

What is it, what does it do, and how does it affect you?

## What is WUCIOA?

Earlier this year, the state legislature passed the Washington Uniform Common Interest Ownership Act (“WUCIOA” or “Act”). WUCIOA becomes effective July 1, 2018, and is Washington State’s first comprehensive set of regulations that apply across the board to condominiums, housing cooperatives, subdivisions and other common interest communities.<sup>[1]</sup>

WUCIOA, which is a voluminous 134 pages, contains detailed regulations related to the creation and management of condominiums, housing cooperatives, subdivisions, and what the Act refers to as miscellaneous communities, which includes planned communities. The Act automatically applies to all developments in these categories that are created on or after July 1, 2018. While a few provisions of WUCIOA will apply to pre-existing developments, the overwhelming majority of the provisions will not, unless a pre-existing development specifically chooses to be governed by WUCIOA.

## What does WUCIOA do?

WUCIOA provides, for the most part, uniformity in the regulation and governance of common interest communities – including condominiums, cooperatives, plat communities, and others. Prior to the Act’s passage, these forms of ownership were governed by different regulations and statutes and were treated differently as a result. Now these various forms of ownership will all be governed similarly under WUCIOA.

## How will WUCIOA affect you?

Condominiums: With respect to condominiums, the existing Condominium Act (Chapter 64.34 RCW) will no longer apply to any condominiums formed on or after July 1, 2018. While WUCIOA has many differences from the existing Condominium Act, the basic requirements for formation, buyer protection, organization and management, and resale found in the current statute are the same. Of particular note, WUCIOA maintains the existing provisions in the Condominium Act – including implied warranties – which impose non-waivable liability on developers of residential condominiums for construction defects. This non-waivable liability has been, and will likely continue to be, a deterrent to the construction of new condominiums, especially in Seattle.

Housing Cooperatives: For the first time in Washington State, WUCIOA establishes comprehensive regulations for housing cooperatives formed on or after July 1, 2018. Previously, housing cooperatives were virtually unregulated in Washington. Although WUCIOA’s requirements for new housing cooperatives are very similar to those that apply to condominiums, WUCIOA does not extend many of the warranties and liabilities of condominium developers to the developers of housing cooperatives.

Subdivisions and Short Subdivisions: WUCIOA also applies to all subdivisions and short subdivisions recorded on or after July 1, 2018. The Act does provide an explicit exception for subdivisions and short subdivisions that contain 12 or fewer lots, but only if:

1. The subdivision is not subject to any future development rights, and
2. The subdivision provides in its declaration that the annual average assessment may not exceed \$300 (adjusted for inflation) during the period that the developer controls the association unless approved by a super-majority of the owners.

As a result, every subdivision and short subdivision will need to have a declaration to either claim the exception, if warranted, or to comply with the very detailed requirements of WUCIOA, which will add additional costs to the development.

## The New Washington Uniform Common Interest Ownership Act

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### In Summary

WUCIOA is an extremely important new piece of legislation and will have many wide-ranging consequences. It imposes many detailed requirements on virtually every developer involved in for-sale residential development. It also establishes significant new requirements for housing associations, although, for the most part, these requirements will only apply to associations created after July 1, 2018. For other types of residential for-sale developments, primarily subdivisions and housing cooperatives, WUCIOA establishes wholly new requirements that developers, brokers, surveyors, lawyers and other professionals involved in these types of developments need to understand. For more information on WUCIOA, or any of your other land use and real estate needs, please do not hesitate to contact Hellsell Fetterman's Land Use and Real Estate Department

<sup>[1]</sup> WUCIOA defines Common Interest Community as "real estate described in a declaration with respect to which a person, by virtue of the person's ownership of the unit, is obligated to pay for a share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses related to, common elements, other units, or other real estate described in the declaration..."

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