



Reidenbach

& Associates, LLC | Attorneys

The Law Firm of the Main Line®

It can be very frustrating for an association Board of Directors and small and medium-sized developers in Pennsylvania to grasp the intricacies of residential planned community and condominium association laws. The period of transition of control of the association from a declarant to the owners can also be particularly stressful without the proper legal guidance.

As leaders in Pennsylvania condominium and HOA law, Reidenbach & Associates is deeply experienced in all types of transition matters. Transition is the process whereby a declarant-developer is statutorily required to turn over the control of the community association to a Board of Directors comprised exclusively of unit owners. We routinely guide developers and unit owner Boards through the complex transition process to ensure compliance with all statutory requirements. We also mediate, and litigate when necessary, the disputes that tend to arise between the declarant and the owners during this time in order to allow for a smoother transition and to reduce the likelihood for future litigation.

IF ENGAGED BY A DEVELOPER-DECLARANT, OUR TRANSITION TRIAGE TEAM WILL EVALUATE THE FOLLOWING:

- Has the declarant complied with all obligations under the applicable common interest community (i.e. condominium or HOA) statute and the community's governing documents (i.e., Declaration, Bylaws and Rules and Regulations)?
- Have the appropriate association accounts been created and maintained and has the declarant contributed its fair share of assessments for operating expenses and future reserves? May the declarant take "assessment credits" for unsold and unbuilt units?
- Have the requisite number of owners been added to the Board over time as units have been sold at the community?
- What is the status of any convertible real estate and has that been documented correctly in amendments to the Declaration as it was added to the community?
- Are there any viable construction litigation claims by owners outstanding and what is the statute of limitations on any such claims?
- Has the Association adopted a budget annually during the period of Declarant control and provided the owners a right of rejection of each budget?
- Whether declarant has delivered in a timely manner all required association documentation to the owners after turnover of control as required by statute?
- Has declarant commissioned an appropriate audit of the association's finances?
- Is there a property manager in place who can assist the owners with transition?



Reidenbach

& Associates, LLC | Attorneys

The Law Firm of the Main Line®

IF ENGAGED BY A BOARD OF DIRECTORS OF OWNERS, OUR TRANSITION TRIAGE TEAM WOULD CONFIRM THE FOLLOWING:

- What is the status of the community's governing documents? Are they complete or do they require either substantive and/or corrective amendments?
- What is the level of governance experience of the current Board? Are they aware of their statutory duties as Board members under Pennsylvania law?
- Are current vendor contracts reasonable or should they be terminated once transition occurs?
- Do the owners want to continue with any declarant-appointed property manager or hire a new one? Would the Board prefer to self-manage? If so, we would evaluate with the Board the pros and cons of that option.
- Have last year's and this year's budgets and association finances been evaluated to gauge the state of the financial health of the association?
- Depending on the age of the community, has a reserve study been commissioned?
- Is there proper insurance coverage in place and have premiums been paid to date to ensure there has been no lapse in coverage? Is there adequate D&O liability coverage for Board members?
- Has declarant complied with all development agreements? If not, Reidenbach & Associates can speak with the municipality regarding construction deficiencies and any ongoing obligations that the members of the association will assume as successor to the declarant.