

How To Protect Your Condo/HOA With a Strong and Fair Architectural Review Process

An Exclusive Special Report
from HOAleader.com

This report is provided as a research and reference tool. Although we make every reasonable effort to ensure that the information, analytical tools and data provided are useful, accurate, and current, we cannot guarantee that the information, tools and data provided here will be error-free or appropriate for your situation. This site and the information available through it do not, and are not intended to constitute legal or other professional advice. HOA management often involves complex decisions requiring the services of competent, licensed professionals; we urge you to obtain such services before making decisions with legal and other professional implications.

© 2025 Plain-English Media, LLC. All rights reserved.

Users are permitted to make one paper copy for personal, noncommercial use. Unauthorized reprinting, quoting, photocopying, duplication, transmission by facsimile, or incorporation into any information retrieval system, or any unauthorized use without written permission, is a federal offense with severe civil and criminal penalties.



HOAleader.com
custserv@HOAleader.com
(866) 641-4548
909 Marina Village Parkway #183
Alameda, CA 94501

Improve your compliance with HOA laws and train your homeowners association board in best practices more easily

Sign up today for a **FREE TRIAL MEMBERSHIP** to HOAleader.com. You'll discover:

- **Updates:** the latest new laws and court cases affecting HOAs
- **Analysis:** Plain-English explanations of what developments mean to you
- **Advice:** Step-by-step guidance on best practices for homeowner associations
- **Tools:** Checklists, sample policies and forms to keep your community association in compliance with HOA law
- **Community:** Access to HOA board members across the country who understand the challenges you face

Click here for quick **FREE trial sign-up**.

About HOAleader.com

HOAleader.com's attorney editors and experienced journalists constantly research the latest developments in HOA law affecting homeowner and condominium associations across the U.S. Then we publish plain-English analyses of what those developments mean to you as an HOA leader, and what you need to do now to comply with HOA laws, steer clear of legal trouble, avoid or resolve conflicts within your homeowners association, make HOA management easier, and safeguard your community association's property values and quality of life.

You can sign up for **free trial membership** [here](#).

The screenshot shows the HOAleader.com website. At the top left is the logo "HOAleader.com" with the tagline "THE PRACTICAL GUIDE TO HOMEOWNER ASSOCIATION MANAGEMENT". To the right are navigation buttons: "Join", "Membership" (with a dropdown arrow), "About Us" (with a dropdown arrow), "Contact Us", and "Login". Below the logo are three menu items: "Topics" (with a dropdown arrow), "Resources" (with a dropdown arrow), and "Discussion Forum". A search bar with a magnifying glass icon is on the right. Below the navigation is a sign-up section with the text "HOAleader.com Tip of the Week" and "Receive the latest news and tips delivered directly to your inbox". It includes input fields for "Name" and "Email", and a green button labeled "Send Me FREE Tips". The main content area features a background image of a house and the heading "Practical guidance for homeowners association management" with the subtext "Plain-English advice, analysis and tools to save time, money and headaches". Three orange buttons are displayed: "Webinars", "Articles", and "Special Reports". At the bottom, a white box contains the text "Start your free trial to join 8,000+ HOA leaders nationwide who rely on our easy-to-follow guidance."

A Message from the President

Dear HOA Leader,

One thing that makes condo and HOA communities thrive is their unified aesthetic—a goal accomplished through [architectural standards and rules](#).

Enforcing those provisions is performed either by your board or your [architectural committee](#), according to your [governing documents](#). Doing that consistently and fairly can be a challenge, and missteps can land condos and HOAs in court.

Exhibit A: [Duff v. The Sanctuary at Lake Wylie Property Owners Ass'n, Inc.](#), a North Carolina case we cover in this report that's a stark reminder that not playing fair with architectural rules can cost condos and HOAs huge money. In *Duff*, the HOA was socked with roughly \$275,000 in damages for its actions.

You can avoid lawsuits and other less serious but still painful situations with the critical information in this special report: [How To Protect Your Condo/HOA With a Strong and Fair Architectural Review Process](#).

In this report, you'll find these practical, helpful, and detailed articles:

- Who Enforces Your Architectural Standards? Here's How to Find Your Answer
- How to Know What Your ARC *Can* and *Should* Control
- 8 Steps Your ARC Should Take In Reviewing Requests—Every. Single. Time.
- What If Your Required Materials No Longer Work?
- Appealing ARC Decisions: Must You Allow It?
- 9 Practices Your ARC Should Avoid At All Costs
- Hiring an Architect to Review Your Condo/HOA ARC Requests
- Tips for Handling Pre-closing Condos/HOA Buyers' ARC Requests
- HOA Architectural Review Committee Lessons from a North Carolina Case
- Architectural Review: How to Respond To "Hey, It's Not Prohibited in the Condo/HOA Governing Documents"
- When an HOA Committee Is Totally Independent of the Board
- How to "Table" an Issue Without Triggering an Approval by Inactivity
- 7 Tips for Handling HOA Architectural Approvals Fairly
- Sample application for approval
- Sample certificate of approval
- Sample conditional approval letter
- Sample simple architectural approval modification

Our mission is, as it has been for more than 16 years, to offer you useful information in our characteristic clear, plain English that you can immediately adopt in your association.

As always, when it comes to issues of legal compliance for condos and HOAs, it is important to remember that each state has its own rules, and you should consult with an attorney or other professional as to the appropriate steps for your specific situation.

Our goal for this report, as for all [HOAleader.com](#) information products, is to help make your association a better run organization. I am confident you will find concrete ideas you can put to work in your condo or homeowners association.

To find more HOA governance tips, visit [HOAleader.com](#) today.

Best regards,



Matt Humphrey
President
Plain-English Media
Publisher of [HOAleader.com](#)

Table of Contents

| | |
|--|-----------|
| A Message from the President | i |
| Who Enforces Your Architectural Standards? Here’s How to Find Your Answer | 1 |
| How to Know What Your ARC <i>Can</i> and <i>Should</i> Control | 5 |
| 8 Steps Your ARC Should Take In Reviewing Requests—Every. Single. Time. | 8 |
| What If Your Required Materials No Longer Work? | 12 |
| Appealing ARC Decisions: Must You Allow It? | 14 |
| 9 Practices Your ARC Should Avoid At All Costs | 16 |
| Hiring an Architect to Review Your Condo/HOA ARC Requests | 19 |
| Tips for Handling Pre-closing Condos/HOA Buyers’ ARC Requests | 22 |
| HOA Architectural Review Committee Lessons from a North Carolina Case | 25 |
| Architectural Review: How to Respond To “Hey, It’s Not Prohibited in the Condo/HOA Governing Documents” | 28 |
| When an HOA Committee Is Totally Independent of the Board | 30 |
| How to “Table” an Issue Without Triggering an Approval by Inactivity | 33 |
| 7 Tips for Handling HOA Architectural Approvals Fairly | 35 |
| Sample application for approval | 37 |
| Sample certificate of approval | 40 |
| Sample conditional approval letter | 41 |
| Sample simple architectural approval modification | 42 |
| Appendix 1: Additional Special Reports from HOAleader.com | 46 |
| Appendix 2: Webinars Available On Demand from HOAleader.com | 51 |
| Appendix 3: Most Popular Articles on HOAleader.com | 53 |

Who Enforces Your Architectural Standards? Here's How to Find Your Answer

To ensure your [architectural review committee](#) is acting within its mandates, you'll need to know whether your state law addresses the creation and operation of ARCs and what your [governing documents](#) say about the matter. And those can widely differ when it comes to how ARCs are organized and the powers they're given. Here's what to know.

What to Watch For

When you're working to identify your ARC's role, you'll need to know the answers to a series of questions:

- What do our state law and governing documents say about whether we can or must create an ARC?
- If we can or must create an ARC, is there guidance on whether our ARC reports to or is separate from the board?
- What specific authority does our ARC have?
- Who can sit on the ARC, who appoints those ARC members, and how long do they serve?

On One End, There Are Few Rules

In Michigan, the guidance for the operations of ARCs is "very loose," says [Jeff Vollmer](#), a partner at Makower Abbate Guerra Wegner Vollmer PLLC, whose firm advises nearly 2,220 association clients throughout the state.

"It's document specific," he says. "I think in a lot of HOAs, it's contemplated to have a separate ARC. But in most condos, the board is really charged with that obligation. And even in HOAs, the ARC could be a function separate and distinct from the board."

But the reality is that it's hard enough to find board members, so the board is usually filling that ARC role," notes Vollmer. "Very, very few HOAs have a separate ARC from the board members. And if you asked most of these board members, they don't even realize they're serving in two separate roles. They'd probably say, 'We're charged with handling those responsibilities, and we'll handle them, even though the documents contemplate there being an ARC.' There's not a problem with that legally in Michigan."

Some East Coast states are similar. "The law is completely silent other than for exterior modifications," says [Janet Oulousian Aronson](#), a partner at Marcus Errico Emmer & Brooks in Braintree, Mass., who is licensed in that state, in addition to Rhode Island and New Hampshire. "Since there's nothing in the law, this is all document dependent."

"In most condo documents in all three states, the documents give the board the authority to say the owner can't make any exterior modifications," she adds. "That opens the door for the board to establish a process for changes and alterations. And most also have internal rules for situations in which condo owners are doing work in their unit.

"Owners typically have to get approval before they make modifications internally in their unit," says Aronson. "It's document dependent whether the board has the authority to deny those or not. Some give the board the right to approve alterations and changes within in the unit. Others don't.

"[ARCs](#) are definitely more prevalent within HOAs," says Aronson. "They all have some architectural review process, but that process depends on what their documents say. When communities do have an ARC, usually the ARC makes a recommendation to the board, unless the board vested the authority to make decisions in the committee. Often a board will say to an ARC: 'You can approve routine things, but more complicated requests should go through us.'

"One more point: Often documents don't specify how many members will be on the ARC," says Aronson. "The board can determine and set that. But the board should be clear that those ARC members are appointed and removed by the board at the board's discretion. I could envision rogue ARC members, so your rules should say the ARC members serve at the pleasure of the board."

On the Other End, More Control

In other states, ARCs will have more control, either because state law provides for that or the governing documents dig into setting more ground rules.

"In Florida, typically the board of directors has authority to appoint the members of the ARC," says [Lisa Magill](#), CCAL, of counsel based in Pompano Beach, Fla., Kaye, Bender & Rembaum. "In some cases, the developer has a right to appoint committee members, even after transition or turnover. Or there's a master association, community development board, or some other body entitled to appoint representatives.

"But the ARC isn't a statutory thing—it's document driven," she adds. "And it can be totally independent of the board, such as in a multi-community community. Maybe you have a mixed-use property with retail, apartments, and condos or homes; in those, often someone from each use will be on the committee. In, say, a hotel that's 30 stories with floors 20-30 being the condos, the hotel owner will always have the ARC power or some ARC power because it's all common systems.

"If the ARC isn't set up as a completely independent body, it's a committee of the board, and the board typically has override authority or veto power," says Magill. "And a lot of times, it's delegated the authority to answer owners' requests.

"Even if it's a committee of the board, often the ARC also has the authority to approve or reject applications," she notes. "So you want to know whether that authority has been specifically delegated to the ARC. More often, it's pretty casual. In the governing documents it'll say the ARC has the right to make decisions, or it'll be a pattern or practice."

ARC members typically serve until they resign or are removed, she adds. "It's usually not a one-year appointment," says Magill. "They're removed at the board's discretion."

California is at the far end of the spectrum in terms of offering more direction and guidance for ARCs. "The [Davis-Stirling Act](#), the part of the civil code that regulates HOAs, has some provisions about architectural control," reports [Alex Noland](#), CCAL, founder of Noland Law PC in San Francisco, which represents 200-plus community associations throughout California.

"[Civil code 4765](#) provides some basic requirements for the review procedure," he adds. "It says they must be reviewing applications in good faith and must be reasonable and explain why you might disapprove something. It also has an automatic right to appeal a denial to the board."

"Then typically it's your CC&Rs, which are the recorded documents, where you'd see whether there's a committee, what's its power, and what's the procedure for its operations," states Noland. "Oftentimes, the committee is set up in one of two ways. The first, and the more common way, is that it has decision-making authority."

"The applications come to the committee, they review the applications, they make decisions, and they issue those decisions to those owners," he explains. "Under the civil code, if you have a committee and it denies an application, there's an automatic right of appeal to the board."

"The other way is that the ARC is truly advisory in nature," notes Noland. "It will review applications, making sure everything is in order, and make a recommendation to the board to approve, disapprove, or approve with conditions."

As in Michigan, in some cases, the board just fills the role of an ARC. "Under some documents, and this would be typical for smaller developments, the board reviews everything," he says. "A lot of documents talk about a committee, that one can be formed or must be formed, but then there's no committee and the board acts as the committee."

How do California homeowners get on the ARC, and how long do they serve? That depends. "More often than not, there's a set number of ARC members—three, five, or up to a certain number," says Noland. "I've seen it where the board forms a committee, and all committee members are appointed by and serve at the pleasure of the board. The board can appoint or remove ARC members as often or whenever the board feels like it."

"I've seen other documents where the committee members serve a one-year term and can be reappointed by the board," he explains. "Still others are more loosey goosey: You're on the committee until the board decides otherwise. So you should look at whether there's anything in the governing documents on this and whether the board has a charter that clarifies how the committee works."

Real-world Challenges

It's important to remember that what the law and the governing documents allow may not be what shakes out on the ground—which is OK as long as you're not *violating* your documents or state law.

"I think it can be an issue filling positions on the ARC," says Noland. "If you can't get people to serve on the board, why are they going to serve on a committee? I've also seen that in big, master-planned communities and high rises, they may have more involvement from an architectural design standpoint because those owners care more about those issues."

"It can be hard," he notes. "Often, the board seems to act as the committee and doesn't form one because there's no interest or there's extra work, such as extra administrative stuff. But if you do have a separate ARC, I think it's best practice to have a board member serve on the ARC or to be a liaison to the committee to allow the board to know what's going on."

