

**HOUSE SELECT COMMITTEE ON HOMEOWNERS' ASSOCIATIONS**  
**Wednesday, January 24, 2024**  
**Room 643 Legislative Office Building**

The House Select Committee on Homeowners' Associations met on Wednesday, January 24, 2024 at 10:00 A.M. The meeting was held in Room 643 of the Legislative Office Building. Members present were Representatives Steve Tyson, Frank Iler and Ya Liu, Chairs, and Representatives Allen Buansi, Laura Budd and Donna White, Members.

Representative Steve Tyson presided.

Chairman Tyson called the meeting to order at 10:00am by recognizing the Seargeant-at-Arms and providing opening remarks where he assured homeowners that the legislature has heard loud and clear the concerns and frustrations of homeowners who live in planned communities. He also explained that we will hear from homeowners, Executives with State agencies that could be able to assist homeowners with complaints to HOAs, the key word is could be, and companies that represent HOAs. He said in full disclosure as a real estate agent and broker and general contractor that virtually all residential real estate contracts are written on a 17 page contract form that has been approved by the NC BAR and the NC Association of Realtors. On page 8 section 7c the contract gives detailed information on HOAs from HOAs and the rights of buyers to get detailed information on HOAs such as financial statements, declarations, restrictive covenants, etc. If the property they are purchasing is within a planned community with an HOA, it gives information about the HOA such as the name of the president, telephone numbers and addresses of the members of the HOA. He explained that from a real estate purchasing opportunity for the buyer, before they actually go into contract, they do have an opportunity to get more information on an HOA. Understandably, in this real estate market sometimes it can be challenging because there is literally a free-for-all to buy properties in certain areas. He also shared that we will be discussing existing law (GS. 7A-38.3F) that deals with HOA mediation pertaining to HOAs, and discussing NC Chapter 7A, Article 5 38.3. He pointed out that these materials are in the members' packets along with copies of GS 47F-3-107.1 (Procedures for Fines) and that there are extra copies.

Rep. Tyson recognized Speaker Number 1, Associa. Keith Marine, North Carolina Branch Manager of Associa stated that he has been in the industry for 10+ years, and has served in all capacities at Associa, and that he looks forward to being a resource for the committee and finding common sense solutions to these issues. Associa manages over 1,700 associations, 200,000 homes, and has over 200 years of experience. NC has associations that represent over 1.2 million homes. 90% have shared that they are happy with their HOA or are neutral, but there are issues, and they want to find solutions for those issues. Lee Greenwood, Director of Government Affairs for Associa stated that he was here to support Keith and offer help to the committee as needed. With over 43 years of experience, they find that a one size fits all is a hard way to try and govern these communities, instead it is local control and local self-governance. They explained that Associa is a complete HOA Property Management Company. Chairman Tyson opened the floor for questions and comments.

QUESTIONS/ANSWERS:

Rep. Iler:

A comment – as a local government, it is expected that these would be run according to the rules. Of 14,000, 13.5 thousand run that way, but it's the others I'm worried about. If 1% have a problem that's 2.5ml. or 25,000 citizens and shared that he has a thick file with minor to major issues like losing your home.

I've never heard of your group. Where do you fit in the HOA chain?

Keith Marine:

We're the management company hired to maintain the association. HOA Boards are volunteers, and we are hired to fulfill their action items and directions.

Rep. Iler:

Transparency has come up and people can't get items requested. What is your transparency policy?

Keith Marine:

We provide information monthly, share statutes and duties to the Board of Directors. Education is a constant.

Rep. Iler:

I didn't hear standards. Some states have oversight. Can you make a recommendation?

Keith Marine:

HOA law in North Carolina may want to look at due protection procedures. It is in the Non-Profit Act now, and you may want to bring it into the HOA Act. I can answer more about oversight.

Rep. Iler:

Is there another state that has an acceptable form of oversight? A Consumer Protection Department? Our AG has a Consumer Protection but they don't seem to handle this. Is there a state that is doing better with oversight?

Lee Greenwood:

I hesitate to say one because there are states that have typically not been the best way to handle because there is such a variety where they hear complaints to collecting data. The challenge is finding that balance to allow HOAs to run effectively. To your point, the vast majority of homeowners in North Carolina seem to be happy with their experience.

