# HOA DAY WORKBOOK October 8, 2024





#### WELCOME

Welcome to HOA Day 2024! We are pleased that you are part of this very special event, which is designed for HOA leaders, HOA residents and others who are interested in HOA living.

#### AGENDA

8:00 a.m.	Coffee Mix and Mingle	
	Breakfast courtesy of Crest Exteriors	
	Coffee courtesy of Advanced Irrigation	
8:45 a.m.	General Seating	
9:00 a.m.	HOA Living Program (Part I)	
10:00 a.m.	Break – Open Expo with Sponsors	
10:45 a.m.	Gene Sullivan, Featured Speaker	
	"The 5 Ways You Can Mess Up Your HOA"	
11·45 a m	Program Close	

#### JOIN THE HOA LEADERSHIP NETWORK, LLC

The HOA Leadership Network supports HOA board leaders through education, collaboration and research. We hold four chapter meetings per month. For the complete schedule of events and to join our network, visit www.hoalnet.com

#### THANKS TO FIRSTSERVICE RESIDENTIAL MINNESOTA

FirstService Residential Minnesota is a leading property management company that specializes in management of single-family, townhome, condominium, and masterplanned communities. They provide a range of services from financial management to maintenance, vendor bidding, administrative support, and community engagement. Questions: Contact Laura Callahan, laura.callahan@fsresidential.com or (952) 277-2736



WORKBOOK PROVIDED BY





#### INTRODUCTION TO HOMEOWNER ASSOCIATIONS

This HOA Day Program is intended as a reference for HOA homeowners and HOA homebuyers. The information provided may not apply to all HOAs and is not intended as legal or professional advice. In this HOA Homeowner Guide, "homeowner association" and "HOA" refer to townhomes and single-family detached homes (planned communities), condominiums, and cooperatives. HOAs are called Common Interest Communities (CIC) in Minnesota law.

#### THE HOMEOWNERS ASSOCIATION (HOA)

A homeowner association, or HOA, is a housing management corporation created to protect and maintain the value of the homes and other property within the HOA. The HOA is led by a board of directors with specific authority and responsibilities to govern the HOA and administer its financial and maintenance operations. Homeowners are mandatory members of the HOA who share ownership of the common elements and have specific rights and responsibilities. While each HOA is unique, they share many aspects of governance, business operations, and promoting community.



#### **STATE LAWS**

Most HOAs in Minnesota are nonprofit corporations governed by the **Minnesota Common Interest Ownership Act or MCIOA** (MN Stat. 515B) and the Minnesota Nonprofit Corporation Act (MN Stat. 317A). The laws give authority and responsibilities to HOA boards, protect HOA property, and define homeowner rights and responsibilities. Fair housing laws, local ordinances, and case law may also affect HOAs. Consult an attorney who practices in HOA law any specific questions about how MCIOA and other laws affect your HOA.



#### THE FOUR FLAVORS OF HOAs

A townhome HOA is typically comprised of buildings of 2 – 6 homes. Homeowners own their homes and the underlying plot of land, and pay assessments to maintain the HOA's shared common elements. The HOA owns the common elements, including roads, landscaping, and amenities, and provides services to maintain them.

#### In a single-family detached

**home HOA**, homeowners own and maintain their own homes and lots while the HOA provides services for any shared common elements, such as landscaping or roads.

#### In a condominium HOA, the

homeowner owns the individual unit and an undivided interest in the common elements including the building exterior, hallways, elevators, and social areas. The HOA maintains the common elements and may provide certain utilities. Homeowners maintain their own units and have use of the common elements.

In a **cooperative**, the building and other real estate are owned by an association. Each homeowner is a share-holding member and is entitled to exclusive use of an apartment and shared use of common elements.

#### HOA GOVERNING DOCUMENTS

- Plat map Recorded with the county, it shows the boundary of the HOA, how the land is divided, and the footprint of the homes.
- Articles of Incorporation Creates the HOA as filed with the Minnesota Secretary of State.
- Declaration Created by the developer (declarant) and recorded with the county, includes the HOA's purpose and the powers, rights, and responsibilities of the HOA and the homeowners.
- Bylaws The policies, powers, and procedures to govern and administer the HOA including assessments, maintenance responsibilities, board meetings, and elections.
- **Rules and Regulations –** Created by the board to clarify activities and conditions that are permitted or restricted in the HOA.

Ask an attorney who practices in HOA law any specific questions about your governing documents.



#### THE BOARD OF DIRECTORS

MCIOA and the HOA's governing documents require that the HOA have a board of directors elected from among its homeowners. The HOA board is given specific authority and responsibility to protect and maintain the HOA's homes and property. The HOA board members have fiduciary duties to act with due diligence, in good faith, within the scope of their authority, and in the best interest of all the HOA homeowners. Board members avoid and disclose conflicts of interest and do not receive compensation.