[Back to Table of Contents](#) ▲

How to Know What Your ARC Can and Should Control

So what does an [ARC](#) have authority to approve or disapprove? As with so many other things in the condo and HOA worlds, that's also going to depend on your laws and governing documents. But if those sources give you latitude to determine some aspects of that, here's what to know about the authority you might want to grant to your ARC.

What ARCs Could Cover

"In Michigan, by and large, most master deeds and bylaws for condos grant pretty broad discretion to the board and ARC to control any types of units or the dwellings located therein, including obviously the units," says [Jeff Vollmer](#), a partner at Makower Abbate Guerra Wegner Vollmer PLLC, whose firm advises nearly 2,220 association clients throughout the state.

"But the answer to that is also very specific to HOAs," he says. "We don't have a separate law that governs planned subdivisions, meaning noncondos. So it really depends on the scope of the recorded declarations as to what the ARC covers.

"Sometimes you'll see a distinction between buildings, like a garage, maybe a shed, or maybe an addition to the existing dwelling—which would be within the discretion of the ARC—and landscaping, which might not be," explains Vollmer. "As a general rule, if owners are going to be adding something new, the ARC probably has control over that. If they're modifying something, that may be different."

[Janet Oulousian Aronson](#), a partner at Marcus Errico Emmer & Brooks in Braintree, Mass., who is licensed in that state, in addition to Rhode Island and New Hampshire, says the scope of approval owners need from ARCs isn't typically spelled out in the documents she sees. "Usually it's very vague," she says. "But basically, for any work to the exterior or the structure or the lot, you need approval. Often, they've made it broad and said you need approval for those things.

"But I have seen more specific documents," adds Aronson. "Some communities do try to spell it out. I have one association I've been working with recently that tried to say what isn't going to be permitted and also what could be permitted but that owners would need approval for by creating a list.

"This particular association's documents don't require that an ARC committee be formed, but the board has set up a committee," she explains. "Several months ago, I looked at their ARC rules, and they're nine pages. I read it and tried to understand it, but I can just imagine an owner trying to go through this process to make sense of it.

"I told that client, 'You've got to fix these. I can't understand them,'" reports Aronson. "This week, one of the board members told me he'd discussed my concerns with the board member who put the list together and doesn't understand what my issue with it is. But the basics aren't even there. So how could an owner understand the rules and understand what they did wrong if the committee claims they did something wrong?"

Why You Want to Control Changes

When your community has an ARC, you as the board, your ARC members if they're not the same as your board, and your owners need to know the matters that fall under the ARC's jurisdiction. In other words, what changes to their property do owners have to run by the ARC for its approval?

Florida is a good example of how that might work. "Most of the time, HOA architectural control provisions require approval for any modifications that are visible from the exterior," says [Lisa Magill](#), CCAL, of counsel based in Pompano Beach, Fla., Kaye, Bender & Rembaum. "This includes landscape changes, driveway modifications, mailboxes, types of roofing materials, fences, and exterior colors.

"The ARC provisions could even cover play structures like jungle gyms, tree houses, and the like," she adds. "They'll also likely also require approval of any modifications or changes to any portion of the property or dwelling maintained by the association or changes that would affect those items, such as common irrigation systems, sidewalks, underground pipes, and drainage."

In condos, the scope is typically different than in HOAs. "Condo ARC provisions not only include anything visible from the exterior but also cover any changes that may impact the association or other owners," says Magill. "For example, condo associations regulate the installation of hard flooring to minimize [noise](#) and [nuisance](#) issues. That's not for aesthetic reasons but because flooring can become a noise issue.

"I suggest my clients monitor any changes to interior walls, plumbing and electrical components, and conduits for utility services," she adds. "I have a client now dealing with the fallout from an owner modification inside their condo unit. This owner damaged an important tie beam when removing an interior wall, and that compromised the structural integrity of the building. The unit above was declared an unsafe structure even after the association hired a contractor to install support posts.

"The owner who made these changes never told the board but just went ahead and did the work," says Magill. "In this case, the association had to sue. The condo also called the building department, which red-tagged the upstairs and downstairs units right away, meaning the units weren't safe. The association got authority to do emergency mitigation to those beams.

"The owner wasn't being responsible, so the association had to sue him for injunctive relief, and the upstairs owner had to sue, too," she notes. "The upstairs owner also had to have their tenant move out—they had no tenant in that unit for a year. The owner is now at the point where he applied to the building department for the corrective work and also had to send it through the association for approval."

California communities also serve as an example of the breadth of situations in which ARC coverage is important. "It's not just painting your front door the right color, it's installing solar panels and putting an electric vehicle charging station in a condo-assigned parking space," says [Alex Noland](#), CCAL, founder of Noland Law PC in San Francisco, which represents 200-plus community associations throughout California.

"It may also be installing or changing windows or skylights and all sorts of other things owners want to do, like moving a wall," he adds. "For example, with changing a skylight, you can't get just anyone do that that work. How do you install a skylight where it won't void the roof warranty for the building? So ARCs cover a lot of things owners want to do and try to do.

"I tell my clients that any time an owner is moving, removing, or opening walls, floors, or ceilings, they should require permission to do those things," says Noland. "It's also needed when owners are moving or adding onto plumbing or electrical work and re-locating windows or sliding glass doors because of flashing or weatherproofing. And whenever they're seeking to cut into the building. Those are all good rules of thumb.

"But it's important to note that in California, we have statutes about solar panels and EV charging stations," he adds. "Boards and ARCs can't blanket-ban or reasonably deny the approval for those. Boards and ARCs also have to allow modifications for disabled people.

"I'm working now with a senior community, and they have a 30-40-page architectural handbook I helped draft and review," he notes. "It covers everything from setbacks to dog runs and flowers. The ARC could cover so many things."

Think Carefully About the ARC's Effect

The important thing about a community association is the concept of community. It's hard to maintain an atmosphere where owners feel like the condo or HOA exerts just the right amount of oversight to keep the community looking fresh without burdening homeowners with unnecessary interference. Can ARCs that are too controlling contribute to a feeling that the condo or HOA is unreasonable in its oversight?

"I don't know that you can have too much authority in the [governing documents](#)," says Vollmer. "But there is a question of how much authority the ARC or board should impose. I think boards could think about whether they're willing to set architectural standards that include things that, as long as owners comply, state that owners don't have to come to the ARC for permission."

Back to Table of Contents ▲

8 Steps Your ARC Should Take In Reviewing Requests—Every. Single. Time.

Our experts say the most critical tool you can implement to keep your [ARC](#) from getting your association sued is consistency. Here are 8 steps your ARC should consider when reviewing requests from every owner no matter what, along with general tips for reviewing applications.

1. Start with a standard list of approved materials. “I encourage clients as much as possible to have a standardized list of things that are approved,” recommends [Janet Oulousian Aronson](#), a partner at Marcus Errico Emmer & Brooks in Braintree, Mass., who is licensed in that state, in addition to Rhode Island and New Hampshire. “That could be something like window types and specifications, along with colors.

“That makes the process easier,” she adds. “If your board or committee can establish a list of acceptable styles and materials, it makes their job a little easier and helps homeowners, too.”

2. Require that your application form be completed for every request. “I recommend a formal application, though most associations probably don’t have one,” says [Jeff Vollmer](#), a partner at Makower Abbate Guerra Wegner Vollmer PLLC, whose firm advises nearly 2,220 association clients throughout Michigan. “I think it’s wise to have that in place to save time and hassle at the outset. It can also help set reasonable expectations of the owners and the ARC and help with efficiency.”

3. Ask for lots of detail on your standard application form. “Assuming you have a standard application form, which is the best practice, then ask for plans and specifications that show what’s being installed and how and the materials being used,” advises [Alex Noland](#), CCAL, founder of Noland Law PC in San Francisco, which represents 200-plus community associations throughout California. “Here in California, most [governing documents](#) will talk about how owners have to submit plans showing materials, heights, and locations of work and things like that.

“For instance, maybe in a condo building, an owner is seeking to install an electric vehicle charging station,” he adds. “If your building is set up where the owner can run conduit from their parking spot to their unit, there’s probably less your ARC needs to be worried about than if the owner doesn’t have that option. On the other hand, the owner could be asking to install wiring across the wall to get the main panel, so you’ll want to know more about how that’s being done and how the owner will be measuring electricity.”

Aronson agrees. "One of my clients created a list of information that should be provided, and it's a good start," she says. "You want a description of the project in as much detail as possible, engineer or design drawings, as applicable; a list of materials to be used; model numbers of materials that will be installed; the contractor's name and address; building permits if required; and proof of insurance certificates. In some cases here, owners might also need conservation approval."

Vollmer suggests gathering similar information. "I think you obviously want them to show some plans that would be attached to the application—and not just a sketch," he says. "I like to have something more defined to go on. Ask the name of the contractor, including their licensing and insurance information. And ask about the timing of the improvement, the start date, and the completion date. Those would be key terms."

"Sometimes documents, ARCs, or boards will say owners must attach 'true architectural drawings,'" adds Vollmer. "I think you should think about whether you're going to require that for basic improvements. In some cases, isn't a drawing by a licensed general contractor good enough? If so, for which types of projects?"

4. Create a checklist you use with every application. [Lisa Magill](#), CCAL, of counsel based in Pompano Beach, Fla., Kaye, Bender & Rembaum, thinks it's a great idea to create a checklist you run through as you evaluate every application. "Make sure everything is included in the application packet—that's housekeeping," she says. "Are there plans as required? Do you have the necessary contractor information? Do you have insurance information? Did they include a photo or website link to the products they're planning to use? Is the owner's application complete? If not everything is there, you're spinning your wheels."

5. Don't ask for or approve something not permitted by your documents. "As a preliminary matter, the ARC needs to read the application and supporting materials carefully," advises Magill. "I can't tell you how many times clients have unwittingly approved ARC applications that violate their own covenants."

"Recently, a client approved an application to replace windows," she explains. "They didn't realize that the windows they approved had mullions or tints that didn't conform to the existing windows or the guidelines."

"Another client approved the installation of a fence," recalls Magill. "The ARC application itself says that all fences must be permitted and comply with the city code. However, the dimensions and placement of the fence reflected on the plans wasn't consistent with local setback requirements. This created a dispute over whether the city setback applied to side yards on corner lots."

6. Consider a preliminary approval status. "Often, owners won't get permits or maybe even engage the contractor before they got approval from the association," says Aronson. "So the way I'd set it up would be kind of a two-step process. It would be for the ARC to provide preliminary approval subject to the approval of permits and perhaps other information. Then the owner would need to get final approval to proceed."

"The one good thing this does is to give owners the opportunity to seek a preliminary opinion before they spend their time, money, and effort," she says. "They're asking: Generally, would this concept be approved?"

"It also shows owners you're willing to work with them," says Aronson. "For instance, before the owner goes out and spends all this money, they can ask: Would you allow another window or a new location for a window? And you can engage in a discussion about it."

7. Work to ensure you treating all owners the same. "I advise clients to think about how they distinguish requirements they may be imposing for this owner that aren't in existence for the rest of the community," says Vollmer.

"Let's say there are three fences in the community that are approved," he explains. "Now you say shadowbox or wrought-iron fences are acceptable, and you're coming up with a rationale as to why you're doing this versus what's already in the project. Confronting the differences would help address a lot of concerns that are going to pop up."

However, Noland stresses that this directive doesn't mean you *can't* approve one request and not another—there could be variables that make a request acceptable for one lot and not for another.

"If I'm asked to review guidelines or applications, I do," he explains. "A lot of times, when I'm getting involved, it's because the ARC or board has denied something and the owner is throwing a fit or approved something and a different owner is throwing a fit. It's usually reactionary. I'm getting involved because there's a problem."

"One of my clients is a planned development in wine country in Napa County," says Noland. "The homes are like duplexes, and the community has a general prohibition on hot tubs. They don't want them making noise, being visible from outside the yard, or creating drainage or utility issues."

"This board let someone whose lot was set up a specific way and location add a hot tub, but they said no to another owner," he recalls. "In the case they said no, the tub was closer to the neighbor and would have resulted in a raised deck. So just because you approve something for one owner, it doesn't mean the same thing gets approved for another."

"In another case, one owner could want to plant trees or a planter bed, and the HOA may say yes because what they're doing isn't going to affect the drainage pattern," says Noland. "But another owners' plan could. This challenge happens more in a planned development situation; in condos, there aren't a lot of variations that could lead to it."

8. Think carefully about fees you charge. "For me, any fee charged is really to defray an expense," says Magill. "You might have an architect or engineer take an hour of time to review an application, and you charge the owner their \$350 or whatever fee so you can get those costs defrayed. Most of the time, that has to be in the documents for you to be able to charge it. Some of the newer declarations allow that. If it's not there, you'd have to amend your documents."

"A fee for an application isn't specifically prohibited by statute here, so it would have to be authorized by the documents," she adds. "But I'm not in favor of fees for no reason. They should be to defray expenses."

Vollmer says an application fee is permitted in many Michigan HOAs. "In my experience, charging a fee to review the application is contemplated in a lot of the HOAs I see," he says. "That's not so much in the condo setting. If you're going to charge a fee, it's going to have to be set forth in your bylaws to have that apply."

"But an area I see clients maybe go too far is in requiring a damage deposit," he adds. "My question would be whether the community has experienced damage in other situations so as to prompt you to require it now, or are you doing this really as impediment to people doing improvements to their property?"

Magill is also careful with damage deposits. "They make sense in some situations, such as when an owner is bringing in heavy equipment, contractors are going through hallways with ladders, or if a contractor could cut through an irrigation pipe," she says. "I don't see the deposit being very expensive, maybe \$500. But in some swanky places I advise, the damage deposit can be a lot higher."

Back to Table of Contents ▲

What If Your Required Materials No Longer Work?

Manufacturers discontinue products. And inflation can wreck havoc on the affordability of what were once easy-to-budget-for items. So what does an [ARC](#) do when an owner can't secure—or can't secure at a reasonable price—approved materials?