Rep. Iler:

As a disclaimer I live under two different HOAs, am past president of a small HOA and have an appreciation for all sides of it.

Rep. White:

In your position covering so many states and homes, would you list the top 10 issues with homeowners and HOAs?

Keith Marine:

HOAs are established on legal docs., and often times they don't want instructed on what they can/cannot do. There are maintenance issues on condos, and not keeping up amenities. Number one issue is covenants and restrictions within documents by Board of Directors who want to amend those documents which is very difficult to do. An example is fencing materials which changes over time, but documents don't allow it which creates a conflict. Most conflicts stem from what is in the documents, homeowners opinion and Board of Directors opinion. Most homeowners understand they must submit an application to change exterior modifications and that seems to work well.

Rep. White:

Got state law and covenants and awareness when signing. What are major issues? When the HOA and Board of Directors (who are voted in by homeowners) make changes, do homeowners have input to vote on changes or do they just vote to replace Board Members?

Keith Marine:

Management Company has no authority over those changes in the governing documents. We manage the association, help homeowners be able to pay their assessments, work with the Board inspecting the property within the covenant enforcement, and we work with the vendors. Since the Board members are volunteers, we handle the action. The governing documents can only be amended by a very high vote by the homeowners.

Lee Greenwood:

The model of electing your board gives the board responsibility of looking out for the interest of the association, but the homeowners are active participants.

Rep. White:

Complaints we're getting are that there is no open communication between the HOA, Board of Directors, and homeowners.

Rep. Liu:

My first question - foreclosure complaints – what is your current practice when you discover homeowners are behind on dues? What steps do you go through to notify the homeowners? Do you have a payment plan?

Keith Marine:

Tremendous amount of steps are taken to help homeowners before ever getting to that point. First step is board and company work to create a collection policy. Per law, a 15 day demand letter is sent. All of this is handled withing the company, and no collection agency or attorney until they are given every opportunity to satisfy the HOA assessments. Because it is budgeted, it's important to take in those funds to pay landscaper, pool etc. Once it's to the point that 15 day letter is sent and there has been no contact made with the homeowner, it is sent to an attorney or collection agency. We offer payment plans, to put the account on hold due to domestic, job, etc. When the homeowner is communicating, we work with them extensively. No communication at

all is when steps are taken and even then it's months before it ever gets to the foreclosure step with our company.

Rep. Liu:

If you don't hear within 15 days, how do you identify a serious personal issue?

Keith Marine:

Generally, it's 105 days before it is given to a collection agency. Every effort is made to reach out to these homeowners to allow them to cover costs.

Rep. Liu:

What percentage of homeowners are behind on dues?

Keith Marine:

It is a very, very small percentage. Don't know the exact percentage. With most of our communities it is less than 5%.

Rep. Budd:

You mentioned changing covenant restrictions is difficult to change. How do you change them and what suggestions do you have to make it easier to amend them?

Keith Marine:

Within the document it says a percentage required to amend them, most of the time its 2/3, 67 or 75%, some condos 100% which is difficult. The older the documents are, you could make it easier to change.

Rep. Budd:

What are your ideas to improve transparency and communication?

Keith Marine:

We have a portal for producing/posting minutes. We encourage having random open forum meetings. We respond to homeowners through a communication portal for talking to homeowners and creating transparency on financials, meeting minutes, governing documents. We encourage Board of Directors to take these steps.

Rep. Tyson recognized Speaker Number 2, Harmony Taylor of Community Associations Institute. Exhibit 1 - Presentation Attached

#### QUESTIONS AND ANSWERS:

Rep. Iler: I appreciate the macro view, micro view – I want to see a copy of the contract. Where can I see it?

Harmony Taylor:

Community Associations Institute works to make it available to all homeowners. We worked with Senator Johnson on SB326 to allow this to be made available to all homeowners.

Rep. Tyson recognized Speaker Number 3, Carr McLamb of the Administrative Office of the Courts. Exhibit 2 - Presentation Attached.

QUESTIONS AND ANSWERS: NONE

Rep. Tyson recognized Speaker Number 4, Tara Kozlowski of Dispute Resolution Commission. Exhibit 3 - Presentation Attached.

QUESTIONS AND ANSWERS:

Rep. Budd:

When a case from court is appointed a mediator, is their fee capped if it is court appointed?