#### **Typical HOA Board Officer Positions**

President – Leader, liaison, sets agenda and chair board meetings

Vice President - Assists and assumes president's responsibilities

**Secretary** – Record board meeting minutes, keep membership list, preserve HOA documents, and communicate with homeowners

**Treasurer** – Review financial reports, prepare budgets, assist with audits and taxes, and manage investments

Director-at-Large - Perform duties as assigned



#### **HOA MANAGEMENT**

In a self-managed HOA, the board governs and administers the HOA by themselves or with assistance for financial accounting, insurance, legal, or other professional services. Other HOAs contract with a professional HOA management company that assigns an association manager to assist the board with its responsibilities. In both cases, the board makes the final decisions. The association manager and other professionals take direction from the board and carry out the board's decisions.

#### The board's governance responsibilities include:

- Hold board meetings and invite homeowners to attend
- Record minutes of board meetings
- Understand and comply with laws and local ordinances
- Understand and comply with the HOA's governing documents
- Retain the HOA's financial records, contracts, insurance policies, board meeting minutes, and other important documents
- Conduct elections of the board of directors
- Communicate with homeowners to share important information
- Consult with experts as needed to inform board decisions
- Set goals, standards, policies, and procedures
- Manage unpaid assessments, liens, and foreclosures
- o Create and enforce rules and regulations
- o Create and enforce architectural controls
- o Resolve conflicts and grievances
- Work with association managers and other professionals





#### THE HOA BOARD MEETING



MCIOA requires that the HOA notify homeowners and hold an annual meeting open to homeowners to report the HOA's condition, to elect board members, and to conduct other business of the HOA.

Depending on the characteristics of the HOA and its governing documents, the board may hold meetings throughout the year to conduct its business. The board must announce its meetings to homeowners and permit homeowners to attend in person or by telecommunication, but not necessarily to participate in the meetings. The board may hold meetings that are closed to homeowners only to discuss personnel issues, pending litigation, or criminal activity.

Minutes must be recorded for all board meetings and made available to homeowners, except for minutes from closed board meetings.



#### **PREVENTIVE MAINTENANCE PLAN**

MCIOA requires that the HOA board prepare and approve a Preventive Maintenance Plan (PMP) for the common elements, including the maintenance schedule and budget. The PMP will protect and maintain the HOA's property value by helping to avoid the sudden failure of common elements and by extending their safe and useful life. The board must follow the PMP and provide a copy of the plan to homeowners. The board may modify the PMP as needed.

# The Financial Responsibilities of the HOA Board

- Collect annual assessments from homeowners
- Regularly review the HOA's financial records and prepare operating budget
- Set contributions to reserves
- Determine the annual assessments and any special assessments
- Plan work projects and obtain and review competitive bids
- Award contracts to vendors for goods and services
- Obtain the HOA master insurance policy
- Provide for financial audits or reviews
- Provide for filing annual tax returns
- Manage the HOA's investments



#### The Two Types of Funds Managed by the HOA Board

The operating budget. Each year, the board reviews its current financial records and predicts the next year's expenses to prepare the operating budget. Operating expenses are the periodic or recurrent costs for building maintenance, irrigation, landscaping, lawn care, snow removal, and other common services. The operating budget also funds the master insurance policy and association management.

**Reserves.** MCIOA requires that an HOA board best practice is to maintain adequate reserve funds for large future capital expenses including roofs, roads, amenities, HVAC systems, and elevators at the end of their useful life. The money in the reserves cannot be transferred to the operating budget and is often invested. A reserve study helps the board adequately fund the HOA's reserves.



#### HOMEOWNERS' RIGHTS AND RESPONSIBILITIES



MCIOA and the HOA's governing documents require that homeowners are members of, and share responsibility for, the HOA.

#### **Homeowners' Rights**

- Be informed in and have access to all board meetings
- Have access to an annual report, financial records, insurance policies, board meeting minutes, and other HOA documents
- Fairly enforced rules and regulations and architectural controls
- Have the use of a grievance and dispute resolution process
- o Use HOA common elements
- Run for the board and vote to elect the board of directors
- o Participate in HOA committees
- Hold the board accountable for its fiduciary duties

#### **Homeowners' Responsibilities**

- Pay assessments fully and on time
- Understand and abide by the HOA's governing documents
- Properly care for the home following architectural controls
- Be informed about important board actions and activities
- Resolve conflicts using approved policies and practices



#### **PROMOTING A SENSE OF COMMUNITY**



The HOA board can promote a sense of community among its homeowners. Some ways to generate a community spirit include:

- Communicating clearly and often through a website, newsletter, posted notices, emails, and meeting minutes
- Promoting attendance at board meetings and on committees
- Promoting attendance at social events
- Showing pride in a well-maintained HOA
- Welcoming new homeowners and respecting diversity
- Thoughtfully creating and fairly enforcing rules and regulations and architectural controls
- Surveying homeowners to ask for ideas and feedback



#### COMMON HOA TERMINOLOGY AND DEFINITIONS

#### **HOA Insurance**

HOA master insurance is likely the largest operating budget item. MCIOA and the HOA's governing documents require that the HOA have a master insurance policy for property damage, general liability, and other coverages. Of particular importance is the loss assessment deductible, the extent of coverage (bare-walls, original specifications, or all-in), and replacement value (actual cash value or replacement cost).