An Issue to Monitor

Many ARCs will face owners who seek an exception for materials because of availability and cost—or maybe even convenience—and it's important to know how to handle those requests when they arise.

"I think the board and ARC have to be aware of the problem and recognize that some materials may not really be possible to get or may become impossible to require because they've become so expensive," says [Janet Oulousian Aronson](#), a partner at Marcus Errico Emmer & Brooks in Braintree, Mass., who is licensed in that state, in addition to Rhode Island and New Hampshire.

"In those cases, your ARC or board should evaluate and bring on another permissible material so that, in the long term, people will be using that going forward," she advises. "Keep your process as simple as possible. You have to recognize it's not going to be feasible to get some materials as time passes.

"You can even tell owners, 'Please tell us if you have a problem sourcing these materials,'" says Aronson. "I think the ARC will know anyway because an owner would say, 'I can't get that' or 'It'll cost me \$10,000 for that window!' That information would come out.

"The good news is that sometimes boards and ARCs find a newer or better alternative," she notes. "Then you just update your requirements and say going forward, you're limiting windows to this new type and kind. I think that's all within the board's control, and the documents should give them authority on all that."

You should also be on top of this issue because laws and codes require you to be. "Architectural guidelines need to take building codes and laws into account," explains [Lisa Magill](#), CCAL, of counsel based in Pompano Beach, Fla., Kaye, Bender & Rembaum. "Condos and HOAs should develop specifications for improvements, like windows and doors, if those initially installed are no longer code-compliant or readily available in the marketplace.

"For example, when it comes to legal changes, most covenants prohibit aerial antennas," she explains. "But small satellite dishes are permitted by federal law. It's also important to note that some covenants may actually trump an ordinance or code, which is why it's important to periodically review your [architectural restrictions](#) with your counsel to ensure they're still compliant with the law."

Who decides what's permissible when materials become impractical or unavailable? "It could be the ARC if you have a strong ARC," says Magill. "Some ARCs have the right to adopt and modify guidelines, while others have to recommend guideline changes for board approval."

Remember to Stay in Your Lane

[Jeff Vollmer](#), a partner at Makower Abbate Guerra Wegner Vollmer PLLC, whose firm advises nearly 2,220 association clients throughout Michigan, says a change in approved materials may require the board or ARC to consult with an expert.

"I think it might be necessary to consult with an expert on some applications," he says. "For example, sometimes when you're dealing with subsurface issues, that may affect drainage. So you may need to consult an engineer for the review."

"In those types of settings, I think it's incumbent on the board not to make the decisions but to seek expert advice," says Vollmer. "You'd be asking: What are valid replacements that wouldn't diminish the value of homes in the project? You want to rely on experts in the field to determine how you're going to substitute materials with reasonably comparable items."

However, experts can become expensive. Is there a chance the board could shift the cost of such a consultation to the owner requesting ARC approval? It may not be as possible if the board is generally consulting an expert on substituting unavailable materials. But perhaps on individual applications, you might be able to if your documents permit it.

"Making improvements or alterations is a privilege, not a right," notes Vollmer. "It's wise to let owners know the board and ARC have to protect the community and that requesting owners may have to pay for this expert review. As long as you're doing it on a reasonable basis, that's probably acceptable."

It Can Be OK to Stand Firm

[Alex Noland](#), CCAL, founder of Noland Law PC in San Francisco, which represents 200-plus community associations throughout California, has seen materials become difficult to afford among his clients. And sometimes, owners have to grin and bear it.

"One thing that comes to mind is windows," he says. "In an older building, if the owner is responsible for the windows, they sometimes want to put in retrofit windows because they're less expensive and easier to fit in."

"With a retrofit, you have the outline of the window, and you can leave part of the frame in place," explains Noland. "The window you put in is a little smaller and fits into the space that's there. However, a new window is installed into an existing window frame. It's usually custom fit, and everything is brand new."

"Some communities don't allow retrofit windows—they allow only complete installation," he adds. "People don't like that, but it is what it is."

Back to Table of Contents ▲

Appealing ARC Decisions: Must You Allow It?

You might think [ARC](#) decisions are like lower-court decisions across the country—of course, the “loser” can appeal. Actually, that’s not always the case. Here’s what to know.

When an Appeal is Inevitable

In California, an owner whose request to an ARC has been denied gets an automatic appeal to the board, reports [Alex Noland](#), CCAL, founder of Noland Law PC in San Francisco, which represents 200-plus community associations throughout California. “The ARC or board must always issue a decision in writing—that’s by statute—and if there’s a denial, there has to be an explanation of why the application has been denied and the procedure for appeal to the board.

“The board would look at what was submitted, the written decision as to why it was disapproved, and whatever other things the board wants in considering or reconsidering the decision,” he says. “Sometimes, in the CC&Rs or rules, it will also say something like the owner has 30 days for the appeal, and the board will get back to the owner within two weeks. It’s not a bad idea to have set time frames for these processes.

“This is done at an open meeting of the board,” adds Noland. “So everybody can come watch the process.

Where it’s not required by law, ARC decisions can still sometimes be appealed to the board—perhaps even other owners—depending on the governing documents. “First check your covenants, guidelines, and rules to see if there’s an appeals process in place,” says [Lisa Magill](#), CCAL, of counsel based in Pompano Beach, Fla., Kaye, Bender & Rembaum. “Sometimes, an appeal goes directly to the homeowners—meaning it goes over the board and the ARC. If you get a majority vote of owners, you get to do what you want to do. But from a practical standpoint, it’s hard to get people behind you on an improvement.

“If an appeal isn’t covered in your documents, I suggest allowing a request for a full board review,” she advises. “In Florida, the board must address an issue identified in a petition signed by 20 percent of the owners. The board isn’t required to take favorable action on the issue. But this is a way to be heard because many ARC disputes wind up in court, which is expensive, time-consuming, and slow.”

The board is indeed the logical place for appeals, according to [Janet Oulousian Aronson](#), a partner at Marcus Errico Emmer & Brooks in Braintree, Mass., who is licensed in that state, in addition to Rhode Island and New Hampshire.

“Assuming there’s an ARC, the appeal would have to go to the board,” says Aronson. “I’ve actually seen it when appeals do go to the board when an application is rejected, and the board evaluates and makes the final decision. The board is typically seeing if the decision is compatible or consistent with the community’s regulations.”

If your state law or [governing documents](#) don't require your ARC to notify owners of a potential appeal, should you spell out the process in writing? "Ideally, it would be nice," says Aronson. "But I don't know if it needs to be spelled out.

"I know that's probably the democratic way to do it," she adds. "But I actually don't want to encourage that. If owners aren't happy, they'll tell you that. They'll say they're upset or disagree."

An Appeal Isn't Guaranteed Everywhere

Other states don't have such strict and formalized requirements.

"This really doesn't exist," says [Jeff Vollmer](#), a partner at Makower Abbate Guerra Wegner Vollmer PLLC, whose firm advises nearly 2,220 association clients throughout Michigan. "At the end of the day, the board and the ARC are presumably acting within the [scope of their business judgment](#) to approve or deny an appeal. If the owner disagrees, the process can move forward to litigation.

"It's definitely a worry that inconsistent decisions can lead to discrimination, and it's a legitimate one," he adds. "When there's a housing discrimination complaint and the association gets a request from the Michigan Department of Civil Rights for more information, they'll look at how you've treated other requests. So if you're denying a request, it's important to distinguish why this improvement, although similar to others, was denied.

"In a perfect world, you'd keep records to help you explain that type of inconsistency," states Vollmer. "Ideally, you'd have one specific record or repository where that exists. But in the real world, it's hard to control. Certainly looping in the management company, if there is one, to use them for [recordkeeping](#) and maintaining your ARC's history can help with that."

Back to Table of Contents ▲

9 Practices Your ARC Should Avoid At All Costs

The problem with the [ARC](#) process is that if you don't handle it well, you can get hit with lawsuits from angry owners. And [lawsuits](#) can dispute not just an unfair denial, but owners sometimes also allege discrimination and other more challenging claims.

Smart practices can help you avoid angry owners and a slew of lawsuits. Here are 10 ways boards and ARCs can get into trouble and how to avoid them.

1. Failing to create guidelines for routine requests—"Some communities waste time and effort approving every request, even if it's routine," says [Lisa Magill](#), CCAL, of counsel based in Pompano Beach, Fla., Kaye, Bender & Rembaum. "For example, if you're going to allow pavers on driveways, then put what you'll approve in the guidelines.

"Or if you're not going to allow people to make driveways bigger or wider, say driveways shouldn't exceed 25 feet in width so it's clear and people understand what they're [allowed and not allowed](#) to do," she adds.

"If you have good management or a good ARC, they can go through and approve those common requests," says Magill. "They just have to check the boxes and make sure all the requirements are present. And your community doesn't have to go to a whole, big meeting to approve changes everyone knows are acceptable."

2. Making up or creating guidelines out of thin air on the fly—"Let's say that right now, the ARC or board is saying no metal [roofs](#)," explains Magill. "But what if that's not in your guidelines?"

"Associations have the right to create a common theme in the community," she explains. "But it happens a lot today that associations are saying no to some things, like metal roofs, that aren't actually prohibited. The association says, 'Nope! we don't allow them.' Owners invariably say, 'But that's not in your guidelines.' To which the ARC replies: 'We've never allowed them before.'"

"Metal roofs can last 50 years," explains Magill. "But some communities think they won't fit properly. And we have a new law that says HOA owners are allowed to do hurricane hardening, which includes metal roofs."

A related problem is exceeding the authority conferred by the [governing documents](#). "This happens where an ARC thinks they can regulate something but doesn't actually have the power to regulate with that much minutiae," she notes. "Maybe it's hanging plants or a decorative plaque. Those types of challenges have gone through the courts, and people get serious about that kind of stuff. Stay in your lane, and check the boundaries of your authority."

3. Assuming you understand the request—“Sometimes, what I see is that perhaps the underlying request was beyond the ARC or board’s ability to evaluate, but they didn’t realize that and approved it,” reports [Janet Oulousian Aronson](#), a partner at Marcus Errico Emmer & Brooks in Braintree, Mass., who is licensed in that state, in addition to Rhode Island and New Hampshire.

“Maybe it’s a bathroom addition or renovation, turning a half bath into a full bath,” she explains. “But the board didn’t realize the plumbing for the shower was going to require a change, and that change impacted the rest of the building.

“To the extent the ARC or board can’t determine an answer because the work is beyond the scope of their knowledge, they can engage an expert like an engineer,” says Aronson. “In those cases, the board can say to the owner: ‘We need to consult, and you’re going to have to pay for that. Do you want that to happen?’”

Aronson has also seen a variation on this problem. “Sometimes, owners don’t do the work according to the scope that was required by the approval,” she says. “Then the ARC or board finds out about it, and the association says, ‘We’re going to review the final work and sign off it.’ I don’t think signing off at that point will do you any good. Often, they don’t have that expertise to sign off in that situation. In two years, something bad could happen, and you signed off on the work.”

4. Assuming missing details—“One problem is making assumptions about plans,” says [Jeff Vollmer](#), a partner at Makower Abbate Guerra Wegner Vollmer PLLC, whose firm advises nearly 2,220 association clients throughout Michigan. “If you have questions, ask your questions at the time you’re reviewing the application. Get into specifics. And don’t assume things as part of the plan review.”

5. Missing deadlines—“Be cognizant of time,” advises Vollmer. “Some documents say that if the board or ARC doesn’t respond to an application within 30 days, the application is approved.”

When that happens, one bad side effect is that it can create a precedent you don’t want to have set. “The thing I see ARCs miss, and it causes a lot of problems, is documents that say if you don’t approve or disapprove in 30 or 45 days, there’s automatic approval,” says [Alex Noland](#), CCAL, founder of Noland Law PC in San Francisco, which represents 200-plus community associations throughout California.

“I’ve had that happen many times with clients where they don’t respond,” he explains. “Or the committee meets quarterly, and they met right before Suzy submitted her application. They don’t want to meet again for 30 or 45 days, so they try to put a response off.

“That’s a problem because then the owner can point to the CC&Rs and say, ‘It’s approved,’” says Noland. “But another owner can say, ‘Why did you let that get approved?’ Maybe it’s a purple window. If something slips through the cracks, you’re looking at potential claims from other owners that this thing Suzy did should never have been approved and doesn’t fit into the aesthetic. The ARC could say, ‘We screwed up with Suzy.’ But that’s arbitrary.

“Instead, I put in the governing documents that if there’s no approval within a certain amount of days, it’s an automatic *disapproval*,” adds Noland. “Even so, the ARC still needs to be timely in reviewing applications.”

6. Failing to get involved as needed—“I’ve seen communities delegating ARC applications to property management without specific instructions,” says Magill. “Let’s take the example of the driveway again. If you have a standard driveway and you’ve worked with your property manager on permissible changes, I don’t have a problem delegating that issue to management.

“What about hardwood flooring?” she asks. “If you have X type of sound proofing, the contractor is licensed, and you have the proper [insurance](#), the property manager may be able to check all the boxes and approve it. But property management companies are getting loath to take on more responsibility. The board is the ultimate decision maker in a condo or HOA, and the manager doesn’t want to be liable for board decisions.”

7. Operating informally—“Be wary of communicating orally,” says Vollmer. “Decisions need to be in writing. Also, identify who’s vested with for speaking on behalf of the ARC. Is the approval or denial sent by letter and signed by the ARC, the board, or the property management company? That way, owners know something is the final decision because it’s coming from so and so, who’s been designated to speak on the issue.”

8. Handling requests inconsistently—“This can lead to claims of [selective enforcement](#),” says Magill. “Maybe you waive the right to require something in an application. Or maybe you have a 25-foot driveway standard, and you’ve been approving 30 feet. Then someone says they want a 30-foot driveway. The association may at that point be stopped from requiring driveways to be only 25 feet because they’ve allowed larger driveways. If you’re using some situation to approve or deny, they have to be like kind improvements or violations.”

