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Division of Real Estate

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What Are The Documents That Govern An Association?

There is a hierarchy of authority between the association's governing documents and the Illinois Condominium Property Act ("Act"). Pursuant to Section 2.1 of the Act, in any situation where the governing documents and the Act conflict, the Act will control and prevail over any inconsistent provision within the governing documents.

Declaration: The declaration is the document which creates and defines the association. It is recorded against the entire property so that all owners who buy property in the association after the date on which the declaration is recorded will be bound by its provisions. Thus, the declaration "runs with the land," i.e., is found in the chain of title to the property, and affects all subsequent owners of the property. The declaration will also commonly contain various restrictions against owners using the property or the units in a certain way.

Bylaws: The Bylaws, often an exhibit to the declaration or incorporated within the body of the declaration, contain the procedural framework under which the association/corporation will run. The bylaws tell the Board of Directors how to run the corporation, i.e. how many people should sit on the Board, how often to meet, notice requirements, the power of the Board, etc..

Rules and Regulations: Rules (or "rules and regulations") are sometimes referred to as the "dos and don'ts" of a community association. The rules expand the terms or restrictions within an association's declaration. Rules are the tool of an association which allow a board to enforce the restrictions within the declaration and bylaws. Without rules, a board is often left asking itself what can we do about an owner who is violating the declaration. It is a board function to adopt or amend rules.