THINKING ABOUT PURCHASING IN A HOMEOWNER'S ASSOCIATION?
WHAT DO YOU NEED TO KNOW?

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Many individuals move into an association without a clue of what they are doing. This is not to mean that these individuals are incompetent, but rather don't understand what type of an agreement they are considering.

It is unfortunate that many real estate agents don't understand what they are "selling". I personally put a class together for the basic real estate agent to help them understand the critical role that they play in the transaction. Unfortunately a majority of the prior members sitting on the Real Estate Commission would not approve the class for anything other than permitted property managers. One of the Commissioners even stated, "we don't want our agents out there interpreting the documents, but rather giving the potential buyer the documents and letting them make their own decision." A basic knowledge of a common interest community (HOA) would REALLY be helpful for an agent to help an owner key in on certain documents to see if they would be happy living in this particular community.

Fortunately, in speaking with current members of the Real Estate Commission, they are more open to educating their licensees, while still keeping them from steering individuals away from or towards association living.

NRS 116 has a very good letter that any buyer must initial as having received in the transaction. In a class several years ago a broker stood up and stated that one of the local schools teaches the real estate agents how to "bury" this letter to make the sale. When he saw my response, he would not tell me which school, unfortunately.

Have said all of the above, there are some basic things that an owner should consider before buying in a common interest community.

1. **<u>All owners are required to give up something when they buy into an association</u>**. I give up my right to have my 36 foot RV along side of my home and another owner gives up his right to have his basketball hoop out in front of his home when not in use. Everyone gives up at least one thing that would be nice to keep. Looking at all of the rules is critical before purchasing in this particular community since not all of the rules are the same in all associations.

2. Before purchasing, **<u>make sure that the home is not already out of compliance</u>** with the documents or the rules. How are you going to know, in Nevada, when the Board nor the Manager can tell you this information as it is considered to be confidential by Nevada law. Ask the owner to sign a document stating that the property is not in violation of any Nevada laws or association documents. If they won't do so, there may be issues that you will inherit on purchasing the property.

3. **Are you allergic to certain pets and their dander**? Living in a condo or town home could cause problems if pets are not prohibited. Even if the pets are prohibited, certain fair housing requirements makes it mandatory that an owner be allowed to keep a service animal. Attached units tend to make this more problematic if proper wall and roof ventilation was not taken into consideration.

4. **Do you have highly sensitive hearing?** Living in a condominium or townhome may cause you problems with even flooring or sound proofing in the walls. At times, individuals with sensitive hearing issues will hear everything even if separated by landscaping barriers. Having adjoining walls, ceilings or floors can cause serious problems. People were not meant to be stuffed into some of these tight living spaces and compromises need to be made in daily living. If this sounds like something that you couldn't deal with, association living may not be for you.

5. **Do you hate being told what to do?** If you have this type of personality, association living may not be for you as you and your property will be governed by some of your neighbors. This means that you can't make changes to the exterior of your property without permission and in some cases the interior of your unit if it will affect neighboring properties.
   If you have always wanted a purple home, an association may not be the place to purchase since most associations have architectural guidelines and have adopted specific painting pallets from which you can choose a color combination.

6. **Is money tight?** You definitely want to see what the assessments (fees) will be to help pay for the upkeep of the common areas in the association. Will it be assessment monthly, annually or quarterly and can you afford this payment. You could lose your home if you don't pay these fees.

   Buying a condominium, which has higher assessment, may cost as much monthly as the house that you didn't think you could afford. A careful analysis should be made of the total costs of living in the community, not just the mortgage payment.

   Owners have to ratify the budget in Nevada, but that doesn't necessarily mean that the assessment won't go up annually. If prior boards have not put away enough into the reserve accounts, you could have a special reserve assessment, which could be substantial. Looking at the reserve study, seeing which method was used to prepare the study and the percent funded is critical. Any study not using the Full Funding or Threshold Method is risky and should raise flags. 75% of the full funding method is considered acceptable and with the same on the threshold as long as the threshold is not set too low. (See the article under reserves in the library section published by the Nevada Real Estate Division.)

7. **Reading a year or two of the past minutes of the Board of Directors** will give you a good clue as to what the association has been facing. The seller can get

copies of these minutes for you to read and you may find out something that is a deal breaker in those minutes.

8. **<u>Ask for copy of the certificate of insurance that the association carries</u>**? What does this master policy carry vs. what will you need to carry to protect your interests? Your own agent, unless a knowledgeable association professional, may not be able to give you the guidance you need. Based on the amenities offered in this community, consider the risks and what could happen if someone misused those same attractive assets. Think of a drowning and what a jury may award to a grieving parent. Is a million dollar liability policy enough to cover what could be consider negligence on the association's part? Most likely more like $6,000,000 or 8,000,000 would be awarded. Any short fall in coverage between the award and the insurance coverage would be spread evening with all of the owners in the association. You can get what is called Loss Assessment Coverage on your own policy, but even then, what is enough?

9. **<u>As about the management of the association</u>**. Is it professionally managed or self managed? The State of Nevada Ombudsman's office states that most of the problems that reach their office are from self managed boards. They don't know what they don't know and do what makes sense to them vs. what is required by law. At times, the Board may be power driven as this may be the first position of "control" that one or more of the members of the board may have held. Professional management will hopefully train the board to minimize the issues.

10. **<u>Are you buying the property as an investment</u>**? Any tenant will have to follow all of the above requirements that have been pointed out to you. YOU will get any violation letters even if you are paying a properly licensed property manager to care for your property. Giving your tenant and the property manager a copy of all of the documents, having them sign as having received them and ensuring that they understand their importance will help you from getting unwanted letters from the association. You could be called to a hear where you could be fined for things that you did not do, but rather your tenant did.

The bottom line when considering HOA living is to do your research by reading the governing documents to see if there are any deal breakers in the rules. Check the total amount you will be required to lay out over the year and seek assistance if necessary to determine is special assessment look likely because of improper lack of planning and funding by this board or prior board of directors.