

# Governing Documents and Community Association Law 101

## **What is a common interest community?**

The Colorado Common Interest Ownership Act (“CCIOA”) defines common interest communities as “real estate described in a declaration with respect to which a person, by virtue of such person’s ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in a declaration.” What that means, generally, is that if someone buys real estate subject to a recorded document that obligates them to pay for certain items by virtue of their ownership of that real estate, that property is part of a common interest community.

## **Relevant Laws:**

Colorado Common Interest Ownership Act – CCIOA was adopted by the Colorado General Assembly in 1992 and has been amended many times since then. CCIOA applies to nearly all common interest communities created after July 1, 1992, though many sections of CCIOA also apply to communities created prior to July 1, 1992.

Colorado Revised Nonprofit Corporation Act (“Revised Nonprofit Act”) – The Revised Nonprofit Act was significantly revised in 1998, replacing a prior version of the act. The Revised Nonprofit Act governs all Colorado nonprofit corporations, including community associations, and it addresses issues related to how those corporations run.

Other laws – There are other laws which may affect common interest communities. Some examples would be the federal Fair Housing Act, the Colorado Fair Housing Act, and laws related to contracts, easements, etc.

## **Governing Documents:**

Declaration – Each common interest community is governed by a Declaration which is recorded in the County records where the real property within the community is located. The Declaration creates covenants, easements, and liens which attach to the real property a person owns and run with the land. This recorded Declaration provides legal notice to anyone purchasing property that the covenants affect the property. Amendment of the Declaration requires a vote of the Owners.

Bylaws – The Bylaws for an Association regulate how the Association corporation will be run. The Bylaws set out matters such as how meetings are conducted, how voting processes occur, and how the Board is constituted. The Bylaws are typically not recorded in the County records.

Articles of Incorporation – The Articles of Incorporation for an Association are the official document filed with the Secretary of State to create the Association as a legal entity, which is almost always a nonprofit corporation. Typically, the Articles do not include much information other than the name and contact information for the Association, who the initial Board of Directors were, and who is the registered agent for the Association.

Policies, Rules, and Regulations – The Declaration typically gives the Association, through its Board of Directors, the authority to create policies and rules and regulations for the community. These policies are usually adopted by majority vote of the Board without a vote of the Owners. For that reason, the policies and rules and regulations cannot conflict with the provisions of the Declaration, but they can be used to clarify or provide guidance in how the Declaration provisions should be followed or what they might be agreed-upon to mean.