



Common Interest Community Board

PROPOSED Common Interest Community Association Registration – Interpretive Guidance for 18VAC48-60-60

Adopted September 23, 2021

Effective upon conclusion of the public comment period required pursuant to § 2.2-4002.1 of the Code of Virginia

I. Background

Section 18VAC48-60-60 of the Common Interest Community Association Registration Regulations establishes the application fee schedule for initial registration of a common interest community association and for renewal of a registration. The section provides:

The following fee schedule is based upon the number of lots or units subject to the declaration for each association. Each association filing its first annual report shall also pay the assessment required by § 54.1-2354.5 B of the Code of Virginia.

Number of Lots or Units	Registration Fee	Renewal Fee
1 - 50	\$45	\$30
51 - 100	\$65	\$50
101 - 200	\$100	\$80
201 - 500	\$135	\$115
501 - 1000	\$145	\$130
1001 - 5000	\$165	\$150

5001+

\$180

\$170

II. Issues/Concerns

The Board has received inquiries seeking clarification as to the meaning of the phrase “lots or units subject to the declaration.” Those filing an annual report on behalf of an association may need clarification on the meaning of “lots or units subject to the declaration” in order to (i) ensure the annual report is accurate regarding the number of lots or units in the community, and (ii) pay the appropriate registration or renewal fee.

Section 54.1-2345 of the Code of Virginia states, in part:

"Common interest community" means real estate subject to a declaration containing lots, at least some of which are residential or occupied for recreational purposes, and common areas to which a person, by virtue of the person's ownership of a lot subject to that declaration, is a member of the association and is obligated to pay assessments of common expenses...
(emphasis added)

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part thereof is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area as a regular annual assessment or (ii) creates the authority in the association to impose on lots, or on the owners or occupants of such lots, or on any other entity any mandatory payment of money as a regular annual assessment in connection with the provision of maintenance or services or both for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition.

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative.

Section 55.1-1800 of the Code of Virginia states, in part:

"Development" means real property located within the Commonwealth subject to a declaration which contains both lots, at least some of which are residential or are occupied for recreational purposes, and common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration.

Section 55.1-1900 of the Code of Virginia states, in part:

"Condominium" means real property, and any incidents to or interests in such real property, lawfully subject to this chapter by the recordation of condominium instruments pursuant to the provisions of this chapter.

"Unit" means a portion of the condominium designed and intended for individual ownership and use.

Section 55.1-2100 of the Code of Virginia states, in part:

"Cooperative" means real estate owned by an association, each of the members of which is entitled, by virtue of his ownership interest in the association, to exclusive possession of a unit.

"Unit" means a physical portion of the cooperative designated for separate occupancy under a proprietary lease.

During development of the regulation, the Board responded to public comment it received on this issue by indicating the phrase refers to "...lots or units that have been incorporated into the community by way of the recorded governing documents for the community, or any recorded amendments to such governing documents."

Based on the above, it appears that the terms "lot" and "unit" refer to the real estate in a development that is designated for individual ownership and use. Once the provisions of the declaration become applicable to a lot or unit and any

owner of the lot or unit, through recording of the declaration or an amendment to the recorded declaration, the lot or unit becomes subject to the declaration.

III. Board Guidance

The Board provides the following interpretative guidance:

The phrase “lots or units subject to the declaration” as used in 18VAC48-60-60 means any lots or units in a development to which the provisions of the recorded declaration, as amended, for the common interest community are applicable.

The Common Interest Community Board will be taking public comment on this proposed guidance document. A 30-day comment period will begin on October 25, 2021.

If you wish to comment on the proposed guidance document, you may do so via the Town Hall website or you may submit written comments so that they are received no later than November 24, 2021 to:

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