9. Refusing to compromise—“We don’t see a ton of problems with boards and ARCs,” says Vollmer. “But of those we see, the vast majority that pop up occur when owners don’t seek approval first and go forward with their project. Then the association finds out about the work.

“It’s rare that the problem reaches litigation because you can’t come to an agreement on how the improvement is going to be or look,” he says. “But boards are often going to have to come to some compromises to resolve those types of problems.”

[Back to Table of Contents](#) ▲

Hiring an Architect to Review Your Condo/HOA ARC Requests

An [HOAleader.com reader asks](#): "I'm looking for any best practices related to the use of architects to help an architectural review committee review project submittals. More specifically, we're looking at how an architect consultant should interact with the committee when the architect submits a project for the committee to review."

Here, we back up and ask our experts if it's permissible to get a third-party architect involved and what exactly a consulting architect can and shouldn't do, plus who pays the consultant.

Do You Really Need One?

Let's start with a fundamental question: Is the architect necessary or just helpful?

"In my experience, most requests don't rise to the level that you'd need an architect's review," reports [Todd J. Billy](#), CCAL, an attorney at Sandberg Phoenix in St. Louis, who is licensed in Missouri and Illinois and has more than 1,000 active condo and HOA clients. "What I generally like an architect for is new construction or large additions. But for a request related to a deck? No.

"It's usually those very major renovations where the [governing documents](#) are a little more aggressive on controls, so I'd rather have the architect say for those, 'Yes, this is the same style as required,'" he explains. "We had one situation where the association accidentally missed a setback requirement. The city missed it too.

"Luckily, it wasn't hard to fix," says Billy. "But that's why I like, on new construction and major additions, having the architect say we're OK. That stuff is hard to unwind once construction starts.

"I also like them to review odd materials," he adds. "Let's say the governing documents require cedar shake, but they want the look of but not actual cedar shake. I'd like to have the architect compare the materials. Most governing documents have the owner paying for that consultation."

[Brad van Rooyen](#), founder and senior member of Tampa, Fla.-based HomeRiver Group and its national specialist for community association management, which oversee more than 230 associations throughout Florida, has a similar approach. "I've had a couple of communities that have hired architects, especially in higher-end communities where they're looking to add an addition or big project, and there's a unique style in the community. In those cases, they engage architects to make sure the drawings fit the architectural standards of the community, and those costs are borne by the association."

He's also had communities hire a consulting architect to do baseline work. "They've engaged landscape architects to come up with guidelines, such as, these are the types of plants we allow, the types of rocks, how far the bed can extend into the front yard,

and so on,” says van Rooyen. “We’ve also had associations that have used architects to review their overall design guidelines to make sure they’re asking the homeowners the right questions, like on setbacks or the fence that slopes down at a certain place near a pond so it doesn’t obstruct views.

“I’ve also seen older communities consult with an architect to make sure the community stays relevant,” he adds. “Maybe it’s 10-15 years old. After the consultation, they can say, ‘Here are new paint colors for garage doors or windows.’ The architect can help them come up with more modern designs. But it’s really more for our higher-end communities, where you’re talking million-dollar homes.”

And then there are condos, where the practice seems less discretionary. “I think it’s advisable,” says Stephen T. Brindle, a San Francisco-based senior associate at Swedelson & Gottlieb, a law firm that represents associations throughout California. “Typically, on the [ARC](#), none of the members are architects or engineers. They can review applications for aesthetics or design requirements in a planned development.

“But in a condo, when owners are making structural changes or penetrating [common elements](#), you should consult with an architect,” he says. “And that cost should be borne by the owner.”

The Architect Isn’t the Decider

Remember, if you’re consulting with an architect, your ARC or board still has the duty to make decisions. You’re not delegating that duty.

“The [board should rely on the advice of experts](#), and there may be times when the architect says the proposed changes aren’t going to affect the integrity of the building,” says Brindle. “But there may still be other reasons not to approve an application, like when it causes increased [maintenance](#) or [noise](#), such as if you were to install an air conditioning unit on a balcony. The architect’s opinion isn’t gospel. There could be aesthetic concerns the ARC may still rely on to deny an application.”

Exactly, says van Rooyen. “You’re hiring them purely as a consultant to give recommendations the board can accept, reject, or amend,” he says. “You’re hiring them to give you ideas and information.

“If the architect says proposed changes don’t fit with your guidelines, then it’s the ARC or board’s decision on how to deal with that opinion,” says van Rooyen. “Sometimes the board thinks that analysis lies at their feet or the manager’s feet. But most documents authorize you to use professionals. This is like your CPA or your banker. You should consider adding your architectural consultant to that list of experts as well.”

There may be times when you need to explain the architect’s role, and Billy has a clear way to spell that out. “When it comes up, I like to say, ‘Here’s what the architect is telling us. They’re there to be the third-party neutrals,’” he explains.

There's a Caveat

All that said, this topic gives pause to [Molly Peacock](#), counsel at Rees Broome in Tysons Corner, Va., who has represented condos and HOAs for 17 years.

"Some of my clients hire a consulting architect," she notes. "However, this question had a bit of a red flag for me. Fundamentally, board members are typically lay people. And even with their duty with regard to ARC-related items and the ARC, they're not supposed to give advice or audit the structural integrity of changes in the façade of a home or the inside of a condo unit.

"The board isn't a zoning authority, like is this proposed change going to work with drainage?" adds Peacock. "We want an expert to tell us about that. And the owners may want to hire their own expert to opine on those types of issues.

"Having an architect regularly review ARC requests adds duties that don't exist and might lead to costs for the condo or HOA," she states. "A board isn't supposed to confirm or question things like the structural aspects of any proposals or the drainage to lots or [common areas](#). I'm worried the board or owners will think the board has to hire an architect to review every project. That takes on duties they don't typically have."

When it comes to costs, Peacock advises checking your documents and being clear up front. "It's not always going to be clear who pays for that consultant," she states. "For instance, with drainage issues, it would be document specific whether the board can pass the cost of the board's expert onto the owner. Probably that would be covered by the documents.

"But the board should be transparent and clear before extra costs are incurred," says Peacock. "I've seen client associations say, 'When you're doing significant renovation, we may impose some consulting fees on you.'"

Back to Table of Contents ▲

Tips for Handling Pre-closing Condos/HOA Buyers' ARC Requests

An [HOAleader.com reader asks](#): "A builder owns a lot and has a signed contract with a buyer, but the purchase hasn't closed yet. The buyers want [architectural review approval](#) for a fence now so that it can be installed before they move in.

Some [ARC](#) members will categorically deny such buyers' requests solely because the buyers don't own the property yet. Another feels that, as long as the builder (current owner) approves the request, it should be allowed, and there's no harm/risk to the HOA.

Note: The builder doesn't install fences, and the buyer would pay a separate contractor for the work. The builder and buyer would take any risks of failure to close the purchase after the fence is built."

Here's how our experts suggest boards approach this type of scenario.

Builders Usually Have This Right

What we don't know in this situation is whether this community has [transitioned from developer control to owner control](#).

"It looks like the community has transitioned to owner control," surmises [Nancy T. Polomis](#), a partner at Hellmuth & Johnson PLLC in Edina, Minn., whose clients include local and developers and condos and HOAs throughout Minnesota. "But if it hasn't, I'd assume the builder or declarant, if they're different, may have exemptions. Many documents may exempt authorized builders—that's what we call them—from the ARC requirements."

That's also the case in New Hampshire, says [Robert E. Ducharme](#), founder of Ducharme Law in Stratham, N.H., who specializes in representing community associations. "Unless there's language in the documents to the contrary, the developer gets to make any exceptions as it sees fit to propagate a sale," he explains. "Owners get mad and complain about a lack of uniformity. But that's true even if the developer has already transitioned to owners."

In California, if the community hasn't shifted to owner control, this is largely the builder's call. "If the builder controls the HOA and owns the property that's being sold for the first time, the builder has the ability to basically do whatever they want as long as it's not a later detriment to the association," explains [Kelly G. Richardson](#), CCAL, a partner at Richardson, Ober, and DeNichilo in Pasadena, Calif., whose firm represents hundreds of HOAs throughout California. "For example, if you have a two-story community and a buyer says, 'I want to build a third story because the city allows me to,' you don't want to build a nonconforming home."

If Owners Control, It's Complicated

Richardson, however, says the ARC members in the reader's HOA may be right—that they have no business talking to a buyer who isn't yet a member of the community—if the community is no longer under the control of the builder.

"If the builder doesn't control and the buyer makes a request like this before the close of escrow, it becomes the seller asking the HOA, not the buyer, because the buyer has no standing to make such a request," he explains. "I have a situation where a real estate agent client asked me that very question. The property is in escrow, and the buyer wants to make changes. The real estate agent asked: How can we protect our seller?"

"The seller decided not to allow the changes because of all the risks to the seller," explains Richardson. "There's a bigger question between buyer and seller, which is: What happens if the seller allows the buyer to make this architectural change and the buyer cancels on the deal?"

"When I see that question as the HOA's counsel, I don't care what the buyer wants," he states. "I ask: Is the seller asking for this? If so, then it goes through the normal process. If it's not a member of the association asking, we have no power over them, and they have no rights against us."

"You're asking for trouble if you as an association start dealing directly with the buyer," predicts Richardson. "Even though this reader says the parties have agreed they won't say this, if something went wrong with that transaction, I'd be concerned about the seller saying, 'You were dealing directly with the buyer, and the HOA botched the deal.'"

"I tell my HOA clients: Deal with your members; they're the ones you're responsible to under the [covenants](#)," says Richardson.

Polomis agrees. "Those ARC members are probably saying the right thing," she notes. "It's not entirely different from someone who's thinking of buying a home but needs an accommodation. Often, they'll have the seller submit the information so they know they're going to get that [reasonable accommodation](#) before they buy."

Ducharme, however, disagrees. "I think this type of request should be able to go to the board or ARC," he explains. "If the builder says, 'You can install that fence,' a later board can try to overturn that decision and say those owners have to get rid of it."

"A common problem by analogy is [parking spaces](#)," he explains. "Owners go to the association and say, 'I can park here because the developer told me I could.' But the board says no, you can't. If you have a private deal with the developer, you have no case against the association."

Document These Types of Changes

That's why it's critical to document variances, stresses [Carolina Sznajderman Sheir](#), a partner at Eisinger Law in Hollywood, Fla., which represents 600-700 associations throughout the state, and an adjunct professor teaching condo law at Nova Southeastern University—Shepard Broad College of Law. That shouldn't happen on the down low, however.

"This is something that happens a lot," she explains. "If the developer continues to be able to grant variances like this, even after turnover, it's very important for the association to [properly document](#) any variance and action of the developer and for the buyer who receives the benefit to have it properly documented.

"Four or five years down the road, when the developer's no longer there, someone will notice that the fence doesn't match what everybody else has," notes Sheir. "The association will then get into a battle with the owner over whether that fence has to be changed. If that owner has that documentation, the association won't be able to fight the change. So it's very important for everyone to document any changes that would affect the association."

Back to Table of Contents ▲

HOA Architectural Review Committee Lessons from a North Carolina Case

A North Carolina court was *not* happy with an HOA's [architectural review committee](#), which seemed to only go through the motions on a building request by an owner before turning the owner down. The court found the ARC's actions improper and even awarded the owners nearly \$70,000 in punitive damages.

Here, we explain what the ARC did wrong, according to the court in [Duff v. The Sanctuary at Lake Wylie Property Owners Ass'n, Inc.](#), and ask our experts for their best tips for smooth and fair ARC operations.

The Duff Case, Explained

In 2005, John and Olga Duff, who later became the plaintiffs, purchased an undeveloped lot in the Sanctuary at Lake Wylie, which is governed by The Sanctuary at Lake Wylie Property Owners Association. The [HOA's governing documents](#) created an architectural control committee and a process to review and approve plans for the community, including standards and restrictions for the community. According to the restrictions, residents must use plans created by an approved "guild builder."

In 2016, the plaintiffs submitted plans for a home by one of the ACC's approved guild builders, which had already been approved to build two projects in the community. The first two sets of plans were rejected by the ACC, whose feedback stated, "The changes you propose do little to separate this home from hundreds of similar homes...There is nothing that says 'custom' or 'luxury' about the plans you submitted."

The head of the ACC advised the plaintiffs to submit a third set of plans, plus an \$850 lot fee, to be sent to the HOA's retained architect for input. Those plans were later rejected, too. A fourth set of plans was rejected as not conforming "to the desired architectural aesthetic." The plaintiffs appealed to the board, which upheld the ACC's denials.

The plaintiffs sued. They claim the HOA didn't act in good faith, among other claims. A jury found in the plaintiffs' favor and awarded \$197,041.67 in damages, plus \$67,787 in punitive damages.

Up the case went to the appellate court, which found there was sufficient evidence for the jury to find that the ACC never intended to assist plaintiffs in getting approval for their building plans.

In fact, the HOA's retained architect testified that the ACC's design guidelines were vague and failed to list a specific style for building plans. He also testified that the ACC had already discussed and decided to deny several of the plaintiffs' sets of plans before he, as architect, received and reviewed them. The HOA's architect also testified that he charged only \$125 per lot for his services, while the HOA charged the plaintiffs \$850 to submit the plans to the architect.

The appellate court held that the ACC chair's comments to plaintiffs "were reasonably calculated to mislead and did, in fact, mislead plaintiffs." It also held that there was sufficient evidence to find that the HOA acted in bad faith and abused its position of power by denying plaintiffs' plans.

Note that this is an unpublished opinion, which means lawyers aren't supposed to rely on it in future cases. But such opinions can still speak volumes about how courts might evaluate similar claims in the future.

Where ARCs Go Wrong

This case isn't all that surprising to our experts. "Here in Florida, we have a statute that says if an association is going to have an ARC of some sort to approve any type of modification, they have to have in their declaration or guidelines what's allowed," states [Alessandra Stivelman](#), a partner who specializes in community association law at Eisinger Brown Lewis Frankel & Chalet in Hollywood, Fla.

