

## How to Transition HOA from Developer Control to Homeowner Control<sup>1</sup>

### Development/Pre-Escrow Phase

- Hire attorney to draft HOA's **Master Management Documents (MMDs)**:
  - 1) Covenants, Conditions and Restrictions (CC&Rs)
  - 2) **Articles of Incorporation**; and
  - 3) **Bylaws**
- Appoint Developer staff members to serve on Declarant Board
- Once the Articles of Incorporation have been filed, obtain a **Tax ID Number**
- File an **Application for Tax Exemption**
- File **annual report to Secretary of State** (after transition, Property Manager does this)
- After CC&Rs are recorded, ask attorney to create **Operating Standards**:
  - 1) **Rules and Regulations**
  - 2) **Architectural Guidelines**
  - 3) **Election Rules**; and
  - 4) **Maintenance and Warranty Manual**
- After all MMDs are finalized, hire **HOA Property Management Company (PM)**
- Create HOA's preliminary **Budget** (ask Property Management Company to review)
- After homeowners are selected, begin **HOA education program**
- After CC&Rs are recorded and Budget is approved, buy **HOA insurance**
- **Developer/PM: Complete site inspection of all common areas** before homeowners move in with property manager and vendors (fire alarm company, solar panel company, etc.)
- Before close of escrow, change address to PM (property manager's) address
- Transfer all contracts from Developer to HOA's name

### Post Escrow Phase

- **Developer/PM: After first unit closes escrow, schedule board of directors election and developer transition meeting** (provide these documents at meeting):
  - 1) Map(s) of common areas
  - 2) Utility meter locations and numbers
  - 3) Irrigation controller chart
  - 4) Recorded Notice of Completion (as appropriate)
  - 5) Approved plans for common area amenities (as-built plans are preferred)
  - 6) Warranty and manufacturer information
  - 7) Grant Deeds and Easements
  - 8) Agency-approved plans (i.e., planting, irrigation, and details)

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<sup>1</sup> The information provided herein does not, and is not intended to, constitute legal advice; instead, all information, content, and materials are for general informational purposes only and may not apply to your state. For a more complete list of your state's requirements, please confer with legal counsel.

- 9) Keys to common facilities
- Provide following documents to the association and PM (property manager):
  - 1) Master Management Documents (governing documents)
  - 2) Board Meeting Minutes
  - 3) Rules and Regulations
  - 4) Architectural review requests
  - 5) Financial documents (i.e., records, ledgers, bills, budget and backup worksheets)
  - 6) Annual state and federal tax returns since date of incorporation
  - 7) Copies of any tax-exempt election made by the declarant board
  - 8) Tract map
  - 9) Landscape drawings and specifications showing all plants and lawns
  - 10) A schedule of quantities, such as square feet of roof, private roadways, etc.
  - 11) Inventories of all association property
  - 12) Specifications and a list of manufacturers of paints and roofing materials
  - 13) Plans and specs used in construction, plus a list of all contractors, suppliers, construction subcontractors and their principals
  - 14) A statement that the street, traffic, safety, and regulatory signs are installed in conformance with state or local ordinances and association documents
  - 15) Confirmation from local authorities that the fire hydrants were placed under the local government maintenance plan
  - 16) Confirmation that city or county emergency centers have mapped the association for the dispatching of emergency vehicles and that private addresses are visible
  - 17) A statement of determination of public agency or utility responsibility for street lights and sewer systems maintenance
  - 18) A statement that appropriate public agencies have or have not released the completion bonds on the improvements where those bonds are required
  - 19) Copies of any certificates of occupancy and/or other permits
  - 20) Copies of public reports, offering statements, or other disclosure documents
  - 21) A complete roster of all unit owners with names, addresses, contact information
  - 22) Copies of all contracts and maintenance agreements signed by the Declarant Board
  - 23) Copies of all association employment contracts
  - 24) All tangible association property
  - 25) All insurance policies in which the unit owners, the association, or its directors and officers are named as insureds
  - 26) Certificates of occupancy, maintenance logs, and final subdivision reports
  - 27) Bonds
  - 28) Condo plan
  - 29) Maintenance and Warranty manual
  - 30) Utility bills
  - 31) Conditions of Approval
  - 32) Copies of all required state agency filings
  - 33) Reserve Study (not all states require this, but it's best practice to have one)