

Reading Governing Documents

In this week's tip, we discuss how you can reduce the number of rules violations at your HOA.

We asked several of our experts whether they think encouraging community association members to be familiar with governing documents will reduce violations.

The verdict was mixed.

Our experts do and don't agree with the presumption that owners who read their docs are less likely to violate them.

"Sure, I agree with the premise," says Steve Cheifetz, a partner at Cheifetz Iannitelli Marcolini in Phoenix. "In Arizona, owners have to give buyers an association's CC&Rs as part of the closing. But they do it at the closing, so it's a little late for buyers to have a choice about what they're agreeing to. And any time you have a contract where you really have no choice, you're not as inclined to read it. The thinking is something like, 'I'm not going to read it because I'm stuck either way.'"

Still, Cheifetz says he thinks it's wise for HOAs to promote education about their documents. "I think it's a good idea to promote basic concepts like you must get approval for architectural changes," he states. "But there are a lot of people who learn the hard way, and there's not as much education as there should be."

Marlene Kirtland is less convinced. "I don't agree with that starting point—not at all," says Kirtland, the managing partner of her own law firm, Community Association Law Group in Winter Park, Fla., where she represents under 100 associations. "I've had owners say, 'I bought here and I knew about this, but I didn't really think people were going to enforce it.'"

Let's face it: Governing documents will never be high on anybody's reading list. "I think you'll have fewer violations if people read the documents, but they're no fun," says Joshua Krut, a partner at Kopelowitz Ostrow Ferguson Weiselberg Gilbert in Fort Lauderdale, Fla. "I think most people don't read them because they're boring."

Matt Humphrey