

**HUSCH BLACKWELL**



## Turnover – Considerations for Condominium Boards of Directors and Officers

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Turnover is governed by Section 703.15 of the Wisconsin Statutes. (A copy is attached at the end of this document for reference.)

## Items to Obtain From Developer or Declarant

1. All financial records of association:
  - All year-end financial records
  - All monthly financial statements for the year of turnover
  - An up-to-date and accurate ledger for each unit owner
  
2. All corporate records of association:
  - Articles of incorporation
  - Declaration
  - Bylaws
  - Rules
  - Executive summary
  - Executed statutory reserve account statement (Sec. 703.163(3)(c))
  - Minutes of all unit owner meetings
  - Minutes of all board meetings
  - Any reserve study
  - Insurance policies and declaration pages
  
3. Complete list of names and addresses (and any other contact information) for all:
  - Unit owners
  - Mortgagees (if required by the documents or maintained by the declarant)
  
4. Construction documents, including:
  - All construction plans and drawings (or at least a copy of each). If the declarant does not have them, get them from the local municipality. Any as-built drawings should also be obtained.
  - Copy of the development agreement with the local municipality.
  - All warranties relating to the association.
  
5. All contracts for the association, including:
  - Landscaping
  - Snowplowing
  - Maintenance
  - Property management
  - Leases

## Things for the Board To Do 45 to 90 Days Before Turnover

1. Meet with the declarant and specifically ask if there are any:
  - Financial issues
  - Personnel issues
  - Contractor issues
  - Warranty claims
2. Meet with project manager, job superintendent or building foreman.
  - Go through plans and drawings if no as-built plans, to determine the as-built as close as possible.
  - Discuss incomplete construction projects, including final lift on roads.
  - Get deals in writing relative to incomplete projects.
3. Set up insurance committee of unit owners.
  - Review all policies.
  - Recommend to the board what insurances the Association should have.
  - Recommend policy limits and deductibles.
4. Interview professional property managers.
5. Hire a knowledgeable condominium attorney to represent the Association for the turnover.

## Things for the Board To Do Immediately After Turnover

1. Discuss with declarant the status of any incomplete projects promised as part of declaration or development agreement.
  - Clubhouse
  - Pool
2. Obtain a reserve study if one was not obtained by declarant.
3. Review rules – are there any you want to add or delete? (For examples of standard rules, or to obtain a copy of Husch Blackwell's form rules, contact [HBCCondo@huschblackwell.com](mailto:HBCCondo@huschblackwell.com).)
4. Review contracts – are there any you want to terminate?
5. Survey unit owners for any:
  - Warranty work declarant is not doing
  - Problems with construction
  - Items promised by declarant but not delivered
  - Other issues they may have with Association

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7. Review financials.
  - Decide if you want to hire a CPA or accountant to determine:
    - Whether the declarant complied with Sec. 703.16(2)(b) during the period of declarant control.
    - Whether all unit owners are current and have paid what they should have paid.
  - Decide whether you need to change the assessment amount to meet the expenses of the Association.
  
8. Schedule a meeting of unit owners to:
  - Decide whether to have a statutory reserve account (see Sec. 703.163(4)).
  - Communicate plans moving forward.

## 703.15 Association of unit owners.

(1) **LEGAL ENTITY.** The affairs of every condominium shall be governed by an association that, even if unincorporated, is constituted a legal entity for all purposes. Except for matters reserved to the association members or unit owners by this chapter, the declaration, or the bylaws, all policy and operational decisions of the association, including interpretation of the condominium instruments, bylaws, rules, and other documents relating to the condominium or the association, shall be made by its board of directors. This subsection does not affect the deference accorded to, or the standard of review of, an action of the board of directors by a court.

### (2) ORGANIZATION OF ASSOCIATION.

(a) *Establishment.* Every declarant shall establish an association to govern the condominium not later than the date of the first conveyance of a unit to a purchaser. The association shall be organized as a profit or nonprofit corporation or as an unincorporated association. After it is organized, the membership of the association shall at all times consist exclusively of all of the unit owners.

(b) *Power and responsibility prior to establishment.* Until an association is established, a declarant has the power and responsibility to act in all instances where this chapter, any other provision of the law, or the declaration require action by the association or its officers.

#### (c) *Declarant Control.*

1. Except as provided in par. (d), a declarant may authorize the declarant or persons designated by him or her to appoint and remove the officers of the association or to exercise the powers and responsibilities otherwise assigned by the declaration or this chapter to the association or its officers. A declaration may not authorize any declarant control of the association for a period exceeding the earlier of any of the following:

- a. Ten years in the case of an expandable condominium.
- b. Three years in the case of any other condominium.
- c. Thirty days after the conveyance of 75% of the common element interest to purchasers.

2. The period of declarant control begins on the date that the first condominium unit is conveyed by a declarant to any person other than the declarant. If there is any other unit owner other than a declarant, a declaration may not be amended to increase the scope or the period of the declarant control.

(d) *Meeting to elect directors.* Prior to the conveyance of 25% of the common element interest to purchasers, an association shall hold a meeting and the unit owners other than the declarant shall elect at least 25% of the directors of the executive board. Prior to the conveyance of 50% of the common element interest to purchasers, an association shall hold a meeting and the unit owners other than the declarant shall elect at least 33 1/3% of the directors of the executive board.

(e) *Calculation of percentage.* The calculation of the percentage of common element interest conveyed to purchasers under pars. (c) and (d) shall be based on the percentage of undivided interest appertaining to each unit which has been conveyed assuming that all the units to be completed are included in the condominium.

(f) *Elections after expiration of declarant control.* Not later than 45 days after the expiration of any period of declarant control, an association shall hold a meeting and the unit owners shall elect an executive board of at least 3 directors and officers of the association. The directors and officers shall take office upon election.