Surviving Renting Inside a Homeowner Association

Presented by:

Erin Rider, Director
Office of the Homeowners' Association Ombudsman

Jeremiah Maughan
President, Asset Vision Inc
General Manager, Vision Association Management

Homeowner Association Fundamentals

Resources for Understanding HOAs

What is an HOA?

HOA Structure

Important Terms:

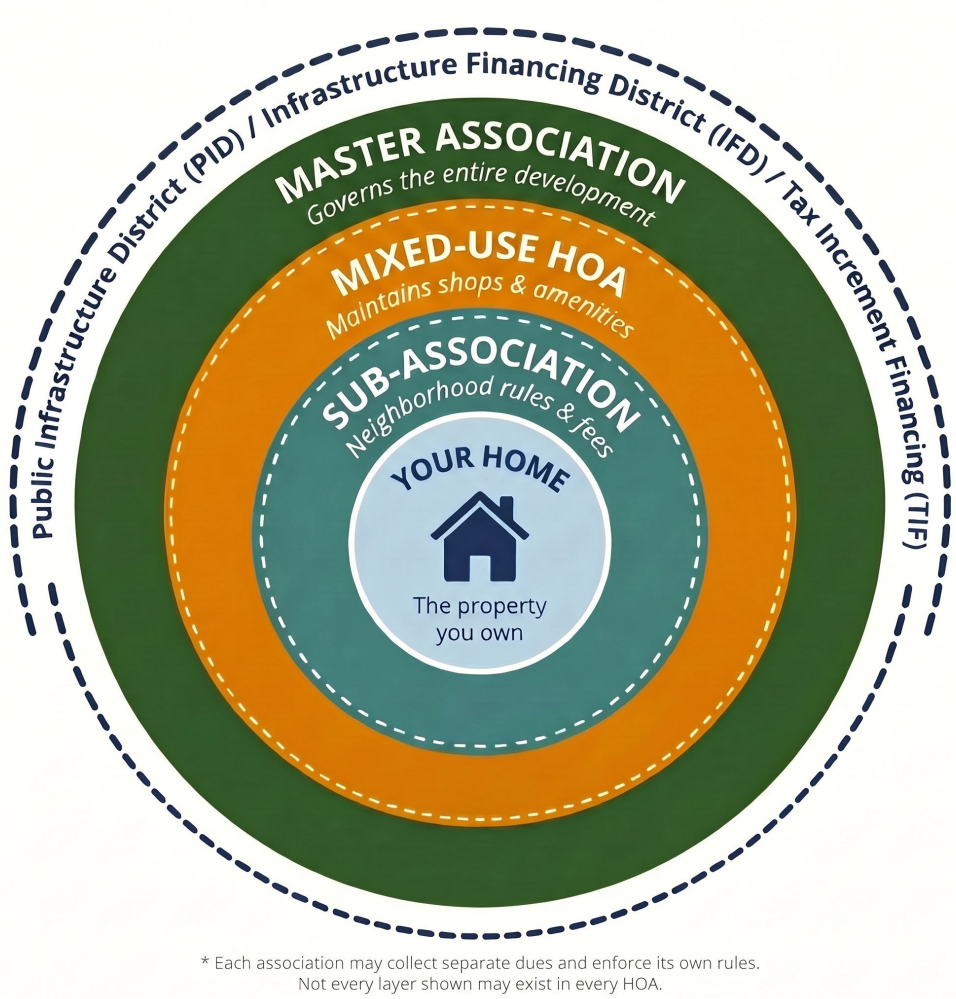
- PID / IFD / TIF
- Large master planned development
- Master association
- Sub-association

Paradigm Shift:

When you buy in an HOA, you're not just buying the home – you're buying the whole community.

Two Governing Laws in Utah

- **Community Association Act (CAA):** Applies to most planned communities.
- **Condominium Ownership Act (COA):** Applies to condominium projects.



* Each association may collect separate dues and enforce its own rules.
Not every layer shown may exist in every HOA.

