

Can a Voluntary HOA Dictate What You Do?

By: SFGate

Buying a home in certain forms of ownership, such as condominium or planned unit developments, automatically places the buyer in a homeowners association that provides certain services and amenities but may also limit his freedom of expression. Membership in one of these HOAs is mandatory. By contrast, some homeowners voluntarily become members of neighborhood or community associations that serve a variety of purposes. Unlike mandatory HOAs, membership in one of these voluntary organizations is up to individual homeowners, and the organizations' powers are limited.

Mandatory HOAs

A mandatory homeowners association is a legal entity in which all unit owners have rights and responsibilities different from those of traditional home ownership. The unit owners pay maintenance fees and share ownership of common areas such as roads and recreational facilities. Members elect boards of directors who establish and enforce rules and bylaws and conduct the business of the association. HOA rules -- called the covenants, conditions and restrictions, or CC&Rs; -- may govern everything from paint colors to size and number of pets. The HOA boards enforce the rules and can fine violators. Most HOAs are subject to state statutes. In California, HOAs are governed by the Stirling-Davis act, a revised version of which is scheduled to go into effect in 2014.

Community Associations

Technically, a neighborhood or community association is not actually an HOA. A community association is a non-governmental organization generally formed by neighbors in a specific geographic area such as a street, block or neighborhood. The association can include commercial properties as well as residential. Property owners form these organizations voluntarily in order to improve the community, protect property values, organize assistance for neighbors, maintain neighborhood watch services, and hold block parties and other social activities. The association also can empower residents to be informed and take action on public and political initiatives that could affect the neighborhood. Unlike HOAs, which generally outsource work to contractors and managing agents, most community and neighborhood associations rely on volunteer work done by residents.

Association Differences

Community associations and neighborhood associations vary as widely in their structure and purposes as in the reasons why they were formed. Residents may organize a neighborhood

association because of a specific issue or to encourage neighbors to become involved, so each association is unique to its specific neighborhood. An association formed for a specific purpose is also free to disband when that purpose is served. Some neighborhood associations are informal while others are incorporated and recognized by the IRS as nonprofit organizations. An association may elect officers and charge dues to pay for its activities.

Compliance Is Optional

A neighborhood association might draft a mission statement to outline its rights and responsibilities, but unless the association requires members to sign contracts, it can't dictate what its members do the way a mandatory HOA can and it generally can't penalize homeowners for violations. Rather than fining a resident for unkempt property, for instance, a neighborhood association might offer cleanup help. Unlike mandatory HOAs, neighborhood or community associations can't put a lien on property or force foreclosure for unpaid dues. Thus, while a mandatory HOA can always set and enforce rules, community and neighborhood associations generally don't have the authority to dictate what their members can do.