

# Washington State Chapter **COMMUNITY ASSOCIATIONS INSTITUTE**

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# Uniformed Common Interest Ownership Act (UCIOA) Coming to a State Near You?

Washington CAI's  
Community Associations (CA) Day

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# UCIOA

- Uniform Common Interest Ownership Act
- Uniform Law Commission

# History

- 1963 Horizontal Property Regimes Act
- 1982 UCIOA
- 1990 Washington Condominium Act enacted  
(Based on 1980 Uniform Condominium Act)
- 1994 UCIOA Revised
- 1995 Washington HOA Act enacted
- 2005 Condo Club
- 2008 UCIOA Revised again

# UCIOA - Status

- W[A][U]CIOA Drafting Group
- State Bar Involvement...Or Not
- Draft Bill for Stakeholder Comment
- WSCAI-LAC's Role
- New Law – 2015?

# UCIOA

- Common Interest Community is a key defined term
- UCIOA differentiates between Condominiums, Plat Communities, Cooperatives and Miscellaneous Communities.

# Hierarchy of Authority

- (i) first, the declaration;
- (ii) then, the map;
- (iii) then, the bylaws;
- (iv) then, the rules and regulations;
- (v) then, the articles, and
- (vi) then, any other governing document.

# Definitions

“Common interest community”: real estate described in a declaration with respect to which a person, by virtue of the person’s ownership of a unit, is obligated to pay...



# Definition

What is a condominium?

A common interest community with the attributes described in this [section] is a condominium unless designated otherwise.

# Plat Community

“Plat community” means a common interest community in which units have been **created by subdivision or short subdivision** as defined at RCW 58.17.020(1) and (6) and in which the boundaries of units are established pursuant to Chapter 58.17 RCW.

# Miscellaneous Community

“Miscellaneous community” means a common interest community that is not a condominium, cooperative or plat community.



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# Application

Except as otherwise provided in this section, this [act] applies to **all common interest communities** created within this state after [the effective date of this [act]].

# Retroactive Application

Similar to WCA in terms of retroactive application with some differences including:

- Unit Boundaries
- Amending Governing Docs
- Including Amending Declaration
- Powers of the Association

# Amendment to Update

The governing documents of any common interest community created before the effective date of this [act] may be amended to achieve any result permitted by this [act], regardless of what applicable law provided before this [act] was adopted.

# Amend Declaration

General rule is 67%, unless the declaration specifies a different percentage not to exceed ninety percent for all amendments or for specific subjects of amendment.



# Amend Declaration

If the declaration requires the approval of another person as a condition of its effectiveness, the amendment is not valid without that approval;

# Judicial Enforcement

- Current Condo Act
- UCIOA
- Washington's Current Draft

# Limited Expense Communities

(a) Unless the declaration provides that this entire [act] is applicable, a planned community that is not subject to any development right is subject only to [Sections 1-105, 1-106, and 1-107], if the **common interest** community provides in its declaration that the annual average assessment of all units restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed \$300, as adjusted pursuant to [Section 1-115] of this [act].

# Declaration - Current

- Current Condo Act requires: (i) all structural components and mechanical systems of all buildings containing or comprising any units thereby created are substantially completed in accordance with the plans
- Proposed UCIOA gives the option of “air space” unit

# Current Condo Act

- What the declaration must contain:
- (e) With respect to each unit: (i) The approximate square footage (ii) The number of bathrooms, whole or partial; (iii) etc.

# Proposed

- (a) The declaration must contain:
- (4) With respect to each existing unit, and if known at time the declaration is recorded, the (i) approximate square footage, (ii) number of whole or partial bathrooms, (iii) number of rooms designated primarily as bedrooms, and (iv) level or levels on which each unit is located.



# POS Disclosures

- (k) A list of the limited common elements assigned to the units being offered for sale;

vs.

- (12) A description of the limited common elements that may be allocated to the units being offered for sale.



# Little Things

- (1) may make any improvements or alterations to his unit that do not impair the structural integrity or mechanical or electrical systems or lessen the support of any portion of the common interest community;



# BIG Things

- (c) A declaration may provide for the appointment of specified positions on the board by persons other than the Declarant or an affiliate of the Declarant during or after the period of Declarant control.

# Large Scale Communities

- (a) The declaration for a common interest community may state that it is a large scale community if the Declarant has reserved the development right to create at least five hundred units that may be used for residential purposes, and at the time of the reservation that Declarant owns or controls more than five hundred acres on which the units may be built.



# Large Scale Communities

- Declarant Control: (g) The period of Declarant control of the association for a large scale community terminates in accordance with any conditions specified in the declaration

# Assessments

- Declarant shall have the right to delay commencement of assessments for SOME or all common expenses
- Declarant shall have the right to delay commencement of assessments (for each phase) in the same manner.

# Specific Assessments

The declaration may provide that any of the following expenses of the association shall be assessed against the units on some basis other than common expense liability:

# Specific Assessments

(1) expenses associated with the operation, maintenance, repair, or replacement of any **specified limited common element** against the units to which that limited common element is assigned, equally, or in any other proportion that the declaration provides;



# Specific Assessments

- (2) expenses specified in the declaration as benefiting fewer than all of the units or their unit owners exclusively against the units benefitted in proportion to their common expense liability or in any other proportion that the declaration provides;
- Impact of Retroactive Application?

# Lien Priority

- The **common expense assessments**, excluding any amounts for capital improvements, based on the **periodic budget**
- **Any specially allocated assessments** assessable against the unit under such periodic budget, which would have become due in the absence of acceleration **during the six months immediately preceding** the institution of proceedings to foreclose either the association's lien or a security interest described in [subsection (b)(2)] of this [section]; and





# Lien Priority

- The association's actual costs and reasonable attorneys' fees incurred in foreclosing its lien up to the time when any person pays to the association the full priority amount described above, including the association's attorneys' fees and costs.

# Warranties

- Will they be included?
- Should All Common Interest Owners Enjoy Warranties?
- SOL

# Implied Warranty

- (1) free from defective materials; and
- (2) constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner.
- ***[General NOTE: Article 4 Subcommittee unable to reach agreement on nature of applicability of implied warranties on all CICs.]***



# Statute of Limitation

Generally, **six years** after the [claim for relief][cause of action] accrues.

The **parties** may agree to reduce the period of limitation to not less than two years.

# Declarant Liability

(e) A Declarant shall **cease to be a Declarant** for all purposes under Article 4 upon the later of

- (1) the termination or expiration of all special Declarant rights,
- (2) the expiration of any period within which claims must be filed, or actions for a breach of any obligations must be commenced, **for any statutory warranty of quality involving the common elements**, or
- (3) **the Declarant does not meet the definition of dealer under [section 1-103(21)] of this [act].**



# Retroactive Application (Redux)

- Common Interest Law in Four Acts?

# Not Included

- Commercial vs. Residential
- Individual Control
- Smoking
- Manager Licensing
- Rogue  
Owners/Boards/Developers/Managers/  
Accountants/Lawyers etc. etc. etc.

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## QUESTIONS?

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# WHAT CAN YOU DO?

- Support the WSCAI – LAC
- Contact your legislators
- Provide feedback/information to WSCAI
- Support educational efforts and good governance

# CAI and the Washington State Chapter of CAI

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