Who Owns What? Understanding Property in an HOA

Your client's ownership rights and responsibilities depend on whether property is classified as private, common, or limited common.

Private / Lot Property

Owned solely by the homeowner.

Responsibility: The owner is responsible for all maintenance and upkeep.

Common Areas

Owned collectively by all members of the HOA (e.g., pools, parks, hallways, roofs in condos).

Responsibility: The HOA is responsible for maintenance.

Limited Common Areas

Common area assigned for the exclusive use of specific owners (e.g., a balcony, assigned parking space).

Responsibility: Varies — check the governing documents.

Food for thought: Should common area or limited common area be included in a home inspection?

How does an HOA operate?

Governance & Documents

Every HOA is run by a board of directors and governed by a hierarchy of legal documents.

Governing Document Hierarchy

Federal, State, and Municipal Law
Always supersedes HOA documents.

Declaration (CC&Rs)
Foundational document; defines property rights and restrictions.

Articles of Incorporation
Establishes the HOA as a legal entity.

Bylaws
Governs operations (meetings, elections).

Rules and Regulations
Day-to-day rules adopted by the board.

How the HOA is Run

- A **board of directors** (elected by homeowners) makes decisions for the association.
- Many HOAs hire a **professional management company** to handle day-to-day operations.
- Homeowners have the right to attend board meetings, vote on major decisions, and review association records.

Tip for Buyers' Agents: Always obtain and review the governing documents before your client closes. What is in the CC&Rs and rules will directly affect how they can use their property.

HOA Finances – Operational Fees

HOA finances directly affect your client's monthly costs, their ability to get a mortgage, and the long-term health of the community.

Regular Dues (Assessments)

Monthly or annual fees that fund the HOA's operating budget.

What they cover: Routine maintenance, insurance, management fees, and amenities.

Special Assessments

One-time charges levied when the HOA needs funds beyond what the regular budget covers.

What they cover: Major unexpected repairs, litigation costs, or large-scale improvements not covered by reserves.

Reserve Fund

Savings set aside for major future expenses. A well-funded reserve means fewer surprise special assessments.

What they cover: Roof replacement, repaving roads, pool resurfacing, etc.

Where to find this information: The current budget, most recent financial statements, and reserve. An underfunded reserve should be a red flag.

Tips for Getting Documents

- It's the seller's job to get the documents
- Ask for documents before the property is listed – 10 business day lead time!
- Portals are preferred
- Check the registry for the right contact person!
- Be sure to submit the correct name of the HOA

Where does the Ombudsman Office Come In?

Statutory Responsibilities

A neutral, state government office providing education and resources for homeowners, boards, and other industry professionals.

What We Do

- ✓ **HOA Registry:** Maintain a registry of all HOAs in the State of Utah.
- ✓ **Advisory Opinions:** Non-binding opinions to help parties understand the law.
- ✓ **Education & Training:** Free webinars, guides, and resources on HOA laws and best practices.

What We Don't Do

- ✗ **Provide Legal Advice:** We cannot act as your attorney or give specific legal counsel.
- ✗ **Take Sides:** We are a neutral office and apply the law consistently to all parties.
- ✗ **Enforce Rules:** We cannot fine HOAs, remove board members, or enforce CC&Rs.

HOA Registry

Office of the Homeowners' Association Ombudsman

Utah Homeowners' Association Registry Search

Return to HOA Website

Bald Eagle Club

Registration #: 14249772-HOA1
Registration Type: HOA Registration
Status: Active
Expires: 10/31/2026

Has Reinvestment Fee: Yes
Has Administrative Setup Fee: Yes

Location:
Park City, Summit

Contact Info:
7711 Bald Eagle Drive
Park City, UT 84060

HOA President
Matthew Prucka
(281) 830-7109
mwp@prucka.com
7865 Hawk Court
Park City, UT 84060

HOA Community Manager
Mike Vertner
(435) 649-1751
mike@baldeagleclub.org
7711 Bald Eagle Drive
Park City, UT 84060

