

UNDERSTANDING THE STRUCTURE OF A COMMUNITY ASSOCIATION

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Homeowners do not always understand the structure of their community association. One of the best models for gaining insight into a community association is that of our own federal government. In other words, both are a type of representative democracy.

There are also similarities to the branches of government. The Congress and the board of directors are both policy making bodies. The board passes resolutions and rules, along with overseeing the other branches. The management company enforces the policy of the board on a day-to-day basis. This is similar to the executive branch of our government. Finally, there is the architectural review committee, which is like the judicial branch of government. The committee rules on homeowners' applications for modifications to their house or lot. They or the board usually also hear any appeals.

Some homeowners mistakenly believe that the association is more like an "absolute democracy" where all major actions must be pre-approved by the members. In fact, the governing documents (*covenants, bylaws, etc.*) and Georgia law grant broad authority for the board to act on behalf of the members. The most common exceptions to this are amendments to the covenants, special assessments, and certain increases in dues. These types of actions sometimes require a vote of the membership.

As in our own national government, the members/citizens have some other important rights. The greatest of these rights are the ability to vote for their representatives, and the power to run for office. Not all of the rights granted by our national government carry over to the community association model. Some obvious examples are certain aspects of free speech (*sign limitations on the Lots*), and property rights (*such as needing approval for modifications to the house or Lot*). This is the result of the restrictions and requirements contained in the covenants and other governing documents. In addition to this, the courts have ruled that homeowner associations are not considered a "government" for the purposes of being subject to the Bill of Rights.

Misunderstanding about the structure of community associations often comes to light when an individual is upset about the enforcement of a regulation or restriction. They sometimes threaten the board, committees, and other members, with lawsuits based upon "discrimination" and their "rights as an American." Occasionally, they may even try to disrupt the administration of the association. An obvious example is a member who tries to disturb a meeting of the members or the board.

The first duty of the association is to the membership as a whole. The board must take into consideration the best interest of the general membership. This sometimes means not capitulating to an individual member's demands. Community associations are a trade-off between gaining some benefits, in exchange for certain limitations. Most people are happy with this trade-off, but the community association model is not for everyone.