

# SELLING or REFINANCING your property in an HOA in New Mexico

*Submitted by Lynne Rice, a homeowner in a Santa Fe HOA.*

When you live in a homeowner's association (HOA), your property is subject to contractual conditions associated with your neighborhood. These contractual conditions are often referred to as "community documents" and include the Articles of Incorporation, Covenants, Conditions and Restrictions (CC&Rs) and Bylaws.

When you sell or refinance your home in New Mexico, you must tell your buyer or lender about these community documents and the obligations associated with them.

Under the NM HOA Act, a seller must provide the following information, including copies of:

- **The rules of the association (R&Rs)**
- **A Disclosure Certificate from the association**
- **The CC&Rs**
- **The Bylaws**
- **The Declaration of the Association, other than plats and plans**

## **What is a Disclosure certificate and what information does it contain?**

A **Disclosure certificate** is provided by your association and discloses the following information:

- The existence and terms of any right of first refusal or existing developer/declarant rights.
- The amount of monthly common expense assessments and any unpaid common expense or special assessment **CURRENTLY DUE** and payable from the selling lot owner.
- The amount of **ANY OTHER** fees payable by the lot owner (**such as fines or special subscriptions.**)
- The amount of any **CAPITAL EXPENDITURES** anticipated by association and approved by the board for current year and next two years. (ie- **if the Association is planning to pave the roads or update an irrigation system – this tells the prospective buyer that this is on the horizon.**)
- The amount held in the association's **RESERVE** Account and the amount of those reserves that are set aside for any specific project.
- A copy of the most recent **BALANCE SHEET** and **INCOME STATEMENT**.
- A copy of the current **BUDGET**.

- Statement of any unsatisfied judgments or pending lawsuits against the association AND status of any pending suits material to the association or which the association has actual knowledge.
- Statement describing any INSURANCE COVERAGE provided for the benefit of lot owners and the board of the association.
- IF APPLICABLE – a statement reflecting whether the property has any COMPLIANCE issues currently outstanding. (IF none are stated, then the association does not have recourse for same issues in future.)
- Disclosure of any leasehold estate affecting the association
- Statement with the current contact information for the association

The above requirements and information may sound intimidating or complex, but it is not. It is simply a summary of the contract that binds your property to the association and the expected liabilities that the buyer may expect.

All of this information belongs to the association. Your dues have paid for the association to collect and maintain this information. Much of what you will receive already exists and belongs to you under New Mexico law.

Stay informed. Ask questions. Know your rights.