Payoff Contact
Mike Vertner
(435) 649-1751
mike@baldeagleclub.org
7711 Bald Eagle Drive
Park City, UT 84060

Board Members

Rob Taylor
rataylor999@gmail.com
(312) 343-1357
7825 Falcon Court
Park City, UT 84060

Glen Traylor
gtraylor@traylor.com
(312) 246-9408
7933 Bald Eagle Drive
Park City, UT 84060

Jane McDonald Black
janemcdonaldblack@gmail.com
(612) 386-0102
7839 Red Tail Court
Park City, UT 84060

Whitney Jones
wwildrick@gmail.com
(484) 252-1610
7885 Bald Eagle Drive
Park City, UT

UTAH | An official website of the state of Utah
© state of Utah

Utah.gov Home | Terms of Use | Privacy Policy | Accessibility | Translate

Advisory Opinions — What Real Estate Professionals Need to Know

What is an Advisory Opinion?

A written, non-binding opinion issued by the Ombudsman Office on HOA legal questions to help parties understand how the law applies to their specific situation.

Why Should You Care?

- **Public and Searchable:** All issued opinions are available on our website. You can search them to see how similar issues have been addressed in the past.
- **Understand the Law:** They provide valuable insight into how Utah HOA laws (CAA and COA) are interpreted in real-world scenarios.
- **Clarify Disputes:** If your client is facing a dispute with an HOA (e.g., over a rule or fee), an advisory opinion can help clarify the legal standing before the issue escalates.
- **Educational Tool:** Reading past opinions is a great way to deepen your understanding of complex HOA issues.

