

# **Condolaw's 2012 HOA BOOK**

**A Resource for Washington State  
Homeowners' Associations**

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and in particular to Lucie Bernheim and Eliza Jane  
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within this publication, and who made your reading this  
possible.**

## **INTRODUCTION**

This book is made up of a selection of topics we believe associations would find useful and informative. Many of the chapters were written after we sat down and asked ourselves, "What topics keep coming up with our clients over and over again?" We also included chapters aimed at providing information we think all association directors should have but often do not.

We tried to keep the chapters very short. There is more detailed information in the endnotes as citation, and to further flesh out the topic. Each topic is intended to be useful standing alone, but some are complementary. We recommend that you read the following chapter, Basic Legal Information, first.

This book is not a substitute for advice from a qualified attorney. While there are many similarities between homeowners' associations, without reviewing the facts and circumstances involved, we cannot give competent advice about any situation you may face.

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If you should desire legal advice on these or other areas of law pertaining to your homeowners' association in Washington State, Condominium Law Group, PLLC would be happy to help.

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### **Basic Legal Concepts and Information – Washington Homeowners' Associations**

A "homeowners' association" is a membership association where all members own separate real property and pay assessments for common expenses associated with some other (shared) property.

If each owner has an obligation to pay for common property expenses because they own a property, then it is likely governed by the Homeowner Association Act. There are property types that are not covered.

An Association is separate from the property, and is an organization whose membership is usually tied to the ownership of property within a community.

Usually, in addition to an obligation to pay for some common property or services, there are covenants and conditions that restrict the property rights of the owners within a community, and the Association often has some power to enforce or regulate the use of the property within the community. Generally, any restrictions on the use of the property must be contained within the recorded deed for the property, though it may be through reference to some other recorded document.

#### **Which Laws Apply**

Associations of property owners that are not Condominiums are governed by the Homeowners' Association Act, RCW 64.38. The Act does not apply to non-residential developments or residential cooperatives, and may also exclude mixed use developments where some members own non-residential property (even if the majority of the property is residential).