

Converting HOAs to Mandatory Membership

In some subdivisions, membership in the homeowners association is voluntary. Generally, these associations are older and the voluntary nature of the association arose because mandatory homeowner associations were not as common as they are now.

Over time, these voluntary homeowners associations may struggle, as they try to maintain expensive amenities (pools, tennis courts, lakes, and dams) with a small and unpredictable income stream. The association may have to close or abandon the amenities due to the expense of maintenance that is borne by few members.

Converting a voluntary association to mandatory membership creates a situation where such associations can anticipate their income and gives them legal means to collect unpaid dues ("assessments") for members' fair share of the maintenance costs. This conversion can make administration of amenities easier.

However, the process is hard work and depends heavily on communicating the value of preserving and enhancing the amenities (and their direct effect on the value of all lots within the development) to all of the owners in the community. Below is a brief summary of the initial steps that can be taken in this conversion process.

Form an organizing committee

Assign tasks to committee members:

- Marketing/Communication chairman,
- Attorney liaison, and
- Membership chairman.

Contact an attorney with experience representing community associations in converting to mandatory membership.

Give the attorney all existing legal documents for the association.

- Covenants,
- By-laws, and
- Articles of Incorporation.

Ask for a fee quote letter outlining tasks and costs for tasks. Tasks may include amending all or a portion of the existing documents, creating new use rights in separate documents, creating consent forms, assisting with preparation of meeting notices and proxies.

Determine how many homes need to participate in mandatory membership for it to become effective. (It is not necessary, but can address fears that if only a few people sign up, the fees will be excessive.)

Determine fees to be charged for "initiation" into mandatory membership (if any), deadlines for joining (if any), and promotional period where initiation fee may be waived.

Determine how to handle owners that wish to continue as voluntary members.

- Fees for membership.
- Can they serve on the association board?
- Can they vote?

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