



Neighborhood Insider

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Answers from Amanda



Q: Can we amend the governing documents if the whole Board agrees to the change?

A: To answer this question thoroughly, let's first review what we mean by governing documents.

The term governing documents includes a community's CC&Rs, its Bylaws, its Articles of Incorporation, its Rules and Regulations, Landscape and Architectural Guidelines, Fine Policy and Collection Policy. Some of these documents can be amended simply by an affirmative vote of a majority of the Board, but some require a vote of the entire community's membership with super majority or some higher percentage of affirmative votes in order to pass successfully.

Most CC&Rs require a majority, 75 percent or even 90 percent of the affirmative vote of the entire Community's membership in order to amend them. CC&Rs have historically required this level of approval for change due to the nature of the document and its overall impact on the entire community. In addition, for condominium associations, Arizona State Statute (A.R.S. § 33-1227) states that amendments to the CC&Rs require at least 67

percent of unit owners (or a higher percentage if it so states in the CC&Rs). Boards are not given the authority to amend the CC&Rs by a simple majority vote.

Some communities' Bylaws do allow for Board-approved amendments and, in some cases, the Board may be able to amend the Bylaws to reduce quorum requirements and other such provisions. Other communities' Bylaws require a majority vote of those members who attend a meeting called for the purpose of voting on a proposed amendment in order to effectively amend this document. Still others require a majority of the homeowners or greater percentage to vote in favor of the change to amend the Bylaws. As in the case of the CC&Rs, each community should review its Bylaws for amendment language prior to making any contemplated changes.

Articles of Incorporation are typically amendable by an affirmative vote of a majority or higher percentage of the membership of the Community. There are instances in some documents (this is also true for CC&Rs and Bylaws) where the Declarant may have the right to unilaterally amend these documents given that the community may evolve during its development phase or phases.

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DID YOU KNOW: Landscaping: Winter Preparation

The Valley's daytime temperatures may still say summer, but fall is just around the corner. Now is the time to start thinking about how to prepare your lawns for winter.

Matthew Johnson, co-owner and vice president of Asset Landscaping, a commercial landscaping firm in Phoenix, recommends Boards decide now whether to pursue rye grass overseeding in community turf areas for the fall, if they haven't done so already.

"Either way, look at the budget and determine what the priorities for the common lawns will be for the coming year," he said. "If good-looking turf is a high priority and it doesn't look good, determine the cause with a soil sample and by asking a turf expert from your landscaping company what recommendations they have. Aeration, de-thatching and soil amendments will begin shaping up your lawns. If these have not been done for several years, it may take a few years to get it back in shape."

Johnson said late September to early October is when the prep work for overseeding typically begins. It is important for the night time temperatures to be consistently below 70 degrees for the best results.

Perennial rye is the most popular seed choice because it is easier to work and is less messy when growing. Annual rye tends to be much wetter and stains more easily. "This sounds like a contradiction, using a perennial rather than an annual, however it is fairly rare that the perennial comes back the following year," Johnson said.

Once the seed is down, it needs to be kept damp in order for it to germinate. For this reason, a thorough check of your irrigation system and practices is necessary prior to spreading seed.

Although some communities have turned away from turf and overseeding in recent years to save water and money, Johnson said planting rye grass actually is more water-efficient than maintaining Bermuda grass in the summer.

"This is backwards from what the thought process is, however if you consider when you will use your grass the most, it is when it is cooler," he said. "Bermuda during the heat of the summer needs to be watered much more than the rye in the winter. Overseeding provides a beautiful lawn for the time when people are outside enjoying the weather. It is lush and more inviting to play in than Bermuda."



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SERVICE SPOTLIGHT: Disclosures, Transfers, & Welcome Packets



AAM's Disclosures, Transfers, Welcome Packets Dept.

A tremendous amount of administrative work goes into maintaining accurate records for an HOA. Just ask the folks who work in AAM's Disclosures, Transfers and CD-Welcome Packets departments.

The three-member team in the Disclosures department handles the business that occurs prior to a homeowner closing escrow on a resale home. They send information to the title companies telling them how much in assessments to collect at closing, and are responsible for sending a packet of information to each homeowner that discloses details about the community's CC&Rs, Bylaws, Rules and Regulations, assessment amounts, Operating Budget and Reserve Study.

Meanwhile, the five members of the Transfers department are responsible for processing information after the close of escrow. They process copies of the recorded deed into the AAM computer system and post all payments to the appropriate accounts. They also process deeds in the event of a foreclosure and handle the transfer of account information whenever there is a change, such as a marriage, divorce, death or sale from builder to homeowner.

Finally, the person in the Welcome Packet department follows up by sending new homeowners a CD containing a variety of information ranging from a letter about their HOA and AAM's role in its management to an architectural submittal form, property manager and emergency contact names and numbers and a reiteration of assessment fees and due dates.

"It's a job that requires a lot of attention to detail," said department manager **Michelle Dennis**.

NEWS YOU CAN USE: Board Member Training Schedule

Mark your calendar and plan to attend one of these informative Board Training sessions. They're packed with information precisely tailored to suit your needs.

BUDGETS & FINANCIALS

6-8 p.m., Tuesday, Oct. 9, 2007, AAM Corporate Office, 7740 N. 16th St., Ste. 300, Phoenix

OR

6-8 p.m., Thursday, Oct. 11, 2007, East Valley Office, 1311 W. Chandler Blvd., Ste. 130, Chandler

NEW BOARD MEMBER TRAINING

6-8 p.m., Tuesday, Oct. 23, 2007, AAM Corporate Office, 7740 N. 16th St., Ste. 300, Phoenix

OR

6-8 p.m., Oct. 23, 2007, East Valley Office, 1311 W. Chandler Blvd., Ste. 130, Chandler

Snacks will be served at all sessions.

To reserve your seat, please contact **Tanya Placencio**, Executive Assistant for all training courses, at tplacencio@AAMAZ.com or **602-288-2694**.

Answers from Amanda continued

Since most CC&Rs give the Board of Directors the ability to promulgate rules and regulations for the community, it is then within the Board's authority to amend these rules and regulations via an affirmative vote of the majority of the Board members. All of the other governing documents listed above would fall into this category – Rules and Regulations, Landscape and Architectural Guidelines, Fine Policy and Collection Policy.

It is very important that you review each of your community's governing documents for specific language regarding the amendment to these documents before any actions are taken. Every community can be different in how its documents were written, so you cannot assume that any two communities will be alike. Your Community Manager can also assist in helping determine what is required by each document for amendment purposes.

Amanda Shaw, President of AAM, LLC

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