association leaders and management in a calm and businesslike manner. Issues will arise, but should not be personalized. Comments should be made without profanity, personal attacks or shouting.
 - a. Consider the best interests of the community before and when offering comments to the board, the association, and management.

b. Offer comments which are relevant to the purpose of the board, the association, and/or management.

11. Use professional and businesslike language and decorum. Owners have the responsibility to be professional and businesslike, and to act with appropriate decorum when interacting with the association, its leaders and management.

12. Avoid personal attacks. Owners have the responsibility to avoid attacking other owners, residents, board members, managers and service providers.

NOTE: Colorado law allows for personal protective orders, to seek to preserve the peace, and to avoid physical harm or injury to another person.

13. Request reconsideration. When a decision of the leaders of the association or management of the association is reviewed by an owner as adverse to the community or adverse to an owner, owners have the responsibility to request reconsideration of that decision.

14. Provide current contact information. To allow the association to be able to communicate with an owner, send notices of member meetings, newsletters, etc. to owners, owners have the responsibility to provide their current contact information to the association. This helps ensure the owner's receipt of information from the community.

15. Avoid interference with contractors engaged by the association. Owners are not the persons who have contracted with vendors of the association. The association has entered into those contracts. Owners have the responsibility to avoid interference with these contractors while a contract is in progress. All communications and complaints about a contractor's work should go through the board president, the association manager, or be in accordance with policy.

16. Avoid harassing and threatening others. Owners have the responsibility to avoid harassing or threatening others through any means to control or instill fear in any other owner, board member, the manager or any agent of the Association.