

Developer Is Preparing to Turnover the Association to the Owners. What Now?

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By: Tyra N. Read



Florida law governs the transition of association control from developer to owners. Some turnovers are smooth and accomplished in an expeditious manner. Other turnovers are difficult, complex, and result in litigation.

A critical component to successful turnover from the developer perspective and community association perspective is communication. We encourage contacting our firm prior to the turnover so a plan can be created

and agreed upon between developer and the association to ensure a smooth turnover. Because Becker has a Community Association team, a Real Estate team, and a Land Use team accustomed to working with developers and community associations, we are able to assist with all aspects of the turnover.

Unfortunately, the majority of community associations contact a law firm after turnover has occurred. Below are a few questions to illustrate the broad spectrum of areas involved in the transition of control to owners.

- Is an assignment of developer rights needed? For instance, a formal assignment may be needed for architectural approval, appointment of the architectural review board, or rights necessary for the association to enforce the declaration of covenants after turnover.
- Does the association understand the location of the different utilities serving the community and the demarcation of where the utility providers “jurisdiction” ends and the association begins?
- Can a turnover committee be formed to assist with the smooth transition of control from developer to owners?
- Will the developer provide as-built drawings and a list of contractors, subcontractors, and vendors involved in construction of the improvements?
- Has the condition of the improvements, such as the roadways, clubhouse, and tennis courts, been ascertained and concerns, if any, addressed?
- Have all open permits and code violations been resolved?

- Are all common areas being conveyed to the association by deed, as applicable, to ensure title to common areas are not overlooked?
- Have the developer and association addressed any title concerns, outstanding real estate taxes or liens prior to finalizing the turnover and accepted the conveyance from the developer of the common areas?
- Have the developer and association discussed and addressed any concerns with the surface water management permit?
- Are committees ready to assume responsibilities following turnover to address transition matters? For instance, Documentation Committees, Fining Committees, Contract Review Committees, Reserve Committees and so on may be beneficial, depending upon the size of the community.
- Does the association board of directors understand the laws pertaining to owners and association employees? Examples of some relevant laws include emotional support animal versus service animal requests, medical marijuana use, denying owner or tenant approval based upon criminal history and selective enforcement concerns.

This is by no means an exhaustive list. There are a multitude of matters to be handled when a developer turns over control of the association to the owners. However, all parties and owners will benefit if the developer and owners work together prior to the turnover to create a plan and timeline for a methodical and organized turnover.

Our community association, real estate, and land use attorneys work in tandem for a smooth turnover. We are able to assist from start to finish; from creating a timeline and plan, to executing the plan through turnover and continued assistance after turnover.

Are you involved with an association turnover at this time? Do you have other questions? You may leave comments and questions on this blog or you may contact me by email at tread@beckerlawyer.com or by telephone 239-628-4937.