#### **Architectural Control**

To help protect and maintain the HOA's property value and appearance, MCIOA and the HOA governing documents give the board authority to regulate architectural modifications by homeowners to the exterior of homes and to the common elements. Architectural control includes board-approved standards, an architectural committee, and procedures to apply, review, approve or deny, and appeal a homeowner's request.

#### Assessments

MCIOA and the HOA's governing documents give the board authority to collect and require homeowners to pay regular annual assessments, often as monthly dues. Each year the board determines how much to increase the annual assessment to keep up with inflation and rising costs of services, to fund work projects, and to contribute to reserves. The board may also levy a special assessment to fund a budget shortfall, an emergency, or a large capital improvement.

#### **Common Elements**

Common elements are all the features of the HOA except the interior of the homes or units. Common elements include roofs and siding, private roads and parking, landscaping, social areas, elevators, and amenities. Limited common elements are a subset of common elements that are intended for use by fewer than all homeowner; for example, decks, driveways, and balconies. The HOA's governing documents state who is responsible for the maintenance, repair, and replacement of common elements.

#### Collections

Unpaid assessments put the HOA at risk of budget shortfalls. MCIOA and HOA governing documents give the board authority to collect unpaid assessments from homeowners. Boards should follow a written collection policy and may involve an attorney. The collection action begins with a formal letter demanding payment and possibly charging late fees. The board may pursue a judgment in conciliation court. The board may also place a lien on the home and foreclose to collect the lien and any attorney fees.



#### **Homeowner Insurance**

HOA homeowners should have their own HO-6 insurance policy to cover the amount of the master insurance loss assessment deductible, personal liability, and their personal property.

#### **Reserve Study**

A reserve study is an essential planning tool to help prioritize large capital projects and adequately fund reserves. First to be completed is an inspection of the common elements, their remaining useful life, and cost of replacing them. Second is an evaluation of the HOA's finances, including the annual assessments, operating expenses, and current reserve funds. The study recommends the timing and the amount of reserves needed to adequately fund future capital projects. Reserve studies should be repeated regularly.

#### **Maintenance Matrix**

The maintenance matrix is an easy-to-use grid listing of the HOA's common elements and assigns responsibility for their maintenance to either the HOA or to the homeowner. The matrix may also note any architectural controls.

#### Buying into an HOA? Ask for:

- Building type and age
- Monthly dues history
- Common elements and amenities
- Governing documents
- o Board minutes
- o Disclosure statement
- o Financial statements
- Services provided by HOA
- Reserves and reserve studies
- Architectural controls
- o Rules and regulations
- Pending litigation
- Special assessments
- o Master insurance and claims
- Homeowner HO-6 insurance
- o Conflict resolution

Living in an HOA is different from living in a free-standing single-family home. While each HOA is unique, there are benefits and disadvantages.

#### **Benefits**

- Maintenance on home exteriors and common elements
- Lawn care, snow removal, and landscaping
- Amenities like swimming pools, playgrounds, and walking paths
- Social events and gatherings
- Reserve funds for large future expenses
- Master insurance on the HOA's building exteriors
- Conflict resolution that follow HOA policies and procedures

#### Disadvantages

- Assessments must be paid in full and on time
- Rules and regulations and architectural controls must be understood and followed
- Board decisions, both good and bad, will affect many aspects of life in the HOA.
- Homeowner's behaviors and life choices may cause problems
- Special assessments may be needed for certain expenses
- HOA board and committee are volunteers
- o Board members can be hard to find



#### JOIN THE HOA LEADERSHIP NETWORK



The HOA Leadership Network has the sole mission of connecting and supporting HOA leaders through education, collaboration and research. By joining, you have access to materials and events to help you become a stronger, more effective HOA board leader.

#### As a member, you will have access to the following:

- In-person monthly meetings that include presentations from subject matter experts in the HOA industry
- $\,\circ\,$  Video interviews with industry experts, contractors, and other professionals who have unique perspectives about the future of HOA living
- Educational material regarding complex topics, including insurance, reserve studies, maintenance problems and more
- $\circ~$  Special events, including an annual HOA Day in the fall
- $\circ~$  A weekly newsletter with important topics around HOA living
- Research findings and hot topics to help you stay better informed as a board leader

#### JOIN TODAY.

Visit www.hoalnet.com and sign up.

It's Free!

NOTES	HOA LEADERSHIP By Board Leaders. For Board Leaders

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