"What I see a lot is that boards will arbitrarily make decisions," she adds. "The *Duff* case was just a constructive denial. The ACC appeared to be requesting more information for the sake of stringing the owners along because the ACC seemed to want the owners to use a different contractor with a more modern or fancy design."

Stivelman says ARCs can also work with old guidelines or standards that aren't keeping up with the times, such as updating for [green initiatives](#) and [solar panels](#). "They need to evaluate how to update the guidelines to accommodate such changes while still giving the association some control," she says. "In addition, the ARC's rules can't contradict what's in the recorded declaration. The ARC's guidelines must be consistent throughout and uniformly enforced.

"Also, sometimes there's a [gap between the committee and the board](#)," says Stivelman. "The ARC may make rules or standards that were never adopted or approved by the board. You also need to look at the type of community you're in. Perhaps now you need to allow for different guidelines because the majority of residents have new and different needs than when the documents and guidelines were created."

The Setup Itself Can Cause Problems

Still, ARCs do a pretty good job overall. "I don't think they go wrong very often, but it does happen sometimes," says [Elina Gilbert](#), a shareholder at Altitude Community Law in Lakewood, Colo., who has specialized in community association law for 19 years.

"I think a lot of it has to do with some committees thinking they have more authority than they do," she states. "Also, some think they have less authority than they do.

"At least in Colorado, it's very document specific," says Gilbert. "Some create an ARC that doesn't have to go through the board, and I don't like that. That means you have two groups regulating the same things. Ideally, the ARC should give reports to the board, with owners having appeal rights to the board.

"When the committee is its own, independent entity, I sometimes see an abuse of that power by the committee," says Gilbert. "They will reject a lot of things that perhaps they should approve, or they accept things perhaps they should deny. And when there's no appeal to the board, [owners will go to an attorney, and we start seeing lawsuits.](#)"

Gilbert represented a community once where the committee was set up as an entity independent of the board, but owners also had a right to appeal the committee's decision to the board. "A homeowner went to the ARC for an improvement, got denied, and appealed to the board," she recalls. "The committee members got all riled up that the board dared to overturn their decision. It got pretty nasty, and some ARC members went to homeowners and started to complain. The ARC even got a lawyer.

"The issue didn't go anywhere because the right to appeal was set forth in the documents," she says. "But there was a lack of understanding on the committee's part that their decision could be appealed and overturned. I think the issue was more ego driven at that point. That doesn't happen often, thank goodness. But I do see to a lesser degree sometimes some pushback between the committee and the board where they're kind of flexing their muscles."

Creating Institutional Memory

Inconsistency over time can also be a problem. "The biggest place I see ARCs go wrong is when, whether innocently or negligently, they're not aware of inconsistent behavior from the current ARC administration and the previous one and the previous one to that," explains [Molly Peacock](#), counsel at Rees Broome in Tysons Corner, Va., who's represented condos and HOAs for nearly 15 years.

"That sounds like a tall order, but I think it's incumbent on the lawyer, the board, and the ARC to create institutional memory or some training where we can have a history to draw from," she states. "That way, we don't end up having disparate outcomes, where we're giving permission for something that was denied to another owner three or five years ago or vice versa.

"It's easy to forget that history, and it's very hard to maintain it," admits Peacock. "This isn't even about just [recordkeeping](#), either. You have to audit all the ARC's records, and there might be a systematic way to do that. But I think training is the best way to accomplish this goal.

"Boards need to train their ARC members to operate in good faith and to seek out that information and ask the right questions," she says. "So many times, something is a gray area. This ARC and the previous one both operate in good faith, yet somehow a different result was arrived at. But make sure you're at least operating so that someone can't drive around the community and list all the ways a previous ARC's decisions were inconsistent with this one."

Back to Table of Contents ▲

Architectural Review: How to Respond To “Hey, It’s Not Prohibited in the Condo/HOA Governing Documents”

An [HOAleader.com](#) reader has a [very simple question](#) on Florida’s [HOA statute governing architectural improvements](#), but we’re guessing there’s no easy answer: “How much case law is out there concerning HOA members’ right to do certain things that aren’t prevented by the governing documents?”

(You can [view, and respond to, the original question on the HOAleader.com Discussion Forum](#) here.)

We’ll discuss the reader’s question in Florida and the broader question of whether something not prohibited by [governing documents](#) is totally acceptable.

But It Doesn’t Say I Can’t

Here’s how we read this question from a homeowner: If our governing documents don’t specifically say I can’t do something, how can the [architectural review committee](#) or board prevent me from doing it?

In California, this isn’t really an argument on which owners can hang their hat. “I’ve had people say this,” notes [Susan Hawks McClintic](#), co-managing shareholder and the chair of the community association transactional practice group at the law firm of Epsten Grinnell & Howell in San Diego. “We don’t have much of an issue with it because generally our [CC&Rs](#) pretty much all say that you can’t do something architecturally unless you get prior approval.

“Usually, there’s general language that says the board or ARC will look at the request for certain criteria—things like the requested modification must fit with the community—and that gives them so much latitude,” says McClintic. “It’s going to be a rare situation where, even if something isn’t prohibited, that someone could do something that’s outrageously inconsistent with everything else. For 99 percent of our clients, owners have to go through the approval process.”

In New Hampshire, the answer truly does depend on the precise language of the governing documents. “Here, if the documents say that nothing can be done with regard to architectural modifications, usually meaning the exterior of the building, without the approval of the architectural committee, then it can’t be done—period,” explains [Robert E. Ducharme](#), founder of Ducharme Law in Stratham, N.H., who specializes in representing community associations.

“However, if the documents list the things that can’t or can be done, then it’s an open question as to what’s not mentioned,” he adds. “Owners can do whatever they want if it’s not in direct violation of the documents, and the idea is that they should act like the adults they are. At the same time, if something isn’t directly addressed, the board

can make rules that address those gaps. The common example is drones. More boards today are coming up with [rules on how high drones can go up, the times they can be flown, and so on.](#)”

But Our Reader is in Florida

Under Florida law, where our reader is from, there’s a statute pertaining to architectural modifications for HOAs only, according to [Alessandra Stivelman](#), a partner who specializes in community association law at Eisinger Brown Lewis Frankel & Chalet in Hollywood, Fla.

“Under [720.3035](#), if the ARC is going to enforce specific requirements, such as the color of paint or type of roof, those requirements need to be in the governing documents or another document that’s adopted by the board,” she says. “[Rules](#) are OK on this front, but to enforce these types of provisions, there have to be standards or specifications the ARB uses. They can’t make these decisions based on what the members of the committee feel is appropriate.”

There’s a broader issue here, too. “I’m not aware of case law,” states [Brad van Rooyen](#), founder and senior member of Tampa, Fla.-based HomeRiver Group and its national specialist for community association management and the president of Home Encounter. “With this question, I think it would be good to explain to the owner the hierarchy of governing documents. They’re in the middle of the pack.

“First come provisions from the city, county, state, and federal government, and then there’s the plat or master plan that’s recorded with the county or city,” explains van Rooyen. “Then there’s the declaration, and then there are any supplemental declarations, articles, or charters. After that come the bylaws, rules, and regulations, and then come resolutions.

“So the governing documents would be drafted in unison with that type of hierarchy,” he notes. “Also, most governing documents I’ve seen have a clause that says that any decision deemed final by the architectural committee is final. Basically, they have the choice to allow or deny requests for any reason whatsoever.

“The board or the ARC—sometimes, they serve in both capacities—have a duty to approve or deny requests based on the character or makeup of the community,” concludes van Rooyen. “I think that’s why the language is drafted that way, leaving decisions to the sole discretion of the board or ARC. That gives that body the ability to deny requests if they don’t believe those requests are conducive to the community.

“I know that living in an HOA comes with benefits, and other times you just shake your head at the rules,” admits van Rooyen. “But this reader needs to understand that the board could be denying a request because it doesn’t comply with things like the city or county law, and the board has experience with those laws that the owner doesn’t know about.”

Back to Table of Contents ▲

When an HOA Committee Is Totally Independent of the Board

An [HOAleader.com reader asks](#), "How can an HOA board influence or control rulings of an independent [architectural review committee](#) established under a declaration with members elected directly by HOA membership?"

"The ACC reviews HOA member applications for architectural changes, but the board remains fully responsible for determining whether to pursue/enforce non-compliance. Board members try to influence individual ACC member decisions verbally in private.

"The board has publicly questioned ACC and HOA members observing public board meeting instructing ACC/HOA members to change a recent ruling and decide a pending application during a board meeting. ACC/HOA members did not do as instructed by the HOA board."

You can [view the original post on the HOAleader.com Discussion Forum](#) here.

Can these two entities work together effectively and ethically? Here's some insight.

A Committee, Defined

This issue may need some clarification before our experts could offer definitive advice.

"This may actually come down to the definition of a committee versus a commission," asserts Kelly C. Elmore, a Chicago-based principal at Kovitz Shifrin Nesbit, which represents thousands of community associations throughout the metro area.

"That distinction was clarified in Illinois in *Palm vs. 2800 Lake Shore Drive Condominium Association* several years ago," she explains. "A commission is an arm of the board. If you have an architectural commission, they investigate and come back to the board with a recommendation.

"If a committee is truly formed as a separate committee that has authoritative power—and most people in associations use the term 'committee' when they mean to use 'commission'—that means you have a separate charter stating, 'This is what the committee is supposed to do,' and it can function independently," adds Elmore. "The [governing documents](#) will tell if the board has the authority to overrule a committee."

The upshot: "Look at the governing documents," advises Elmore. "I think a lot of documents continue to reserve a lot of control for the board. It's rare that the board has no influence."

True Independence Is Indeed Rare

So assume that this body is truly independent of the board. That would be a unique situation.

"I've seen only one time where an independent road committee was set up separate from the board and elected by the membership and not by the board," reports [Joe Wloszek](#), a member at Hirzel Law in Farmington, Mich., which represents more than 100 community associations; he lived in a condo for seven years and now lives in an HOA.

"Typically [ARC members](#) are selected for or appointed by the board," notes Wloszek. "That's one of the greatest powers the board has, which is to put people on that committee who support their position or whom they can trust to make independent decisions."

In fact, this type of independence is so rare that one of our experts thinks there's a mistake somewhere. "I've never seen in California where a committee is elected directly by HOA membership," notes [Alex Noland](#), CCAL, founder of Noland Law in San Francisco, which represents about 100 community associations throughout California. "A committee running parallel to the board? I've never run into that.

"At least in California, all committee members serve at the pleasure of the board," he explains. "The board has oversight of the committees. The [\[HOA\] board is the governing body](#). So I'd also be very concerned about this situation for that reason.

"Maybe this association isn't doing things correctly," surmises Noland. "Maybe owners aren't really supposed to elect the committee. It could be this process could have happened because of badly written documents that allow for something that doesn't make sense. Or this association could have over time done things a certain way, but it's not the right way. I think this process needs an opinion from a lawyer."

How to Get the Board to Butt Out

Let's say this reader is totally reading the governing documents correctly, and the reader's association is a unicorn in which its ARC is truly independent from the board. How can the independent ARC get the board to back off?

"In this situation, the association—whether it's the board and or the committee—should seek an opinion from the association's legal counsel to clarify the board's authority," advises Elmore.

That's actually a request that's been made of Wloszek in a similar situation. "I had a board come to me to ask how it could exert more control over the ACC," he recalls. "I did a legal opinion that said the board didn't have that right according to its governing documents.

"But the reality is that if there's an independent group, if you don't like how they're behaving, the next time you have an election to put on or take people off the committee, democratically remove them," advises Wloszek. "A lot of documents will allow boards to

remove people from committees outright. It's the rare situation where they have to do something else to take people off a committee."

One more bit of advice from Wloszek: "If you do have an independent authority apart from the board, my question is whether your insurance carrier covers decisions made by those committees?" he asks.

"If you have the board trying to properly or improperly influence decisions of the committee, what happens if the committee makes a decision the board doesn't agree with and there's litigation? Wloszek asks. "Are the committee members covered by the [HOA's insurance](#)? I had that situation, and they were covered. But it's important that the association does everything properly in the creation and operation of its committees."

Back to Table of Contents ▲

How to “Table” an Issue Without Triggering an Approval by Inactivity

An [HOAleader.com reader writes](#), “So here’s the scenario. (It’s a new HOA in Washington state.) A request is brought before the [[architectural review committee](#)] for a variance. Concerns over bylaws and authority arise. The committee tables the request until the board can meet (three days) to discuss the concern.

“The board meets, agrees there are inconsistencies with the [bylaws](#) and [CC&Rs](#), and votes to table the decision until the bylaws are revised, when they will then pick up the issue again. A committee is immediately formed and schedules monthly meetings (five) to review/revise the bylaws. Does that action by the board, tabling until the bylaws are revised, constitute a non-response from the committee such that the owner may proceed with the requested variance due to non-response from the [ARC] (per the CC&Rs, if there’s no response in 30 days, the request is considered approved)?”

Here our experts weigh in first on what it means to “table” an issue and whether and when it’s an appropriate response from a board. Then they reveal whether this board approved the owner’s request by its failure to say yes or no.

Tabling Is Perfectly Fine

Tabling an issue is a long-standing practice recognized for organizational meetings.

“Tabling is a real and valid parliamentary procedure,” says [Bob Kmiecik](#), a partner at Kaman & Cusimano LLC, which represents associations throughout Ohio. “Usually when it’s done, it really means to set aside an issue for consideration at a later time, usually because you need more information.”

“A lot of associations will run, sometimes loosely, on [Roberts Rules of Order](#),” explains [Duane McPherson](#), president of corporate development for CiraConnect, which provides management companies, developers, and large-scale self-managed associations with a cloud based software solution and back-office shared service. “Under *Robert’s Rules*, it’s OK to table an issue and not bring it up for a vote.

