

Transition of HOA Control

Transition is a series of events that transfers control of a community association from the developer to the individual owners. Savvy developers get owners involved in the process early and educate them about governance and operations. In a smooth transition program, actual turnover is a mere formality that marks the process when the developer relinquishes control of the association.

The developer's efforts to transfer control of the association will accomplish little if new owners don't become involved. During the development and sell-out, developers should identify the skills and interests of residents and introduce owners to each other so they can develop their identity in the community.

When sales reach a pre-determined percentage, owners should become more involved in association governance. The developer should encourage owners to participate in interim committees, which facilitates transition work and provides training for future leaders. Committee recommendations should have increasing weight with the board as sales increase.

The transfer can proceed in several ways:

- Homeowner members are elected to the board in proportion to sales.
- The board-member voting ratio is weighted so the developer relinquishes control to owners after a set percentage of the homes have sold.
- An interim committee makes most association-related decisions.
- Substantial control is transferred to owners, but the developer retains veto rights for board actions that would change the character of the development or adversely affect marketing.

- A combination of two or more of these methods.

Ideally, turnover is a formality. The developer helps phase-in owner responsibility and owners are already in charge of key committee functions when the developer leaves. Here are basic stages of an ideal transition:

- The developer includes the transition process in the initial planning.
- A structure for transition is in place before the first unit is sold.
- As sales progress, the developer educates owners about association governance and operations.
- By the time all homes are sold, the owners are involved fully in association governance and have control of the association.

The legal framework for transition typically is set forth in broad terms in state statute, which sets minimum standards for the process. Most developers are familiar with these requirements and provide appropriate language for the association's legal documents. If properly conceived and structured at the outset, it can speed the process to a successful conclusion.

If owners are unaware of a transition program, they should not assume the developer does not want to cooperate. The developer simply may have overlooked a planned program for owner involvement and transfer of control. Ask the developer: "What can we do to become involved in the association and to gain some knowledge of association operations?" This might be all that is needed to work out a mutually agreeable program.