Contact Us

Office Info

Hours: 8 am – 5 pm

Phone: 801-530-6670

Email: hoaoffice@utah.gov

Website: hoa.utah.gov

Connect With Us

LinkedIn

Facebook

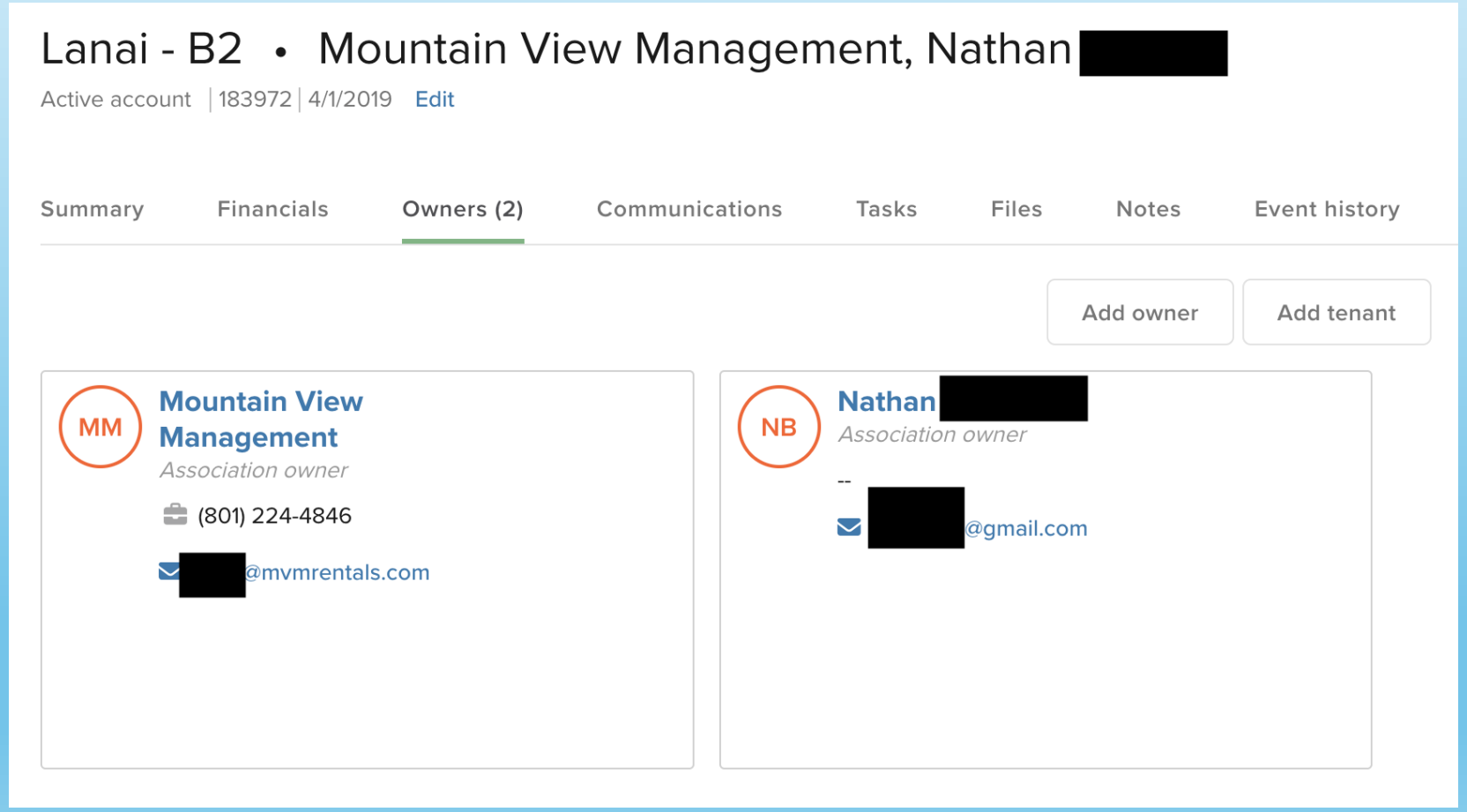
The Board vs HOA Management Company

- Boards are like the US Congress, and just as effective
- HOA managers are like the executive branch: Effectiveness depends on who it is.
- Contacting HOA managers:
  - Some managers will have been delegated broad authority by their management contracts and can address most routine issues without the board's input.
  - Some managers will always defer to the board to an answer, particularly if they don't want to own giving you negative news.

Contact information

- Make sure that an HOA has your Company's contact information alongside the owner's
  - Company name, a generic email address, and the office number.
  - Don't use any employee's personal email or cell number b/c #Turnover.
  - If they give you a hard time, cite statute: "(14) (a)A lot owner of a rental lot may designate, in a written notice to the association, a primary contact individual who is not the lot owner with whom the association may communicate as though the primary contact individual is the lot owner."

Sample Manager Contact



Proxy Voting and Newsletters

- Bin a proxy voting appointment to your PM agreement
  - See Code 16-6a-712 (Proxies) for guidance in how a member can appoint proxies and the terms, etc.
  - By-laws are allowed to be more restrictive in the process for granting proxy.
  - Associations generally welcome additional participation and for the most part will not challenge a PM's proxy appointment.
- Be on the HOA mailing list to get updates (see contact info)

Tenants

- Rental restrictions – Don’t take your client’s word for whether they are allowed to rent their unit!
- Rental restrictions – Don’t hide the fact that you’re renting.
- Voidable leases – If you rent when you can’t, your lease might be voidable.
- Rules and Regulations – Make sure you provide a copy of the HOA’s rules permanently in the unit. Make sure the lease allows for updates during the term as rules change.
- Fair Housing laws apply to HOAs just like they do to Landlords
- Make sure that the HOA can reach your tenants in case of emergency

Common Area Access

- Keys are the easy part, the hard part is clubroom cards, underground parking access, etc.
- Most of the time, HOAs want the managers to be accountable for the keys and fobs
- Some HOAs issue their own to tenants as a revenue generator
- Owners are accountable for tenant caused damage and lost keys

Evictions

- Can an HOA make you evict your tenant?
- No, but they can put tremendous pressure on the owner or manager to evict a tenant. Examples:
  - Fines (there are some caps now)
  - Extra scrutiny and site inspections
  - Repeated phone calls to remind you to take action
  - Neighbor complaints about your company and leaving you bad reviews
  - Some neighbors are just plain racist

Maintenance

- Every association has a “responsibility matrix” even if it doesn’t look like a matrix
- Usually common elements are HOA responsibility (exterior walls, roofs, walkways, amenities
- Exclusive use is usually owner responsibility
- Refer issues to the HOA for repair. If an emergency and the HOA does not have emergency resources, handle the issue yourself if failing to do so would harm your client. However, you may not be able to be reimbursed by the HOA.

