

ADVISORY TO BUYER REGARDING OWNER ASSOCIATIONS

This Advisory to Buyer Regarding Owner Associations (this “Owner Associations Advisory”) helps buyers understand how buying a condominium unit, a townhome, or a home in a planned development differs from buying a single-family home.

1. PROPERTY TYPES:

(a) **Condominium Units.** While the purchaser of a single-family home acquires land and the structure attached to the land, the purchaser of a condominium unit acquires very different things. A condominium unit typically consists of the space between the ceiling, floor, and walls: a “box of air.” It does not include any land. A condominium unit may include things outside the box of air but are related to the unit so closely that only the unit owner uses them, such as a porch, balcony, or driveway. A condominium unit owner purchases a percentage of all portions of the condominium shared with the other unit owners, such as the building structure, the land on which the condominium is located, the sidewalks and landscaped areas, parking lots, and any clubhouse or other facilities that are available for the use of all owners.

(b) **Townhomes.** When purchasing a townhouse, the purchaser owns not only the structure but also the land it sits on. The purchaser often shares a wall or two with adjoining homes. If an owner association governs the townhome, the owner association typically handles many of the same tasks that a condominium owner association handles.

(c) **Homes in Planned Unit Developments.** Developers often build the infrastructure and homes for an entire street or neighborhood at the same time. In addition to owning a home and lot, a “PUD” homeowner owns a share of any of the neighborhood’s common areas, such as walking paths, open spaces, and recreational facilities.

2. RESPONSIBILITIES: Purchasing a property that an owner association governs comes with certain rights and obligations.

(a) **Membership in an Owner Association.** A set of covenants, conditions, and restrictions (“CC&Rs”) is part of the title to these types of properties. These CC&Rs usually state that buyers of these properties automatically become members of an owner association upon closing.

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The owner association makes certain decisions for the entire community and enforces the rules.

(b) Assessments. The owner association performs studies to estimate the cost of the work needed by the community. Each owner pays a portion of the costs of current and future maintenance, repairs, and replacement of the common elements through monthly dues or special assessments. Larger properties may have larger assessments than smaller properties. The money for future work is saved in a reserve account to avoid the need for unusual assessments when the work must be done.

(c) Voting and Participation. Association members can vote for officers, run for office, and serve on the association's committees. Associations can be operated by professionals (for a fee) or privately by owners (for free), but professionals typically have more of the time and experience necessary to perform administrative, financial, maintenance, board assistance, and other needed tasks.

3. ADVANTAGES: Buying a condominium, townhouse, or home in a development has certain advantages over buying a single-family home that is not subject to an owner association.

(a) Amenities. A condominium or PUD may have a swimming pool, exercise facility, playground, or other facilities that would be difficult for a single owner to afford.

(b) Maintenance. An owner association contracts with service providers to care for aspects of the property so that the owners don't have to do the work themselves.

(c) Reserve. Owner associations hire professionals to inspect the property and forecast the community's future expenses so that problems can be discovered and addressed.

4. DISADVANTAGES: Owning property described in this Owner Associations Advisory may have disadvantages.

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(a) Neighbors. Condominium units and townhomes have less distance between properties than single-family homes, so people may be more likely to be disturbed by their neighbors' activities.

(b) Association Enforcement. Owner associations' rules and assessments can be enforced through fines, liens, and the loss of use of amenities.

5. DUE DILIGENCE: In addition to the typical due diligence that single-family home buyers do, such as reviewing seller's disclosures and having the property inspected, prudent buyers will perform additional due diligence on properties governed by owner associations. Because of the volume of unfamiliar material, buyers may choose to hire a professional to determine whether the owner association is properly handling the current and future needs of the property.

Real estate agents are not experts in owner associations, and buyers should obtain advice from qualified consultants and inspectors. Buyers should review the following:

(a) Minutes of Association Meetings. Buyers should review the minutes of every meeting the owner association has held during the past year or more. Those meetings are where problems are discussed, such as building defects, management issues and behavioral problems. The minutes may reveal whether there is a good relationship between the owners and the owner association's officers. If the association officers close portions of their meetings to the owners by going into "executive session," the buyer should attempt to find out the subject of those sessions and whether the issues have been addressed. If meeting minutes are missing, buyers should determine the reason.

(b) Declarations, Rules, and Regulations. These documents will help buyers understand the expectations for owners' and guests' use of the property. CC&Rs may reveal whether additional phases of construction are planned, how many pets an owner can have, whether owners are allowed to operate businesses from their properties, where vehicles can be parked, restrictions on rentals, the repairs the owners must pay for themselves, and other issues. Condominium unit buyers should make sure that any garage or storage unit assigned to the property matches

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those assigned to the property in the CC&Rs and the legal description of the property.

(c) **Articles of Incorporation and Bylaws.** These documents describe how the association works and help buyers understand the rights they will have if they buy in that community.

(d) **Financials.** Buyers should understand the association's budget, whether the association has adequate reserves, and whether other owners are paying assessments on time.

(e) **Litigation.** If any litigation is mentioned in the minutes, buyers should consider hiring legal counsel to determine the current status of the litigation and whether any reports about the conditions that prompted the litigation are available. Costs and damage awards arising from litigation involving the association must be paid by the property owners unless those expenses are covered by insurance.

(f) **Insurance.** Understanding the insurance in place helps buyers know what kind of insurance they need and whether mistakes and misconduct by the association's officers and employees are covered.

(g) **Amendments.** If any of the above documents have been revised, buyers should review the revisions.

(h) **Disclosure Statements.** For pre-owned condominium units, the seller provides the same type of Seller's Property Disclosure Statement as for single-family homes. For new condominiums, the Oregon Real Estate Agency approves the disclosure statement, and the same statement is provided to each buyer.

(i) **Inspections.** In addition to inspecting the property, buyers should review any inspection reports provided by the owner association that detail the condition of the building exterior and other areas. It is helpful to observe the condition of the siding, paint, roofing, landscaping, parking lot, sidewalks, and amenities.

6. ACKNOWLEDGMENT: The undersigned Buyers acknowledge that (a) they have read and understand this Owner Associations Advisory, (b) they have been provided with a copy for their own files, (c) they are aware of the issues they may

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encounter when purchasing a property that is governed by an owner association, part of a development, a townhome, or that is a condominium unit and the due diligence that should be conducted to protect their investment.

Buyer _____ Date _____ a.m. p.m. ←
Print Name _____

Buyer _____ Date _____ a.m. p.m. ←
Print Name _____