

Major Changes Coming to the law of “Common Interest Communities”

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Beginning July 1, 2018, the law governing condominiums, co-ops, and planned communities of 12 or more units will change significantly. On that date, the Washington Uniform, and Interest Ownership Act (“WUCOIA”) will go into effect. WUCOIA was passed at the 11th hour of the 2018 legislative session, and as of this date, it has not yet been codified into the Revised Code of Washington.

The changes are dramatic for real estate professionals and their clients. They apply to all condominiums, co-ops and planned communities of 12 or more units that share virtually anything in common (now called “plat communities” or “miscellaneous communities”), and that are governed by a declaration. These developments are collectively referred to as “Common Interest Communities” or “CIC’s”, and WUCOIA significantly impacts how these CIC’s are developed, built, marketed, sold and operated. The only exemptions are for “plat communities” or “miscellaneous communities” of fewer than 12 units with an annual budget of less than \$300/unit. WUCOIA only applies to developments approved after July 1, 2018, however existing CIC’s can opt in.

Below are just some of the highlights of WUCOIA:

Public Offering Statements required for all new CIC’s: Developers of CIC’s will be required to provide buyers with a Public Offering Statement, with a seven day right of rescission.

Resale Certificates Required for all resale CIC’s: Sellers of resale CIC’s will be required to provide buyers with a Resale Certificate, with a five-day right of rescission.

Earnest Money Deposits: Earnest money deposits made to a declarant must be placed in escrow until closing.

HOA’s must be incorporated: The HOA must have a board and must be organized as a corporation or a limited liability company.

New Limits on HOA Powers: The HOA’s ability to impose fines, deny access to owners, or to suspend voting rights or other services is extremely limited.

New requirements for HOA’s: HOA’s must obtain property insurance, liability insurance and fidelity bonds.

New Declaration Amendment Thresholds: With certain exceptions, the declarations may be amended by a 67% vote. Unanimous voting requirements are prohibited.

New Budget Presumptions: Unless a majority of members of the CIC reject a proposed budget, it is automatically ratified.

Judgment Liens apply to Units: A judgment against the Association constitutes a lien against the individual Units.

Limited Ability to Waive WUCOIA Requirements: With very limited exceptions, the requirements of WUCOIA cannot be waived in Declarations or in CCR’s.

New Reserve Study Requirements: Residential CIC’s must prepare an annual reserve study unless they have nominal reserve costs or the cost of the study exceeds 10% of the annual budget. At least every three years, and reserve study must be prepared by a professional.

For more information about WUCOIA and how it impacts your business, contact Hessel Fetterman’s Real Estate/Land Use practice group.

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