

WHAT RIGHTS DOES A MEMBER OF THE WELLINGTON HOMEOWNERS ASSOCIATION HAVE?

There are four sources of “rights” that a homeowner has in a homeowners association such as Wellington. In order of priority they are:

1. Florida Statutes (FS)
2. Declaration of Covenant, Conditions, and Restrictions of Record (DCCR)
3. Articles of Incorporation (AOI)
4. Bylaws of the Association (BL)

FLORIDA STATUTES: The FS give the following rights to members of a HOA:

- a. The right to attend directors meetings and speak to any agenda item.
- b. The right to receive notice of all directors meetings at least 48 hours in advance of the meeting.
- c. The right to s secret vote for directors at all membership meetings (in person or by proxy).
- d. The right to demand that an item be placed on the agenda of a board meeting. (Requires a vote of 20% of all voting interests, whether present or not).
- e. The right to recall any director. (Requires a majority vote of all voting interests, whether present or not).
- f. The right to fly the U.S. flag.
- g. The right to file a suit to appoint a receiver for the HOA in the event there are not enough directors on the board to constitute a quorum.
- h. The right to inspect and copy the official records of the HOA.

DECLARATION OF COVENANTS, CONDITIONS, and AND RESTRICTIONS OF RECORD: The DCCR gives the following rights to members of a HOA:

- a. The right to approve a sale, lease, transfer or dedication (i.e. alienation) of common grounds. (Requires a vote of 2/3s of all residents, whether present or not).
- b. The right to amend the DCCR. (Requires a vote of 2/3s of all voting interests, whether present or not).
- c. The right to approve/disapprove a general assessment in excess of 15% of prior general assessment. (Requires a vote of 2/3s of those present in person or proxy at a meeting).

- d. The right to approve/disapprove a special assessment for a capital improvement. (Requires a vote of 60% of voting interests present at a meeting; also requires that a quorum be 1/3 of all voting interests instead of 25% of all voting interests).
- e. The right to submit a dispute between a member and the board to binding arbitration pursuant to the rules of the American Arbitration Association. (Costs are equally shared).

ARTICLES OF INCORPORATION: The AOI give the following rights to members of the HOA:

- a. The right to approve/disapprove the dedication or transfer of common property of the HOA. (Requires a vote of 2/3s of those present).
- b. The right to approve of the association's borrowing of money. (Requires a vote of 2/3s present).
- c. The right to amend the AOI. (Requires a vote of 2/3s of those present).

BYLAWS: The BL give the following rights to members of the HOA:

- a. The right to receive notice of, attend, and speak at the annual membership meeting.
- b. The right to call a special meeting of members. (Requires a vote of a majority of all voting interests, whether present or not).
- c. The right to remove a director. (Requires a vote of a majority of all voting interests).
- d. The right to elect directors. (Requires a plurality).
- e. The right to amend the bylaws. (Requires a vote of 51% of voting interests present).

NOTE: A "voting interest" is, in essence, a lot. Each lot, regardless of how many may be "on the title" has one vote.