



REIC/ICI

Edmonton Chapter



IREM

**Home Owner Association
Membership
What Every Realtor®
Should Know**

<http://www.reic.ca/ABOUT-US/Chapters/Edmonton>

Inclusions

- What is a HOA/ Resident Association?
- HOA Definition
- HOA, City and Community League Service review
- HOA Pros and Cons
- Architectural controls and enforcement
- What Considerations do purchasers need to know?
- Realtor Responsibility
- Fees and overdue fee collections
- Brief overview of local HOA'S

What is an Home Owner / Resident Association?

Typically a Real Estate Developer will create a Home Owner Association, also known as HOA, in a subdivision, planned community or condominium that makes and enforces rules for the properties in its jurisdiction.

The Real Estate Developer typically does this for the purpose of marketing, managing, and selling of homes and lots in a residential subdivision by providing improved value to the Neighbourhood and Owners through the development, enhancement and supplemental maintenance of the area amenities.

It grants the developer privileged voting rights in governing the association, while allowing the developer to exit financial and legal responsibility of the organization, typically by transferring ownership of the association to the homeowners after selling off a predetermined number of lots.

Membership in the homeowners association by a buyer is a condition of purchase; a buyer isn't given an option to reject it.

Homeowner Associations are subject to statutes that govern non-profit corporations and homeowner associations.

A Home Owners Association (HOA) has the responsibility to:

- Enhance basic services and amenities provided by the City (e.g., extra grass cutting, deer, fountains, lighting, etc.)
- Enforce Architectural Guidelines to ensure that the original housing design standards for the neighbourhood are maintained

Each property within the Residents Association has a Restrictive Covenant, Encumbrance on title that requires the owner to:

- Adhere to the Architectural Guidelines
- Pay their annual fees

HOA's / Resident Associations are a controversial topic whereby you are bound to find those that appreciate them, despise them and some who perhaps have no opinion.

Title Sample



LAND TITLE Certificate

S
LINC SHORT LEGAL TITLE NUMBER
XXXX XXX XXX XXXXXXXX XXX XXX XXX

LEGAL DESCRIPTION
CONDOMINIUM PLAN XXX XXX
UNIT XX
AND XX UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE
ATS REFERENCE: X;XX;XX;XX;NE

MUNICIPALITY: CITY OF EDMONTON

REFERENCE NUMBER: XXX XXX XXX

REGISTRATION	DATE (DMY)	REGISTERED OWNER(S) DOCUMENT TYPE	VALUE	CONSIDERATION
XXX XXX XXX	23/06/2011	TRANSFER OF LAND	\$XXX,XXX	\$XXX,XXX

OWNERS

NAME
OF XXX, XXX ST EDMONTON
ALBERTA XXX XXX

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
XXX XXX XXX	28/08/2004	ENCUMBRANCE ENCUMBRANCEE - PARKLAND NEIGHBORHOOD RESIDENTS ASSOCIATION. XXX ADDRESS EDMONTON ALBERTA XXX
XXX XXX XXX	2 8/08/2	004 CAVEAT RESTRICTIVE COVENANT

Resident
Association
(HOA)
Encumbrance

NUMBER	DATE (D/M/Y)	PARTICULARS
XXX XXX XXX	05/05/2005	CAVEAT RE : RIGHT OF WAY AGREEMENT CAVEATOR - ATCO GAS AND PIPELINES LTD. 10035-105 ST EDMONTON ALBERTA T5J2V6
XXX XXX XXX	29/07/2005	AGREEMENT RE: EASEMENT AND RESTRICTIVE COVENANT
XXX XXX XXX	22/12/2005	UTILITY RIGHT OF WAY GRANTEE - EPCOR DISTRIBUTION INC.
XXX XXX XXX	24/07/2007	MORTGAGE MORTGAGEE - XXX MORTGAGES INC. XXXXXX ST, 5TH FLR VANCOUVER BRITISH COLUMBIA V6C3A6 ORIGINAL PRINCIPAL AMOUNT: \$XXX, XXX

* ADDITIONAL REGISTRATIONS MAY BE SHOWN ON THE CONDOMINIUM ADDITIONAL
PLAN SHEET

TOTAL INSTRUMENTS: 006

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 30 DAY OF
DECEMBER, 2013 AT 12:06 P.M.

ORDER NUMBER: XXXXXXXXX

CUSTOMER FILE NUMBER: PNRA



END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED
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HOA Definition

The Alberta Real Estate Association defines Homeowners' Association on their website as follows:

- A homeowners' association (HOA) is a group created by a developer of a community. Functions vary, but many HOAs monitor architectural guidelines or provide maintenance services for amenities that the municipality will not maintain. HOAs are common in newer communities, including some condominiums. Where HOAs exist, membership is compulsory as is the requirement to pay an annual fee. The HOA fee is separate from a condominium unit owner's condominium contributions. The existence of an HOA is registered on the property title.
- - See more at: <http://www.areahub.ca/buyers-and-sellers/Condo-Glossary/Homeowners-Association.aspx#sthash.eIhd3MaU.dpuf>



HOA, City and Community League Service review

HOA:

