

TEXAS POA LAW - DEFINED & DESCRIBED

Compiled by Sharon Reuler 3/12/18 from the Standards for Attorney Certification
in Real Estate Law published by the Texas Board of Legal Specialization

DEFINITIONS from Part II, Section VIII, A.2.d of the Standards:

Property Owners Association Law is defined as the real property law practice involving advice and services in connection with common-interest developments, their mandatory-membership associations of real property owners, and the individual owners of real property in common-interest developments.

Common-Interest Development is defined as a real estate development with restrictive covenants that tie ownership of a unit or lot to membership in a property owners association to which the owners are obligated to pay assessments. Common-interest developments, such as condominiums and subdivisions, may have residential, nonresidential, or mixed uses. The property owners association typically maintains common property, provides services, and enforces restrictions burdening the common-interest development.

DESCRIPTION from Part II, Section VIII, B.1.b.(4)(a) of the Standards:

Examples of typical activities in this specialty area [POA Law] include:

1. Serving as counsel to property owners associations, their officers and directors, their members, and their managers on matters pertaining to the common-interest development and its governing association;
2. Drafting, amending, and interpreting documents that create and govern the development and its association;
3. Representing parties in assessment collection actions, enforcement of statutes and governing documents, and other litigation and dispute resolution relating to the common-interest development and its association; and
4. Serving as counsel to real estate developers in the creation of common-interest developments and property owners associations.

Experience categories for this specialty area [POA Law] are:

1. Documents. Draft, review, interpret, or amend development and governing documents pertaining to common interest developments and property owners associations.
2. Assessments. Issues pertaining to assessments, such as lien priorities, demands, payment plans, foreclosure, and redemption.
3. Rules. Issues pertaining to enforcement of rules and restrictions.
4. Contracts. Negotiating, enforcing, and terminating contracts to which property owners associations are party.
5. Entity. The creation, merger, or termination of property owners associations, and transfer of control from developer to owners.
6. Governance. Issues related to meetings, records, and elections of property owners associations.
7. Compliance. Compliance with applicable laws and governing documents.
8. Litigation. Serving as legal counsel or expert witness on issues of Property Owners Association Law (1) in a forum of alternate dispute resolution, such as mediation or arbitration, (2) at a trial or on appeal, or (3) in an administrative hearing.
9. Lending. Financing development or construction of the common interest development, mortgage financing on individual units or lots, borrowing by a property owners association.
10. Insurance. Dealing with insurance and bonds pertaining to a common interest development or property owners association.
11. Legislation. Drafting and negotiating proposed legislation specific to common interest developments and property owners association.
12. Education. Providing graduate school, law school, or continuing legal education in the field of Property Owners Association Law.
13. Any other substantive task or service that does not fit in any of the categories described above.