
Understanding the HOA Governing Documents



Introduction

Understanding the documents that govern a homeowner's association can be challenging for those of us that do not have a legal background or experience reading these particular documents. Additionally, when there are multiple amendments over many years, it further complicates reading and interpreting the documents because one must reference back to previous filings to understand the governing document as a whole.

In this document, we will attempt to explain in simple terms what the documents are and how they are applied. Below you will see the governing documents presented in the order of authority. Each document below the one above it is subordinate.

The Governing Documents

- Oklahoma General Corporation Act (Title 18, Chapter 22 of the Oklahoma Statutes)
- Certificate of Incorporation (28 June 1991)
- Owner's Certificate and Restrictions (20 June 1991)
- Declaration of Covenants, Conditions and Restrictions (16 March 1994)
- Bylaws (1 July 1991)

Oklahoma General Corporation Act

The Clayton Pond Homeowner's Association Inc. is a corporation incorporated under the Oklahoma General Corporation Act. It must operate within the laws set forth in the act and any of the following governing documents may not contradict the laws of this act except where expressly allowed to do so in the law itself.

Certificate of Incorporation

This document is simply the filing with the state that establishes the association as a legal entity with certain rights. After the first page of this document are the Articles of Incorporation which outline the legal structure of the corporation and outlines certain provisions such as the number of Directors and Requirements to amend the Articles of Incorporation

Owner's Certificate and Restrictions

In general, this document sets forth the requirements and restrictions for erecting structures and the use of land on each lot. It also includes restrictions such as what type of fencing may be erected, whether a business may be located within the neighborhood or if signs can be placed in your front lawn.

Declaration of Covenants, Conditions and Restrictions

In general, this document declares in specific terms which property is subject to the authority of the homeowners association. It states that all lot owners are required to be members in the association and subject to all of its covenants, conditions and restrictions and certificate of incorporation and its bylaws. It establishes the ownership and responsibility to maintain the common areas such as the ponds and pool. The declaration sets forth the rights of members to vote in elections of directors who are to serve on the board. In order to maintain the common areas and to pay for other administrative costs, this document establishes the annual and special assessments and remedies for lot owners who do not pay the assessments. It also establishes the requirements for holding meetings of the members.

Bylaws

This document specifically outlines how to conduct the business required in the documents discussed above. Think of this document as the procedures document for the association in the conduct of its business.

Summary

Though all of the documents listed above are important in conducting any business in the association, three of these will be referenced most often to answer any questions as to what is allowed and the procedure for conducting business. These three documents are the Owner's Certificate and Restrictions, The Declaration of Covenants, Conditions and Restrictions & the Bylaws.

It is important to know that each document listed above are separate documents with their own requirements for amendment.