“When you [bring an issue up for a vote](#), there has to be some sort of decision up or down,” says McPherson. “But lots of times, boards will need more information and to do some research. Then it’s completely appropriate to say, ‘Let’s table this until the next meeting or until we get the research back.’ That keeps the issue on the agenda until you’re ready to act on it. That’s the way I’ve always used it. That makes it a pending issue we need to go ahead on and deal with in the future.”

However, you can’t table issues willy nilly. “The limitation is the [board’s business judgment](#) and [fiduciary duty](#) to timely consider things,” notes Kmiecik. “If there’s a real issue, I don’t think you can indefinitely table something and argue you’re fulfilling your duty. Whether to repaint the front entrance sign is an issue that can be tabled for a year. Whether to fine someone who has a dog running around the community isn’t something that should be delayed.”

Did This Board Decide By Inaction?

Our reader also asks whether the board effectively approved the architectural request by failing to act within the 30 days required by the governing documents. Our experts unanimously believe that's the case.

"If the [governing documents](#) say the committee has to make a decision within 30 days, tabling isn't going to trump this time frame," says Kmiecik. "They approved this now."

Agreed, says [Andrew Schlegel](#), CCAM®, executive vice president of community management for Orange County and Los Angeles at FirstService Residential in Aliso Viejo, Calif. "In my opinion, the tabling of the issue doesn't extend that 30-day requirement unless it was tabled because there was insufficient information," he says. "Maybe the application didn't provide all the information or didn't have all the right plans. Or maybe the committee came back and requested more information. If it's tabled about that, then clearly the timeline gets extended. If it was simply because the board couldn't meet to provide an answer, that's a problem. Now you're infringing on someone's right to improve their home unnecessarily."

How should the board have responded? "The 30-day deadline is common in a lot of governing documents," says McPherson. "If I were working with that board as a manager, I'd have said, 'You have to provide some sort of decision, even if it's denying for now until the governing documents are changed, and the owner can reapply then.'"

That would have been Kmiecik's advice, too. "It should have said, 'Now we have inconsistencies in our documents, and we're not sure if we're allowed to do that,'" he explains. "If you have 30 days to make a decision, exercise some due diligence. Consult with your attorney and do your best to make an informed decision. Otherwise, the request is going to be granted. Or get the owners' agreement for a delay in the answer by stating, 'We're not sure the proper response; do you agree this can be tabled while we consider the rules?'"

Otherwise, the default should be—if you honestly don't have enough information to make a decision—to deny the request and state that: "We don't have enough information to act, and we may take a different direction in the future. But in the meantime, we're going to deny this request," explains Kmiecik.

You can also keep this problem from arising again in the future. "If I were on that board, I'd work to get the governing documents to extend that 30-day deadline or to not put any deadline in at all," says Schlegel. "I think most of the membership would vote yes on that type of change because 30 days is a little quick. You don't want to rush on those issues because they could be setting a trend or policy for the association for a long time."

[Back to Table of Contents](#) ▲

7 Tips for Handling HOA Architectural Approvals Fairly

One process that often gets owners piping mad is [architectural approval](#). Here our experts offer seven tips for making your HOA's architectural approval process transparent, fair, and as speedy as possible.

1. Educate home owners on the committee's role. "Educate home owners on the reason for the [architectural review committee](#)," says Steven Parker, president of RMI Management in Las Vegas, which manages 286 community associations. "You might say, 'You bought in this community because you liked the way it looked, and it's the ARC's job to maintain those standards that appealed to you.' I've seen associations where owners were mad at ARC decisions and considered them unfair, and that was because the board hadn't adequately explained the reason for the ARC process to home owners in the first place. Where that's done and owners' requests are declined, they're less likely to be angry."

2. Create written standards. "The first thing you need is written criteria," explains [Robert Galvin](#), a partner at Davis, Malm & D'Agostine PC in Boston who specializes in representing condos and co-ops. "For example, if somebody wants to put in a dormer, what are the criteria for that so it's not left completely up to the architectural review committee?"

"You could promulgate specific criteria for specific renovations," adds Galvin. "For example in the condo where I live, the windows are owned by the owners and aren't common. The association has issued a list of windows you can use. You can buy them anywhere, but the windows you buy must meet these specifications. Then there are balcony criteria: This is what you can do to your balcony."

"Then there can be general criteria," says Galvin. "You could state that alterations have to fit in with the existing architecture, so they must be art deco or American colonial style, whatever your style. Otherwise, there are no guidelines, and it would be very difficult for the committee to know what the criteria would be. That'll make the process fair, and not only that, people will believe it's fair."

3. Take tons of decisions out of the committee's hands. "Have as many decisions taken out of the subjective realm as possible," advises Parker. "Rather than saying, 'No, you can't choose that paint color,' create a list of paint colors that are acceptable and let owners choose from the list."

4. Create a transparent system. "It should be an open process," says Galvin. "There should be a hearing before the ARC members, and there's no reason it can't be public. There should be a written decision, and it should include the committee's reasons"

for the decision. And the process should be speedy. It doesn't have to be done in a few days, but an ARC review shouldn't take months."

5. Document your process. "Have a process that ensures that all requests should be on an application, and create a form application that owners must use so that people just don't send a letter," advises [Brad van Rooyen](#), a partner at Home Encounter, a Tampa, Fla., company that manages 15 community associations totaling about 3,000 owners. "Also tell owners that if their application isn't done correctly, it won't be processed until it's correct. Then you keep the process fair for everybody. Likewise, ensure that every step of the ARC review process is documented in writing by someone on the committee."

6. Remind the committee of the stakes involved. "Whether the [management company](#) or the [HOA's attorney](#) brings this up, we always remind our ARCs that disputes can end up in court or arbitration, and the committee might be asked to explain everything they've done," explains van Rooyen. "Keeping that in the back of their minds hopefully keeps things moving along in a fair and consistent manner."

7. Be open to change. "When ARCs are developing architectural guidelines, they need to be responsive to the needs of the community," says van Rooyen. "A lot of things have changed, especially in older communities. Sometimes, 25 years have gone by since the creation of the guidelines. What was written when the community was founded isn't likely to be applicable today.

"For example, some condos are extremely specific on the roofing material type, " adds van Rooyen. "But there have been so many advancements in roofing types that there are probably better solutions that are longer lasting and more affordable than what's specified in the governing documents. Also, my association has very specific guidelines governing the coach lights in front of our garages. But we can't find the replacement lights, and we also can't get a majority of our community to show up or send in [proxies](#) to change the [governing documents](#) on that issue."

Why go through all this hassle to strengthen your ARC process? So you're ready and your actions are defensible when owners challenge you—which is something you can count on.

"If you treat differently and upset one owner who's retired and has a little time on his hands," says van Rooyen, "with owners' access to the Internet today and how quickly people can find out how to challenge things, it's not *if* they'll challenge you but *when*."

[Back to Table of Contents](#) ▲

ARCHITECTURAL REVIEW COMMITTEE

Application for Certificate of Approval for Alterations

Application Date _____

I. LOT NO. _____

Owner of Record: _____ Date: _____

Legal Address: _____ Tel. #: _____

Address of Proposed Work: _____

Copy of Deed Attached

II. TYPE OF IMPROVEMENT:

Dwelling Garage Landscaping Other: _____

General Description of Proposed Work:

Name of Architect or Designer: _____

Address: _____ Tel. #: _____

III. A. Structural Alterations

The applicant has attached two complete set(s) of Building Plans, suitable for submissions for a building permit, showing reasonable detail of all elevations, to scale, with the following specifications, details and materials indicated thereon:

1. Foundation: Poured Concrete Concrete Block Other: _____

2. Roof Pitch: Main _____ Dormers _____

3. Roof Shingles (Architectural):

Manufacturer: _____ Style: _____ Color: _____

4. Sidewall Material:

Front: _____ Color: _____

Left Side: _____ Color: _____

Right Side: _____ Color: _____

Rear: _____ Color: _____

5. Gutters: Wood: _____ Boxed downspouts: _____

6. Exterior Trim Dimensions:

Soffit Overhang: _____ Rakeboard: _____

Cornerboard: _____ Window Casing: _____

Door Casing: _____ Fasia: _____

Trim Paint Color: _____

7. Windows: Manufacturer: _____

Configuration: _____

Exterior Paint Color: _____

8. Exterior Doors Wood Other: _____

Manufacturer: _____ Color: _____

Front Style: _____ Color: _____

Side Style: _____ Color: _____

Rear Style: _____ Color: _____

9. Chimney: Type of Brick: _____

Color of Brick: _____

The applicant has attached two Plot Plans drawn by _____ dated _____, which indicates, to scale, the locations of the proposed structure or improvement on the lot indicating a _____ foot front setback, a _____ foot left side setback, a _____ foot right side setback, a _____ foot rear setback, an existing grade of _____ feet at the front elevation; a finished grade of _____ feet at the front elevation and an elevation of _____ feet at the top of the foundation, also the Plot Plan indicates the location of any steps, stoops, decks, patios, retaining walls, walks, driveways, and fences.

B. Landscape Alterations

The applicant has attached a landscape plan detailing proposed alterations.

Name of Landscape architecture or landscaper: _____

IV. Owner Certifications

The undersigned Owner submits the attached plans and specifications which detail the proposed Alterations and shall be part of this application.

The Owner agrees that no work in connection with the Alterations shall proceed until final approval has been issued by the Architectural Review Committee.

The Owner agrees that if the Association incurs any cost or expense in connection with the review or approval of this Application, such expense shall be passed onto the Owner and be collectable as a common expense against the subject Lot.

Owner

Owner

Courtesy of [Janet Oulousian Aronson](#), a partner at Marcus Errico Emmer & Brooks in Braintree, Mass.

Back to Table of Contents ▲

CERTIFICATE OF APPROVAL

_____ ARCHITECTURAL REVIEW COMMITTEE

Pursuant to provisions of Article IV of that certain Declaration of Protective Covenants, registered with _____ as Document No. _____, as amended of record, the undersigned members of the Architectural Review Committee (hereinafter "ARC") hereby certify that ARC has approved the Alterations as set forth in the plans and specifications submitted to ARC by Application dated _____ for the purpose of _____, related to Lot _____, owned by _____, by virtue of a Deed dated _____ and filed with the _____ as Document No. _____ and noted on Certificate of Title No. _____.

Executed as a Massachusetts sealed instrument this _____ day of _____, 202__.

Architectural Review Committee

By: _____

By: _____

COMMONWEALTH OF MASSACHUSETTS

County of Nantucket, ss.

On this _____ day of _____, 202__, before me, the undersigned notary public, personally appeared _____ (a) _____ personally known to me, or (b) _____ proved to me through satisfactory evidence of identification, which was _____, (type of identification) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission expires:

Back to Table of Contents ▲

_____ **ASSOCIATION**
Architectural Review Committee

Date

Homeowner

**Re: CONDITIONAL APPROVAL
for Alterations to LOT # _____, Address**

Dear Homeowner:

We are pleased to inform you that the Architectural Review Committee ("ARC") has CONDITIONALLY approved the Alterations for the purpose of _____ in connection with the above noted Lot as more particularly set forth in your Application dated _____ and the plans and specifications submitted therewith to the ARC.

PLEASE NOTE THAT THIS CONDITIONAL APPROVAL DOES NOT AUTHORIZE YOU TO PROCEED WITH ANY WORK. THE WORK MAY ONLY PROCEED IF YOU OBTAIN A FINAL APPROVAL IN WRITING FROM THE ARC UPON SUBMISSION OF COPIES OF ALL NECESSARY BUILDING PERMITS AND HISTORIC DISTRICT COMMISSION APPROVALS.

This conditional approval shall remain in effect for a period of _____ from the date of this letter.

Sincerely,
Architectural Review Committee

By: _____

By: _____

Courtesy of [Janet Oulousian Aronson](#), a partner at Marcus Errico Emmer & Brooks in Braintree, Mass.

Back to Table of Contents ▲

ARCHITECTURAL MODIFICATION/CONSTRUCTION/DEMOLITION APPLICATION AND AGREEMENT

| | | |
|-------------------------------|-----------------------|---|
| Unit No. | | Date |
| Legal Owner Name ("Owner") | | (circle one) Indiv /Corp/ LLC / Ptnshp |
| Home Phone | Office and Cell Phone | |
| Fax | Email | |
| Contractor Information | | |
| Name/Company Name | | |
| Address | | Install Date |
| City | State | Zip Code |
| Office Phone | Cell Phone | |
| Fax | Email | |

Work to be Done _____

All proposed work must be specified in detail. Any work not specifically identified in detail above will be deemed unapproved.

All contemplated work may be referred to as improvements, modifications, alterations or the like throughout.

I/We the owner(s) of the above Unit acknowledge and agree that this application and any improvements, modifications or alterations are subject to the terms and conditions of the Declaration of Condominium and Rules and Regulations promulgated by the Association.

Expected Start Date _____

Please complete, sign and attach:

- Hard Surface Floor Application (if applicable)
- Move In/Out Acknowledgement and Elevator Reservation

Please provide:

- Copy of Contractor License
- Contractor Insurance Certificate (General Liability Coverage)
- Contractor Workers' Compensation Coverage Certificate

Required Before Work May Commence:

- Insurance Certificate naming Association Additional Insured
- Debris Removal Plan
- Security Deposit (if required)

Furnish the Association with a security deposit in the amount of \$_____. This deposit will be held by management until the full completion of the Improvements and a final walk through is performed to calculate cost of damages, cleaning or other occurrences to the Common Elements, Limited Common Elements or any Units.

CONDITIONS FOR WORK

Owner(s) shall be responsible for any damage to the condominium property or the property of others caused as a result of the work. Owner shall immediately repair any such damages at his/her sole expense.

Upon completion of construction the Owner shall provide Association with as-built plans and specifications for the improvements.

In the event any liens should be filed against any portion of the condominium property by the Owner's contractor, subcontractors, or material suppliers, in connection with labor or services performed, and/or the materials incorporated into or delivered to the property. Owner shall indemnify and hold the Association harmless against all such liens and suits or other proceedings pertaining thereto, including any and all costs and attorney's fees, at both the trial and appellate level. If any such liens are filed, the Owner must transfer such lien within five (5) days of the filing of the lien by, (A) depositing in the office of the Clerk of the Circuit Court an amount sufficient to transfer said lien, or (B) by filing with the Clerk's office a bond executed by a surety licensed to do business in the State of Florida in accordance with the provisions of Section 713.24, Florida Statutes, and its successors.

