

# Community Associations

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## RELATED SERVICES

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## CONTACTS

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Partner

## OVERVIEW

GRSM'S Community Associations practice group is composed of experienced attorneys who focus a significant portion of their practices on community association law, representing homeowners associations, condominium associations, and developers throughout the nation. Members of the team collectively represent hundreds of associations, ranging from large-scale resort-centered associations with significant recreational facilities, to smaller neighborhood associations. Team members also represent some of the nation's largest developers (as well as regional developers) in the creation and establishment of complex master-planned residential, mixed-use, commercial, and "New Urbanism" communities throughout the nation.

Practicing at a large national law firm, our team offers a sophisticated level of representation unrivaled by many other law firms that focus on representing community associations and developers. We have the depth of experience to navigate any legal issue that may arise.

## GENERAL COUNSEL FOR ASSOCIATIONS

We serve as general counsel to hundreds of associations, both large and small, and advise them on their routine day-to-day legal matters including operations, management, and contracts. In our role as trusted advisors to boards of directors, we draft policies, rules and regulations, and architectural guidelines aimed at protecting property values, ensuring compliance with laws, and promoting best practices. We also

advise associations on matters relating to the conduct of board and owner meetings and proper minutes and resolutions. Further, we counsel clients on compliance with ever-changing state laws, as well as federal laws governing associations, including Fair Housing laws. Moreover, we frequently draft and negotiate contracts related to a broad range of services, such as community management, landscaping, telecommunications, and amenity-management.

### **DOCUMENT AMENDMENTS & DRAFTING**

As associations change and mature, they frequently find themselves needing to amend their governing documents, or entirely amend and restate all of their governing documents. We have updated hundreds of governing documents via amendments, and we work closely with boards to ensure that the process runs smoothly and properly. Through planning meetings with the board and the community manager, we advise on the amendment process, including advising associations of the applicable voting requirements, mortgagee consent requirements (where applicable), meeting notice requirements, and the like. We also draft all of the requisite consent and ratification forms, meeting notices, ballots, and proxies, to ensure full compliance with legal requirements.

### **DOCUMENT ENFORCEMENT**

Even in the best-run communities, owners will occasionally fail to comply with the governing documents, and when they do, we advise our association clients on the steps to take to enforce compliance, including advising on the formal hearing process. If a hearing does not resolve the matter, we counsel our clients on the process of filing a covenant violation lawsuit, seeking an injunction (a court order) directing the owner to come into compliance. We have litigated dozens of covenant violation lawsuits, including very complex lawsuits involving the unauthorized construction of entire houses and other structures. Our team has a deep bench of trial attorneys with significant courtroom and trial experience, many of whom have been recognized on an annual basis by *Super Lawyers* magazine in the field of litigation.

### **COLLECTIONS**

Working closely with our association clients to counsel them on collections policies and practices, we do not hesitate to take action to aggressively collect delinquent assessments. We are proactive and diligent in filing lawsuits and memoranda of liens against delinquent owners, and when we obtain judgments, we advise our clients to authorize us to pursue wage garnishments, bank account garnishments, rent garnishments, and the like, in order to collect delinquent sums. Our attorneys are intimately familiar with the laws governing the collection of delinquent accounts, including the federal Fair Debt Collection Practices Act, and we are adept at advising our clients on how to craft their own (or their community manager's) collections practices to comply with applicable laws.

## GENERAL LITIGATION

We have litigated dozens of community association disputes, including several high profile cases that received national attention (including successfully defending a condominium association from a novel legal challenge to a bylaws amendment, successfully trying to verdict a case upholding the validity of a special assessment, and successfully litigating the termination of a long-term communications agreement). Whether the matters turn on breach of fiduciary duty claims, document interpretation disputes, boundary line or easement claims, or personal injury claims, our deep bench of experienced litigators is prepared to aggressively represent our association clients.

## TRANSITION FROM DEVELOPER CONTROL

We have guided dozens of associations through the process of the transition from developer control of the board of directors. This key moment in the life of a community is an essential time during which to have legal counsel, as many decisions made in this timeframe will impact the association and community for decades to come. We proactively plan with the transition committee by advising on and outlining due diligence tasks for it to undertake pre-transition. We also advise on post-transition tasks, including counseling on the proper turnover of all records legally required to be turned over by the developer to the association, ensuring proper conveyance of all real estate, etc.

## FEDERAL HOUSING ADMINISTRATION (FHA) RECERTIFICATION

For our condominium association clients, obtaining FHA certification (and ensuring timely recertification) is a key priority. We work closely with our clients to proactively plan ahead for recertification, including advising how certain decisions can optimize their chances of obtaining recertification. We then complete the necessary paperwork to submit the recertification application to the FHA, including working to address any challenging issues that could pose an obstacle to recertification.

## DEVELOPERS

Our attorneys guide developer clients through all stages of the development of a planned community, providing representation concerning acquisitions, financing, zoning, the legal structure of the project, the development of common areas and amenities, regulatory registrations and compliance, community administration and governance, marketing materials, and initial outsales and disclosure requirements.

Our team has represented national developers in the development of homeowners associations and condominium associations in many states throughout the nation. We have played a leading role in the development of some of the largest and most complex master planned residential, mixed use,

commercial, and “New Urbanism” communities nationally.

We routinely negotiate the residential condominium registration process for our developer clients, which includes drafting the public offering statements and preparing the condominium registration package. Our team works on projects that include multiple product types, including conversion condominiums. We also advise and counsel clients on the establishment of commercial condominiums.

We are also experienced in transitioning a project from developer to owner control. We are proud of our track record of success in helping many of our developer clients avoid litigation during the transition process, an occurrence that is unfortunately becoming more common as associations retain increasingly aggressive counsel of their own after the transition of the control of the board of directors. We often give presentations to owner populations who are preparing for transition, and provide training for incoming board members.