

The Uniform Planned Community Act

[On behalf of Dornish Law Offices, PC](#) | Jun 15, 2010 | [All, Real Estate Practice](#)

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On February 2, 1997, The Uniform Planned Community Act became effective. The Act applies to all Planned Communities created in the Commonwealth of Pennsylvania that contain more than 12 units. The provisions of the Act do not apply to Planned Communities in which all units are restricted to nonresidential use unless the declaration provides that the Act does apply and there are certain different provisions that apply to subdivisions and conversions of units and expansions of flexible Planned Communities. Provisions concerning a Public Offering Statement apply only to new Planned Communities. Many other provisions of this Act apply to both existing and new Planned Communities including requirement for Resale Certificates (see below).

I. Definition. Under this Act, a Planned Community is defined as: Real estate with respect to which a person, by virtue of ownership of an interest in a portion of the real estate, is or may become obligated by covenant, easement or agreement imposed on the owner's interest to pay any amount of real property taxes, insurance, maintenance, repair, improvement, management, administration or regulation of any part of the real estate other than the portion or interest owned solely by the person. The term excludes a cooperative and a condominium, but a condominium or cooperative may be part of a planned community. For purposes of this definition, "ownership" includes holding a leasehold interest of more than 20 years, including renewal options, in real estate. The term includes nonresidential campground communities.

II. Exceptions. Under this Act, the Declarant of a Planned Community created after February 2, 1997 must prepare a Public Offering Statement and a seller who is reselling a unit in a Planned Community must prepare a Resale Certificate except in the following circumstances:

(1) a gratuitous transfer of a unit; (2) a disposition pursuant to a court order; (3) a disposition by a government or governmental agency; (4) a disposition by foreclosure or deed in lieu of foreclosure; or (5) a disposition of a unit situated wholly outside this Commonwealth pursuant to a contract executed wholly outside this Commonwealth.

III. Public Offering Statement. The Public Offering Statement which must be prepared by a Declarant must contain a series of information listed in the Act. A Declarant must provide a purchaser of a unit with a copy of the Public Offering Statement and all amendments thereto prior to the date the purchaser executes an agreement of sale or if no agreement of sale is executed, not later than 15 days before conveyance of the unit. If the purchaser does not receive the Public Offering Statement on time, the purchaser may cancel the agreement within 15 days after receiving the Public Offering Statement and all currently effective amendments. Additionally, if the Public Offering Statement is amended after the purchaser receives it; the purchaser may cancel the agreement of sale within 15 days after receiving the amendment if the amendment materially and adversely affects the rights and/or obligations of the purchaser. Further, any deposit made in connection with the purchase of a unit from a Declarant must be placed in escrow and held by a licensed real estate broker, an attorney admitted to practice in Pennsylvania, a financial institution or a licensed title insurance company.

IV. Resale Certificates for All Planned Communities. When a unit owner, other than a Declarant, sells a unit in any Planned Community in Pennsylvania created before or after February 2, 1997 except certain non flexible Planned Communities of more than 12 units, the unit owner must provide the purchaser prior to the execution of any agreement of sale or before the conveyance of any unit if no agreement of sale is executed with a copy of the declaration other than the plats and plans, the bylaws, the rules or regulations of the association and a Resale Certificate containing the certain information listed in the Act.

The association must provide this certificate and the information necessary for the unit owner to comply with this requirement within ten (10) days after a request of a unit owner. The purchaser of the unit will not be liable for any unpaid assessment or fee other than the amount indicated in the certificate prepared by the association. In addition, the unit owner is not liable to the purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the agreement of sale is voidable by the purchaser until the certificate has been provided and for five days thereafter or until conveyance, whichever first occurs. The unit owner is also not liable to the purchaser for any incorrect information provided by the association and included in the certificate.

V. Other Provisions of Note in the New Act. An association may not impose any of the following fees against an owner or tenant of a unit or against any person construction, altering, renovating or repairing a unit in a planned community:

1. A tapping, connection or other impact fee in excess of the actual direct cost incurred by the association for the connection or provision of water or sewer service to a building or improvement;
2. Any fee for the right to construct, alter, renovate or repair a building or improvement except for an inclusive fee for the actual direct costs to the association of certain architectural, aesthetic or landscaping plan reviews or inspections or certain building construction standards or building code reviews if the association imposed certain standards or building codes;
3. Any fee related to construction, alteration, renovation or repair of a unit except as specifically provided above.

A planned community may be created only by recording a declaration executed by all parties whose interest in the real estate will be conveyed to unit owners and by every lessor of a lease which upon expiration will terminate the planned community or reduce its size in the county in which the property is located.

After the declaration is recorded, a sufficient legal description of the unit must contain the name of the planned community, the recording data for the declaration, the county or counties in which the planned community is located and the identifying number of the unit.

A unit owner may make any improvements or alterations to the unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the planned community.

The declaration may be amended only by vote of at least 67% of the association, a larger percentage of the association if specified in the declaration or a smaller percentage of the association if specified in the declaration and if all units are restricted exclusively to nonresidential use.

A planned community may be terminated only by agreement of unit owners of units to which at least 80% or such larger percentage specified in the declaration, of the votes in the association are allocated.

Foreclosure or enforcement of a lien or encumbrance against the entire planned community or portion thereof does not terminate the planned community or withdraw that portion from the planned community.

However, if the lien or encumbrance against a portion of the real estate comprising the planned community was recorded before the declaration,

the foreclosing party may, upon foreclosure, record an instrument excluding the real estate from the planned community.

The association has a lien on a unit for any assessment levied against the unit or fines imposed against its unit owner from the time the assessment or fine becomes due. This lien may be foreclosed in a manner similar to that used to foreclose on a mortgage.

The lien imposed by the association is prior to all other liens and encumbrances on a unit except:

1. Liens and encumbrances recorded before the recording of the declaration.
2. First mortgages or deed of trust on the unit securing first mortgage holders and recorded before the due date of the assessment, if the assessment is not payable in installments or the due date of the unpaid installment, if the assessment is payable in installments.
3. Liens for real estate taxes and other governmental assessments or charges against the unit.