Owner(s) shall be responsible for obtaining all permits required for the improvements as well as all inspections required by all applicable governmental entities and/or departments. Owner(s) is/are solely responsible for his/her/their compliance with all governmental laws ordinances, statutes, regulations, orders and decrees which pertain to the work and/or construction.

In no event shall the approval of any proposed work by the Association constitute a warranty of approval as to the safety, soundness, workmanship, or usefulness, for any purpose.

OWNER ACKNOWLEDGEMENT & AGREEMENT

I/we understand and acknowledge that approval of this application must be granted before work on the modification may commence and that if modification/installation is done without the approval of the Association, the Association may force the removal of the modification/installation and subsequent restoration to original form at my expense.

I/we understand that work may not commence until the Association has received a Building Permit(s) from the County or the City. If modification/installation is done prior to the receipt of the Building Permit(s), the Association may force the removal of the modification/installation and subsequent restoration to original form at my expense.

All Owners must Sign

Date

(leave space for multiple signatures and verify unit owner name is correct via deed)

Application Received By: _____ Date: _____

Application Reviewed By: _____ Date: _____

Additional Information Requested By: _____ Date: _____

Additional Information Received By: _____ Date: _____

APPROVED _____ DATE: _____

DENIED _____ DATE: _____

Comments or qualifications to be included in approval letter:

Reason for Denial:

Comments and/or Need for Further Information:

Courtesy of [Lisa Magill](#), CCAL, of counsel based in Pompano Beach, Fla., Kaye, Bender & Rembaum

[Back to Table of Contents](#) ▲

Additional Special Reports from HOAleader.com

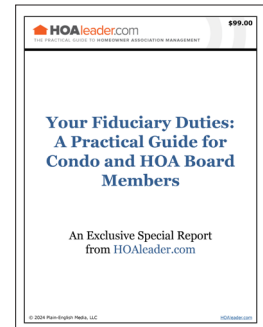
[How To Protect Your Condo/HOA With a Strong and Fair Architectural Review Process](#)

One thing that makes condo and HOA communities thrive is their unified aesthetic—a goal accomplished through architectural standards and rules. Enforcing those provisions is performed either by your board or your architectural committee, according to your governing documents. Doing that consistently and fairly can be a challenge, and missteps can land condos and HOAs in court. [Download now»](#)



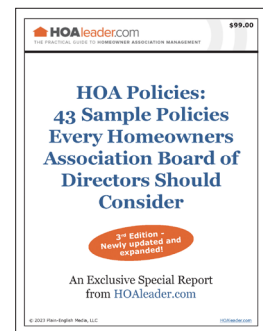
[Your Fiduciary Duties: A Practical Guide for Condo and HOA Board Members](#)

Taking on a leadership role in your condo or HOA carries a lot of responsibilities—including legal responsibilities. The biggest of these is to fulfill the fiduciary duties you’re required to meet as you carry out your role as president, secretary, treasurer, a vice president, or a director at large. It’s important to understand the full scope of your fiduciary duties. This special report will give you what you need to know. [Download now»](#)



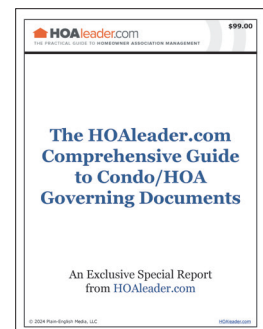
[HOA Policies: 43 Sample Policies Every Homeowners Association Board of Directors Should Consider](#)

In this newly updated and expanded special report, we lay the groundwork for your HOA board to draft policies and procedures governing a broad scope of condo or homeowners association life by providing you with 43 sample policies released exclusively to you by HOAleader.com’s expert contributors. [Download now»](#)



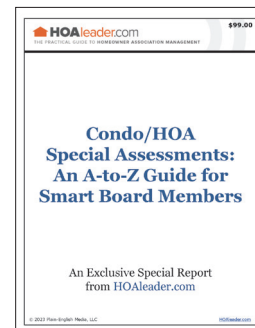
[The HOAleader.com Comprehensive Guide to Condo/HOA Governing Documents](#)

As a reader of HOAleader.com, you’ve seen us say it over and over: “First, read your governing documents...” Or “Your first stop should be your governing documents.” Or “Find out what your governing documents say.” But if you’re new to the condo/HOA world, (and even if you’re not so new) you may not really know what those governing documents include. What documents are included? What should I be looking for if I’m reading them? Are certain documents more important than others? And what about the law—where does that fit in when I’m trying to figure out my governing documents? [Download now»](#)



Condo/HOA Special Assessments: An A-to-Z Guide for Smart Board Members

Special assessments get no respect. We'd even go so far as to say that they're almost universally reviled. However, the wisest board members view them through a practical lens. Special assessments are simply a tool to help communities fund necessary projects—one you should consider when necessary rather than let required maintenance or repairs go undone. In this comprehensive report: *Condo/HOA Special Assessments: An A-to-Z Guide for Smart Board Members*, we've sought the advice of legal and community association management experts to help you better understand the role of the special assessment and make your job of deploying them less stressful. [Download now »](#)



HOA Transition - A Guide for New Boards Moving from Developer to Owner Control

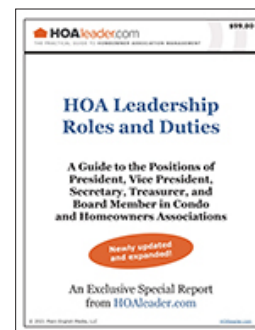
In this comprehensive report: *HOA Transition: A Guide for New Boards Moving from Developer to Owner Control*, we've sought the advice of legal and community association management experts so that we can provide insights and concrete tips on how to do your job wisely and well. [Download now »](#)



HOA Leadership Roles and Duties: A Guide to the Positions of President, Vice President, Secretary, Treasurer, and Board Member in Condo and Homeowners Associations

We're hearing from a growing number of association members who want more detail about their responsibilities—or who want an easy way to educate their newly elected fellow board members about what, exactly, board members do. What's the president supposed to do? How about the vice president, secretary, and treasurer?

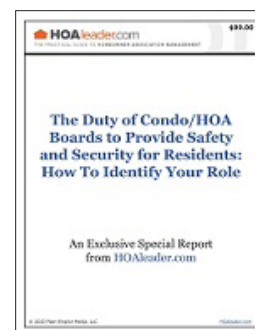
[Download now »](#)



The Duty of Condo/HOA Boards to Provide Safety and Security for Residents: How To Identify Your Role

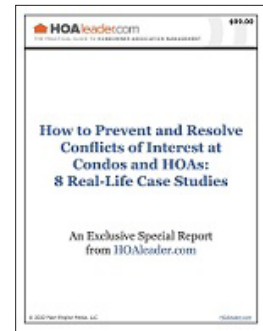
We're confident the information in this report will help you begin to identify your duties when it comes to community safety.

[Download now »](#)



How to Prevent and Resolve Conflicts of Interest at Condos and HOAs: 8 Real-Life Case Studies

In this comprehensive report, we've sought the advice of legal experts on the best practices for identifying, avoiding, and resolving these conflicts in your association. [Download now »](#)



HOA Finances: Best Practices for Getting Your Homeowners Association through Difficult Economic Times

This report was created to help you make smart decisions that will in turn help your HOA weather the current financial storm. We've spoken to leading condominium and homeowner association advisors across the country and distilled their recommendations down into practical, plain-English suggestions for what you can do now to best position your association for financial stability. Times are tough, but the good news is there are steps you can take today that will help. [Download now »](#)



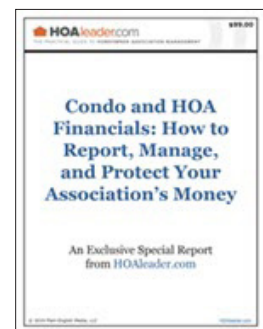
How to More Easily and More Effectively Address Violations in Your Condo or HOA

For this comprehensive report, we've sought the advice of legal experts nationwide on the best practices for handling violations in your association. [Download now »](#)



Condo and HOA Financials: How to Report, Manage, and Protect Your Association's Money

This report will help you more effectively oversee the finances underpinning all of your operations. We've sought the advice of legal and management experts nationwide to compile this comprehensive report on the best practices for handling financial reporting and management at your association. [Download now »](#)



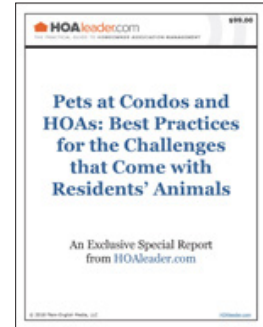
Board Member's Guide to Managing the Most Challenging People Issues at Your HOA or Condo

Surely you've heard this mantra spoken by HOA insiders: The biggest challenges boards face are "the 3 Ps," which stand for Parking, Pets, and People. In this report, our editorial team has tapped into the expertise of legal and management experts nationwide to provide you with information on best practices for handling the most difficult people challenges in your community. [Download now »](#)



Pets at Condos and HOAs: Best Practices for the Challenges that Come with Residents' Animals

You may recall a fact often cited by many HOA insiders: The biggest challenges boards face are "the 3 Ps," which stand for Parking, Pets, and People. Here, our editorial team and our legal and management experts nationwide have come together to provide information on best practices for handling the difficult issues you face with pets in your community. [Download now »](#)



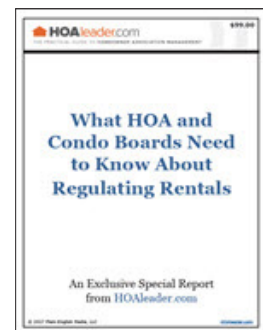
What HOA and Condo Boards Need to Know to Create Effective and Enforceable Parking Policies

HOA insiders often say that the biggest challenges boards face are "the 3 Ps." Based on your own experience as an HOA board member, you can probably guess that those Ps stand for Parking, Pets, and People. It's our overarching goal to make your life easier. So with this report, "Eliminate Parking Problems at Your HOA: How to Create an Effective and Enforceable Parking Policy," we're aiming to remove parking as one of the issues that throws speed bumps in your path to effective management. Here our editorial team and HOA legal and management experts all over the nation share with you tips and tools you can start using today to take the angst and stress out of parking in your community. [Download now »](#)



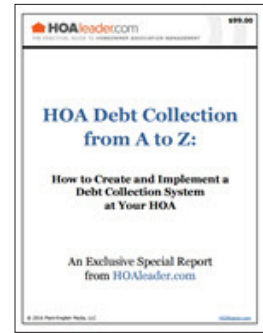
What HOA and Condo Boards Need to Know About Regulating Rentals

Rental restrictions are unlike most other policies HOA boards create because they necessarily curb owners' real property rights. The law jealously protects property owners' rights, which means any HOA board that seeks to restrict rentals in their community needs to act wisely and deliberately. This report provides you with the information you need achieve that goal. [Download now »](#)



HOA Debt Collection from A to Z: How to Create and Implement a Debt Collection System at Your HOA Special Report

In this report, our editorial team and experts on HOA law, management, and collections from across the country provide information you can begin implementing immediately to collect money due your association more quickly and easily. [Download now »](#)



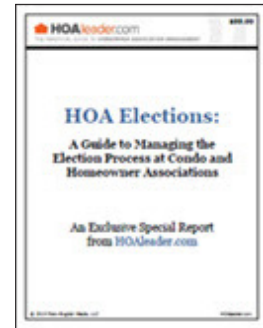
HOA Checklists: Your Road Map for an Entire Year of Homeowner Association Operations

This report is intended to be your road map for an entire year of operations that you begin using today and turn to for years to come. It provides you with checklists compiled by our editorial team with substantial input from experts on HOA operations and management from across the country to ensure you're steering your association in the right direction and not letting crucial issues slip through the cracks. [Download now »](#)



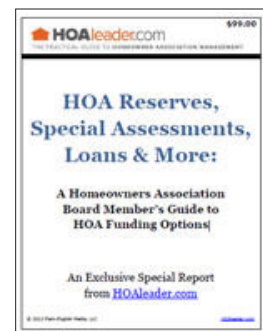
HOA Elections: A Guide to Managing the Election Process at Condo and Homeowner Associations

In this report you'll discover tips from our editorial team and experts on HOA governance and management from across the country on how to plan, properly notice, and execute an HOA election. These are tips you can begin implementing immediately to make your elections run more smoothly and withstand challenges from disgruntled homeowners. [Download now »](#)



HOA Reserves, Special Assessments, Loans & More: A Homeowners Association Board Member's Guide to HOA Funding Options

In this special report, you'll discover tips and guidance on funding options from HOAleader.com's expert contributors—professionals who've devoted their careers to serving and advising homeowners associations. Governing documents and state laws vary, but this information will help you understand how your association can meet all of its financial needs—and thrive. [Download now »](#)



[Back to Table of Contents](#) ▲

Webinars Available On Demand from HOAleader.com

[How to Read Your Association's Financial Reports \(and Fulfill Your Fiduciary Duty\)](#)

[View now »](#)

[The 12 Most Pressing Issues for Condo/HOA Boards In the New Year](#)

[View now »](#)

[8 Tense Moments You're Likely to Face as a Condo/HOA Board Member — and How to Respond Without Fear or Tension](#)

[View now »](#)

[Modifying Your Condo/HOA Governing Documents: When It's Necessary and How to Accomplish It With Less Stress](#)

[View now »](#)

[Enforcement of Your HOA's Rules: How to Create Enforceable Rules, Effective Fines, and a Fair Violation Process](#)

[View now »](#)

[HOA Reserves, Assessments, Loans, and More: Are You Managing Your Condo/HOA's Finances Wisely?](#)

[View now »](#)

[Regulating Rentals in Your HOA](#)