- Enhance basic services and amenities provided by the City (e.g., extra grass cutting, deer, fountains, lighting, etc.)
- Enforce Architectural Guidelines to ensure that the original housing design standards for the neighbourhood are maintained
- Governed by the Societies Act
- Non Profit
- Board of Directors in place
- Mandatory Membership

City:

- In the context of a neighbourhood, the City enforces bylaws (e.g., noise, excessive noxious weeds on resident lands, sidewalk snow removal, permits) and traffic related matters (speeding, crosswalks, shortcutting)
 - “Owners” of the common lands
 - Elected officials
 - Issues: Call 311

Community League:

- Community League (GCL) mandate is more event based (swimming, skating, green sheds, soccer, neighbourhood watch)
- Some develop amenities such as a community hall, rink, playground, tennis courts, basketball courts, etc.
- Represent the community on matters of interest to the appropriate order of government and other organizations (e.g.) traffic issues, new developments, housing, crime prevention, etc.
- Non Profit
- Voluntary Membership
- Board of Directors in place
- For more information visit the Edmonton Federation of Community Leagues
<http://www.efcl.org>

HOA Pros and Cons

Ask two different homeowners what they think about living in a community with a homeowners association and you will either hear “Love it” or “Hate it”. The difference of opinion on homeowners associations, or HOA’s, depends on several factors, including individual personalities and preferences.

Neighbourhoods with an HOA / Resident Association tend to have high aesthetic appeal overall for many current owners and potential buyers when architectural guidelines are established and maintained.

Those who oppose HOA’s / Resident Associations, point their fingers at the board of Directors, for fee increases that can't be declined, and Architectural Guidelines that in their opinion are far too restrictive.



Architectural Controls and Enforcement

It is important that potential purchasers are made aware of the architectural controls / guidelines in place for the neighbourhood such as roof type, fencing, colors, garages, sheds and more.

The guidelines are registered on the property title by way of a restrictive covenant to each development in the neighbourhood to ensure enforceability.



What Considerations do Purchasers need to know?



Whether or not to live in a development governed by an HOA / Resident Association is an individual choice. To ensure it fits within an inc overall plans for living in the neighbourhood short or long term, we recommend that Professional Realtors ensure their Home Buyer Clients are aware:

- If there is litigation pending involving the HOA/ Resident Association
- How often the dues have been raised
- If there are any cash reserves
- Read any architectural Guideline and make sure you can live with the conditions and restrictions contained in the document prior to purchase
- Some HOA/ Resident Associations' are Self-Managed by Volunteer Board of Directors, in which case it is critical that you know the commitment involved in the event you decide to volunteer

What Considerations do Purchasers need to know cont'd?

- If the property is a Condominium, there may be more than one Management Company to communicate with; one for the Condominium Corporation and another for the Home Owner / Resident Association
- Ensure the specific property of interest has the HOA / Resident Association dues paid up to date, as any outstanding balance remains any new home owner's responsibility

As a professional Realtor you can assist your client in seeking information specific to any HOA neighbourhood of interest through the property title, online research and either the Association or Property Management contact.

Realtor Responsibility

Real Estate Act Rules

PART 2 INDUSTRY STANDARDS OF PRACTICE

Division 1 Standards of Conduct for Industry Members Industry member responsibilities 41 Industry members must:

(b) provide competent service

An example of competent service includes pulling title for your client:

- The HOA encumbrance will show
- Significant arrears should appear by way of a caveat
- Registered HOA documents such as Architectural Controls

More rules can be found on the Real Estate Council Website:

<http://www.reca.ca>

Typical Collection Process



Over due Accounts Collection Action:

- Invoice, then demand letter
- Should you have a client listing their property for sale, they need to ensure the HOA dues are paid in full as an informed purchaser will do research to find out

Collection Agency then;

- Obtains a title search for the name of the Mortgage Companies registered on title. If the title is registered in the same name as was provided -proceed with sending a payout letter to the Mortgage Company registered on title requesting payment. If the title is registered in a different name than the one provided, send the new owner a demand letter before proceeding with a letter to their mortgage company; and
- If the debtor has not paid the outstanding amount and the mortgage company has not paid it on their behalf, proceed with filing a Statement of Claim at the Court of Queen's Bench at the Edmonton Courthouse. Once the Statements of Claim are filed at the courthouse, -hire a process server to serve each individual owner personally with the Statement of Claim. If service on the individual owners is successful, they have 20 days if they live in Alberta to serve a Statement of Defence to the claim. If service on the individual is unsuccessful, steps must be taken to locate the individual owner to have successful service upon them. If they file a Statement of Defence there are steps taken to try and resolve the matter otherwise it will go to a trial. If the owner does not file a Statement of Defence to the claim, our office will Note them in Default and proceed with an [Application to foreclose on their property](#). The court process is not a quick process as it depends on when the Court is available to hear the matter(s).

Edmonton Home Owner Associations

Home Owner Associations (HOA) / Resident Associations are located in many newer development areas of Edmonton and have been a growing trend over the last 15 years.

They can be found throughout Rosenthal, Hamptons, Parkland, Ambleside, Summerside, Terwillegar, Copperwood, Magrath, Rutherford, Windermere, The Grange and more!