Matrix Examples

Eastgate Maintenance Responsibility Matrix Per Section XXII of the CC&Rs			
*This document is intended for reference purposes only. It is not intended to amend or replace the Eastgate CC&Rs. In the event of any conflict between this document and the CC&Rs, the CC&Rs shall govern.			
	Owner	**HOA**	**Notes**
Interior of the Unit	x		
Door, Paint (in and out)	x		Use HOA approved colors
Door, Trim (in and out)	x		
Door, Hardware	x		Handle set required; kickplate and handle set must be same finish and color
Doors & Doorbell	x		
Siding & Brick		x	
Shutters		x	
Trees		x	
Roof		x	
Rain Gutters & Downspouts		x	Cleaned in even years
Roads		x	
Fence		x	
Sidewalks		x	
Sheds		x	
Covered Parking		x	
Common Areas		x	
Light, Front Porch		x	
Light, Balcony		x	
Light, Post Lamp		x	
Light, Backyard	x		
Exterior, Balcony Vinyl		x	
Exterior, Balcony Deck		x	Maintained with roofing material
Exterior, Electrical for Unit	x		
Exterior, Plumbing for Unit	x		
Crawlspace	x		
Windows & Screens	x		
Bay Window Structure		x	
Frontyard, Steps		x	
Frontyard, Bushes		x	Red stake indicates owner maintenance
Backyard, Steps	x		
Backyard, Concrete	x		
Backyard, General	x		Clear of all trees; bushes no taller than fence line
Air Conditioner	x		
Heating	x		
Plumbing	x		
Water Heater	x		
Irrigation System		x	
Utilities, within the Unit	x		
Utilities for multiple units		x	

EXHIBIT C

MAINTENANCE ALLOCATION CHART

ITEM	HOA	TOWNHOME LOTS & DETACHED HOME LOTS	NOTES
A/C Pad & Unit		X	
Address Numbers		X	
Attic		X	
Cable/Satellite TV		X	
Ceiling		X	
Circuit Breakers for Unit		X	
Common Area & Common Area amenities	X		
Door and Door Frames - exterior		X	Subject to Board approval to replace
Door and Door frames - interior		X	
Door Hardware/doorbell		X	
Drains – Residence & Limited Common patio/porch		X	
Dryer Vent Cleaning		X	
Electrical Wiring/Panel		X	
Exterior Wall Finishes (Rock/Stucco/Siding/Brick, etc.)		X	
Fences – around rear patio/Limited Common Area		X	
Fences – Common Area & Project perimeter	X		
Fireplace, Flue, & Vent Pipes – Cleaning & Repair		X	
Floor Coverings		X	
Foundation – Structural		X	
Foundation – Cracks, cosmetic		X	
Front Landing/Porch		X	
Furnace		X	
Garage Doors – repair & replacement (all components)		X	Subject to Board approval to replace
Gas Pipes (from meter to inside Residence)		X	
Hose Bib/Faucet/Spigot		X	
Hot Water Heater		X	
Insurance Coverage – Property (attached buildings)	X		
Insurance Coverage - HO6 Policy		X	
Insurance Coverage - loss assessment		X	
Insurance Deductible	X	X	Assessed to Owners pro-rata according to losses. HO6 deductible is Owner's responsibility.
Irrigation Lines / Heads – Common Area yard	X		
Landscape – Common Area	X		

Insurance claims

- Association's insurance is Primary, but high deductible. Owner is responsible for the proportional damage in their unit
- Many associations don't get involved if the cost is below the deductible. We've seen associations leave owners to work out repairs among themselves, even if damage is across multiple units, if the damage is below the deductible.