

MEETING MINUTES OF THE COUNCIL OF HOMEOWNERS ASSOCIATIONS (COHA)

TUESDAY, NOVEMBER 19, 2024, AT 7:00 PM

COHA Board members present: Ron Godoth, Mark Lifter, Ken Kendall, Jennifer Janson, Jack Cooper.

Guest speaker: Jim Tocco of Makower Abbate Guerra Wegner Vollmer, PLLC

There are three laws going into effect soon that every Homeowners Association (HOA) should know about.

1. The Marketable Title Record Act (MRTA) – In the past, it was common for owners to include restrictions in property deeds. These might include requiring the property to be farmed or to be used for raising a family or they might include restrictions that are illegal today (like discriminatory rules). Most HOAs have deed restrictions and the law requires HOAs to rerecord their deed restrictions at least every 40 years. The MRTA is going into effect in 2025 and the deed restrictions must be rerecorded by September 29, 2025. HOAs should NOT take a chance by not rerecording the restrictions because their old ones (40 years or older) will be wiped out. Do a whole new amendment to the Declaration or file a Notice of Claim.
2. Michigan Homeowners' Energy Policy Act – This law passed in July 2024 and takes effect early 2025. The law invalidates all HOA agreements that previously invalidated energy-saving improvements and modifications to homes in the HOA. If current HOA agreements restrict residents from having clotheslines, heat pumps, or solar panels, those restrictions will be invalidated by this law. HOAs will not be able to enforce these prohibitions except in commons areas or on "shared roofs" (roofs over more than one home unit). So, if you want a clothesline, you can have one. The same is true for solar panels, heat pumps, rain barrels, electric vehicle supply equipment, etc. HOAs will have limited ability to restrict energy-saving equipment. The law states, solar panels must follow the roof line and may not extend more than six inches beyond the roof. Solar panels that are on poles or are in a homeowner's yard, must not be higher than fences. It is strongly recommended that each HOA consult with an attorney who specializes in HOA law. The consequences of violating the act would be a civil action, court awards, plus damages, etc. Every association MUST have a written solar policy and must mail it to every homeowner, it must be posted on the HOA's website, and it must be readily available to all new home buyers in the HOA.
3. Corporate Transparency Act Compliance – This law passed in 2019 and is effective the beginning of 2025. The purpose of the act is to increase the disclosure of corporate entity ownership to help combat illicit activities like money laundering, terrorist financing, and tax evasion through shell companies. It is enforced by the U.S. Treasury Financial Crimes Enforcement Network (FinCEN), and it is relatively easy to comply with the Act. When HOAs do their annual report to the State of Michigan's Department of Licensing and Regulatory Affairs (LARA), they need to include the name, address, date of birth, and driver's license (or passport) number for each board member. They also need to report the beneficial owners of 25% or more of the corporation (HOAs generally do not have a beneficial owner of 25% or more). Changes (new board members) must be filed within 30 days of the change. The guest speaker's law firm charges \$375 for the initial filing and \$125 for changes. Be sure to FILE RIGHT AWAY as anyone in violation will be charged \$500 per day and may face up to two years in prison and up to a \$10,000 fine. A question was raised, "What if the whole board resigns rather than giving their information to LARA?". The speaker gave an example of a board that resigned in Macomb Township because their buildings were falling into the lake. The Circuit Court took over the association and ordered the repairs to the buildings plus the election of a new board of directors. The ninety homeowners had to share the expense of the repairs and the court's time. It would have been MUCH cheaper for the board to have stayed in place and addressed the issue. As board members to HOAs, we have a responsibility to do the right thing and resigning does not help anyone.

Next meeting: The next meeting is tentatively set for January 21, 2025, and will be the State of the City address by the City Manager, Gary Mekjian, and Mayor Theresa Rich.

Submitted by Jennifer Janson, COHA Board Member