

# Know association's rules before you buy

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SAN JOSE — With the price of a three-bedroom house in Silicon Valley often exceeding \$600,000 these days, many buyers are choosing condominiums, which tend to be a less expensive option.

But buying a condo — or buying a house in some master-planned communities — comes with a set of issues many home buyers don't have to face. Condo buyers don't simply become homeowners once all the papers are signed. They also become part of a homeowners association.

Owners of some single-family houses in planned developments also become part of homeowners associations.

Because a homeowners association is essentially a corporation, it's important to check out the rules and the financial health of that enterprise before becoming one of its owners, experts say.

"You're buying into a part of a business, so you need to look at not only the packet they give you, but talk to people in the development. What do they understand are the problems of the development?" said Sam Chuck, a real estate attorney in San Jose.

The association's business is to pay for maintenance and repair of the mutually owned parts of the community — things like roadways, sidewalks, pools and roofs — and enforce the rules of the association.

Owners pay monthly fees to fund those activities.

The "packet" Chuck referred to is typically a stack of documents that should disclose to a potential buyer all the pertinent facts about the operation of the homeowners association; the do's and don'ts of homeowner behavior and the financial health of the association.

The packet is usually provided to buyers once they are in escrow.

Buyers with short "contingency periods" in their purchase agreements should be warned: It can sometimes take several days for an association's property management company to produce the documents.

Among other things, the packet should include copies of the association's articles of incorporation and bylaws, its rules and its "conditions, covenants and restrictions," commonly known as "CC&Rs"

It also should include minutes from a year's worth of association meetings, a copy of the association's budget and a financial statement. Often, association news letters are included as well.

San Jose condo owner David Zippin said he thinks reading an association's newsletters is a good way to get familiar with community issues and to learn about the association's property management company "and whether they have their act together or not." Meeting minutes also are useful for this purpose.

Zippin and his partner, Tom Engels, bought their condo four years ago, despite the fact that the newsletters and other disclosures told them the association was in the process of suing the project's developer over water-related damage.

"The surprise is that it's lasted over four years. We didn't expect that," he said, referring to the lawsuit.

Other than that, they've had no big surprises, although Zippin said he did not slog through every page of the rules they were given.

Chuck said few people bother to read more than a page or two of their CC&Rs, but they should read sections that seem pertinent to their lives.

The documents can specify things like what color door a home can have, what color paint and trim, what kind of fencing can be used, how big a dog an owner can have, how many pets are allowed, even how big a party an owner can throw.

"I've seen CC&Rs that limit what children are allowed to do," Chuck said. Skateboarding might not be allowed, for example.

Real estate agent Jeff Hansen agreed that buyers should ask about any rules that affect their daily lives.

Some associations strictly limit guest parking or forbid street parking, for example.

Buyers also should find out whether dues have gone up over the years. If not, that could be a sign of future trouble, because an aging community will certainly need maintenance, and the association may not have raised enough funds to cover it.

New buyers may be hit with steep increases in dues. "You can't say, 'Hey, I just got here and nobody told me,'" Chuck said.

Buyers should also check out what kind of insurance the association has — does it have an earthquake policy, for example? And what are the deductibles?

Any pending or ongoing litigation also should be disclosed.

Knowing about pending litigation, dues and rules is a good start. But checking out the financial strength of an association is just as important, said Jacquie Berry, president of Community Association Data Source in San Jose.

She says almost none of the disclosure packets she reviews are initially in compliance with the law on association disclosures, which is known as the Davis-Stirling Act.