[View now »](#)

[What You Must Know to Prevent and Resolve Neighbor-to-Neighbor Disputes](#)

[View now »](#)

[HOA Board Members and Fiduciary Duties: What You Must Know to Fulfill Your Duty to Your Association and Protect Yourself from Personal Liability](#)

[View now »](#)

[How to Make Your Architectural Review Committee More Fair and Effective](#)

[View now »](#)

[How Bad HOA and Condo Boards Hurt Themselves: Expert Community Managers Offer “Tough Love” Your Board Can’t Afford to Ignore](#)

[View now »](#)

[Condo/HOA Leader Do’s and Don’ts: The Roles and Duties of the HOA President, Secretary, Treasurer, and Director](#)

[View now »](#)

[How to Protect Yourself and HOA from the Neighborhood Sociopath](#)

[View now »](#)

Back to Table of Contents ▲

Most Popular Articles on HOAleader.com

1. HOA Voting: Everything You Need to Know About Proxies

What's a proxy? Who can assign it and when? Who can it be assigned to? Can your association implement any limits on the use of proxies? Here, our expert contributors answer your questions. [Read more»](#)

2. The Top Seven Reasons HOAs Get Sued

Smart HOA boards need to know the answers to two questions: What are the most common reasons associations get sued? And how do they head off those costly cases? Here are answers. [Read more»](#)

3. HOA Board Members: 7 Things You Must Know If You're Sued Personally for Board Actions

Sometimes homeowners sue HOA boards, and sometimes they sue both the board and board members individually. Here are seven things you should know if you're personally sued for actions taken as a condo or homeowners association board member. [Read more»](#)

4. How to Differentiate Between HOA Repairs and Home Owner Repairs

An HOAleader.com reader writes, "What policies can a board implement to ensure the association is paying for common element maintenance only? Our association has a lot of exterior leaks, which hopefully for the most part has been resolved. Unit owners claim the damage is from an exterior leak. The HOA pays for the repairs, but there seem to be additional repairs performed that are unrelated to the exterior leak. This has been going on for years and has become a great expense to the association." Here we provide guidance on policies and procedures you should implement to determine which repairs your HOA should cover and which home owners must pay. [Read more»](#)

5. What Happens When Nobody Runs for the HOA Board?

An HOAleader.com reader wants to know what happens when nobody runs for any open board seats. Here our experts give the lowdown. [Read more»](#)

6. The Facts on What HOA/Condo Board Presidents Can and Can't Do

Can your HOA or condo board president vote on routine issues at your association's board meetings, or is the president allowed to vote only if there's a tie?. [Read more»](#)

7. HOA Checklists: Your Road Map for an Entire Year of Homeowner Association Operations

This report is intended to be your road map for an entire year of operations that you begin using today and turn to for years to come. It provides you with checklists compiled by our editorial team with substantial input from experts on HOA operations and management from across the country to ensure you're steering your association in the right direction and not letting crucial issues slip through the cracks. [Read more»](#)

8. Living Up to Your Fiduciary Duty as an HOA Board Member

“Fiduciary” is not just a big word. It carries legal consequences if you—even unknowingly—breach that duty. Here’s what you need to know about fulfilling your fiduciary duty as a homeowners association board member. [Read more»](#)

9. 9 Mistakes New HOA Board Members Make—And How to Avoid Them

Here we list the nine most common mistakes new HOA board members make and provide tips for turning those mistakes into successes. [Read more»](#)

10. HOA Owners and Security Cameras: OK or No Way?

In the blogosphere, an HOA owner contends her neighbor has put security cameras in places that intrude on her privacy, like above his unit’s door in the common area and on his window pointing at her unit. The HOA asked the owner to remove the camera in the common area, and he did. No word on any HOA action in the second incident.

[Read more»](#)

11. 9 Responsibilities HOA Boards Shouldn’t Delegate to a Manager

HOA management companies can be a great help to an association’s board of directors. But a manager is not supposed to usurp the board’s duties. Here we share nine duties you shouldn’t allow your HOA manager to handle. [Read more»](#)

12. HOA Elections: 6 Mistakes to Avoid with your Condo or Homeowners Association Elections

It’s very easy to invalidate an election by not following every rule to a T. Keep an eye out for these common mistakes condo and homeowners associations make when conducting elections. [Read more»](#)

13. HOA Transition Tips: Moving from Developer to Owner Control

The transition from a developer-controlled to a homeowner-controlled community is fraught with risks for homeowners. If your HOA board is about to take over from your developer or has recently done so, here are tips for making sure the transition goes as smoothly as possible. [Read more»](#)

14. HOA Board Meetings: Open Meetings and Executive Session—What You Must Know

Does your state require that your condo or homeowner association board have open meetings? If so, what does that mean? And what about executive session? What can you discuss privately, and what must you discuss in front of homeowners who wish to attend? Here’s a rundown. [Read more»](#)

15. Handicap Parking: What Your Homeowners Association Must Know

Is your condo or homeowners association required to provide handicapped parking for residents and visitors? If so, how many spaces do you need, and where must they be? What if an owner requests handicapped parking? Can you require proof, and where must you locate the spot? When can you legally deny the request? Here, we answer those questions. [Read more»](#)

16. HOA Communications: Dos and Don'ts for Responding to Owners' Letters to the Board

Surely, you get letters from owners. The question is how your should HOA Board of Directors respond. Do all letters require a response? If not, which do, and which don't? And who should respond? Your board president, the property manager, or another person? Finally, what should and shouldn't you include in responses to owners' letters? Here we offer dos and don'ts. [Read more»](#)

17. Discussion Forum Follow-Up: Reining in Bullies on Your HOA Board

A reader on the HOAleader.com discussion board asks: "I am on the board of directors of our HOA, but the president is just running wild and not following any of the bylaws or CC&Rs..." Here, we provide tips for handling secretive, power-hungry board member tactfully yet effectively. [Read more»](#)

18. 10 Traits of Successful HOA Board Members

What qualities must you have to be a good homeowners association board member? Here, our experts reveal the top 10 traits of board members who serve their HOA well. [Read more»](#)

19. HOA Board Member Behaving Badly? Know How and When to Discipline

You may be surprised to learn that you and your fellow volunteers can be disciplined for your behavior as members of the board of directors of your homeowners association or condominium association. Here we explain when it's appropriate for boards to consider disciplining their fellow board members, along with the possible range of action they can take. [Read more»](#)

20. Master Homeowners Associations: Is Your HOA Its Own Master?

Imagine your surprise. You buy a home in a community knowing full well that you'll become a member of your local homeowners association only to learn that your homeowners association is really a subassociation and you're bound to follow the rules of a bigger "master" association. Here's a primer on master associations and how masters and subassociations, often called "subs," interact. [Read more»](#)

21. HOA Rules: What You Must Know About Flag Restrictions

There are several legitimate reasons why your HOA might want to provide guidance to homeowners on flag displays. Before you do, however, make sure you understand the maze of laws governing the issue. [Read more»](#)

22. Robert's Rules for HOAs: What You Need to Know

Robert's Rules of Order is a more-than-100 year old guide that provides governing bodies procedural rules to keep their deliberations orderly. What are the pros and cons of following Robert's Rules? If your association decides to follow it, what are the most important rules everyone should know? Here's a summary. [Read more»](#)

23. Tax Day: What Your Board Must Know about Homeowners Association Taxes

Homeowners associations have to file tax returns like the rest of the corporations in the United States. Here's a primer on the rules associations must follow when they file and advice on minimizing the stress of tax day for your HOA. [Read more»](#)

24. HOA Pet Rules & Required Accommodations: The Facts About Comfort Animals

Is Fido a medical necessity, or are we being taken for chumps? That's the question HOA board members are asking themselves as a growing number of owners claim that their beloved pet isn't a violation of their association's rules but a critical part of their medical treatment. Here's what you need to know about comfort animals and how your association should treat owners' requests for them. [Read more»](#)

25. What's a Reasonable HOA Fee or Penalty?

An HOAleader.com reader writes, "Our HOA is considering charging fees and penalties for noncompliance with our covenants and restrictions. What are some ideas on amounts to charge for violations? Example: Not repairing when given notice, not picking up dog poo? Need some feedback from other associations for different violations they charge for and how much." [Read more»](#)

26. HOA Reserve Studies: What You Need to Know

Just what is a reserve study? What should it include, and how often should it be done? We've got answers. [Read more»](#)

27. A Sex Offender Has Moved Into Your HOA ... What Now?

If you're like most homeowners, your first thought when you learn that a sex offender has moved into your community is: What can we do to get the offender to leave? Here's what you must know about your association's—and the offender's—rights. [Read more»](#)

28. Can You Have "Working" HOA Meetings and Exclude Homeowners?

A new type of meeting has sprung up among some HOA boards—the "working meeting." It supposedly permits boards to meet in private outside of regular meetings and not provide owners notice or the opportunity to attend. Is this legit? [Read more»](#)

29. HOA Fees on Rentals: Can Your HOA Impose a Fee Just Because Owners Rent Their Unit?

Sure, you can probably require owners who rent their units to pay a security deposit to your HOA to cover the tenant's potential damage of HOA facilities. You can probably also charge move-in and move-out fees. But can you slap a general fee on owners who rent out their units just because? [Read more»](#)

30. No Quorum for Meeting to Elect a Board: Give Up? And Can the Prior Board Carry On?

An HOAleader.com reader asks, "The CC&Rs say 51% for a quorum. If no quorum, quorum requirements drop to 25% for the adjourned annual meeting. My question is if a first adjourned meeting has to be called because the 25% quorum requirements were not met, and the second adjourned meeting also fails to meet the 25% quorum, what then? Does the sitting board just continue into the next term? When does the board declare failure to meet quorum requirements and end the torture?" [Read more»](#)

31. What HOA and Condo Boards Need to Know About Regulating Rentals

Rental restrictions are unlike most other policies HOA boards create because they necessarily curb owners' real property rights. The law jealously protects property owners' rights, which means any HOA board that seeks to restrict rentals in their community needs to act wisely and deliberately. [Read more»](#)

32. How Far Does an HOA President's Power Extend? Discussion Forum Follow-Up

Can a president sign a landscape contract without the board's approval? And did the president of this reader's HOA have a conflict of interest here? Our experts provide answers. [Read more»](#)

33. Who's Responsible for an HOA's Poorly Designed Drainage System?

An HOAleader.com reader writes, "I live in a PUD, and my home is the lowest lot on the street of our association, consisting of 26 homes and 4 townhouses. These homes were built 15 years ago before our city implemented city storm-water management guidelines; therefore, the builders didn't have any guidelines regarding downspouts and water runoff. [Read more»](#)

34. HOA Architectural Review: How to be Fair and Reasonable With Requests for Variances

It's inevitable that at least one of your homeowners will approach your board and ask for a variance from the association's architectural review standards. Can your HOA grant a variance? If so, should it? Here are some answers. [Read more»](#)

35. HOA Board Waiting for Developer Transition; 7 Tips to Handle Developer Control

An HOAleader.com reader writes, "I live in the state of Delaware... [and] our community is in the early stages of development; there are about 100 lived-in homes. The community is about seven years old... I have lived here less than two years. Our developer has appointed a board of directors consisting of three of his employees and probably not surprisingly maintains solid control of the community. [Read more»](#)

36. Pets at Condos and HOAs: Best Practices for the Challenges that Come with Residents' Animals

You may recall a fact often cited by many HOA insiders: The biggest challenges boards face are "the 3 Ps," which stand for Parking, Pets, and People. In this exclusive report from HOAleader.com, our editorial team and our legal and management experts nationwide have come together to provide information on best practices for handling the difficult issues you face with pets in your community. [Read more»](#)

37. Homeowner Association Boards - Group Discounts

For a limited time, all members of HOAleader.com can take advantage of a complimentary upgrade to group membership. With a group membership, the rest of your HOA or condo board—up to 9 additional member—will get their own member accounts. [Read more»](#)

38. HOA Financial Matters: What's Receivership, and When Do Condo and Homeowner Associations Need It?

Though it's still rare in community associations, receivership has become more common in today's economy. With any luck, your HOA will never experience receivership. But some unlucky associations will. So here are some basics on receivership, along with information about how it's arising in condo and homeowner associations today.

[Read more»](#)

39. 5 Steps to Take When an HOA Board Member Steps Down

It doesn't matter the reason for a board member's departure. It could be due to a regular transition after a vote. Maybe there was a scandal! Either way, when a board member becomes a former board member, you need to protect the organization and its confidential materials. [Read more»](#)

40. HOA Elections: A Guide to Managing the Election Process at Condo and Homeowner Associations

In this report you'll discover tips from our editorial team and experts on HOA governance and management from across the country on how to plan, properly notice, and execute an HOA election. These are tips you can begin implementing immediately to make your elections run more smoothly and withstand challenges from disgruntled homeowners. [Read more»](#)

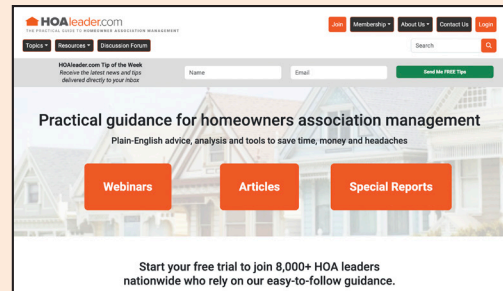
Back to Table of Contents ▲

Your Entire HOA Board Can Benefit with a Group Membership to HOAleader.com

As a member of HOAleader.com, you can add up to 9 additional members to your account . . . **at no additional cost.**

Each board member gets his or her own username and password, and access to:

- **Updates:** the latest new laws and court cases affecting HOAs
- **Analysis:** Plain-English explanations of what those developments mean to you
- **Advice:** Step-by-step [guidance](#) on best practices
- **Tools:** Checklists, Sample Policies and Forms
- **Community:** The HOAleader.com discussion forum



It's an unbeatable deal! **Start your Group Membership Today.**

[Back to Table of Contents](#) ▲