Tara Kozlowski:

\$175/one time fee. \$150/hr. split by parties unless ordered by the court to be agreed by the parties. District Criminal Court is a \$60/fee.

Rep. Iler:

You referred to 7A and Section B says disputes solely members failure to pay assessment or fines or fees are not covered, so this really only covers Superior Court and does not cover simple failure to pay or does it cover that at all?

Tara Kozlowski:

I'm not super familiar with the statute that we're discussing today because it doesn't fall under my jurisdiction, but that's my understanding.

Rep. Tyson recognized Speaker Number 5, Janice Almond of Mediation Network of N.C. Exhibit 4 - PDF Presentation Attached.

QUESTIONS AND ANSWERS:

Rep. Buansi:

Are Centers listed on website – do all listed provide HOA mediation?

Janice Almond:

Yes. I can provide those numbers.

Rep. Buansi:

Yes please.

Rep Budd:

Is the basis for the refusal the mediate recorded or tracked?

Janice Almond:

I believe that Wilmington does, and I will send that info.

Rep Iler:

Is the Coastal/New Hanover contact info available and can we tell people to call there before calling an attorney?

Janice Almond:

Yes. You can google it or call John Murphy who has put the new center together.

Rep. Tyson recognized Speaker 6, Daniel Mosteller of the NC DOJ.

Exhibit 5 - Presentation Attached.

#### QUESTIONS AND ANSWERS:

Rep. Buansi:

Is it advertised that DOJ is able to receive HOA complaints?

Daniel Mosteller:

We don't specifically advertise that we take HOA complaints because the DOJ follows Ch. 75, General Consumer Protection Statute which does not cover HOA.

Rep. Tyson recognized Speaker 7, Miriam Baer of NC Real Estate Commission.

Exhibit 6 – Presentation Email from Janet Thoren, NCREC Legal Counsel Attached

#### QUESTIONS AND ANSWERS:

Rep. Iler:

Lots of friends are Brokers and Developers. Will you receive complaints if a broker is not involved?

Miriam Baer:

No, there is overlapping community management. You don't need to be a broker to be a community association manager, but there are brokers who are licensed who choose to operate in that arena. So, if a licensed broker is a community association manager and a consumer has a complaint, we will receive that complaint, but we must have jurisdiction over the licensee and/or the company involved in order to investigate a complaint against them. So if they happen to be licensed as a broker we have rules that say if they are licensed as a broker and are managing an association and receiving money they must handle the money they receive in the same way a broker would handle trust money; they have to operate as a fiduciary under rules from us about how they account for the money, and how they report the money that they have. Sometimes they

complain about it because it puts them on a different standard than their competitors who are not licensed as real estate brokers and don't have to follow the same rules.

Rep. Iler:

There was an HOA that was supposed to take over roads and soil from the developer who was a real estate broker, also but they said it's not up to par so we're not going to take it over. If an HOA Board has an issue or dispute against a broker would that rise to the Real Estate Commission?

Miriam Baer:

We would look at it – likely conclude that it was a civil dispute. We look at a licensed broker if rules are violated. If they lie, stealing, etc. we would have authority to revoke their license. We are not a court, so we cannot stop someone. We can only reprimand, revoke or suspend a license from a Broker. We are at your service.

Representative Tyson recognized time for PUBLIC COMMENT:

Dawn Schildhorn.

Exhibit 7 Presentation Attached.

Yolanda White

Representing Lennox Square Condominiums of Jamestown that are seeking retirement life and emphasize need for collaboration with homeowners and HOAs and to encourage open dialogue with constructive solutions for the benefits of all residents at HOA meetings. Together we can make a positive impact of the North Carolina homeowners.

William Keller

Exhibit 8 Presentation Attached

Sue Hodgen

Exhibit 9 Presentation Attached

Gene Wasile (ABC POA)

Exhibit 10 Presentation Attached

Timothy Hines

Exhibit 11 Presentation Attached

Penny von Bergen Vessell

Exhibit 12 Presentation Attached

Representative Tyson opened up for comments from committee members.

COMMENTS:

Rep. Iler:

Was involved in last reform and interested in attacking this can of worms.

Representative Tyson adjourned the meeting at 11:51A.M.