

HIRZEL LAW'S ESSENTIAL CHECKLIST FOR MICHIGAN CONDOMINIUM ASSOCIATIONS

Learn How to Successfully Navigate Developer Turnover

Farmington, MI

37085 Grand River Ave.
Suite 200
Farmington, MI 48335
(248) 940-3339

Grand Rapids, MI

250 Monroe Ave. NW
Suite 400
Grand Rapids, MI 49503
(616) 319-9964

Traverse City, MI

1001 Bay St.
Suite E
Traverse City, MI 49684
(231) 486-5600

Chicago, IL

564 W. Randolph St.
Suite 200
Chicago, IL 60661
(312) 646-2770



Developer turnover is one of the most critical times in the life cycle of a condominium. Hirzel Law, PLC has prepared this 10-point checklist to help successfully transition Michigan condominium associations from developer to co-owner control.

— Developer Turnover Issues

Hold an Annual Meeting to Elect Co-owner Directors ☐

It is not uncommon for a developer to fail to call a meeting to elect a co-owner board of directors. Pursuant to [MCL 559.110](#), the transitional control date in a Michigan condominium occurs on the date when there is an election of a board of directors in which the votes cast by the co-owners exceed the number of votes that can be cast by the developer. Co-owners and new board members in a new construction condominium also should ensure that the developer is turning over seats on the board in the time periods required by [MCL 559.152](#).

Obtain the Books and Records of the Association ☐

A newly-elected board needs to have all the association's records. Examples of documents that should be requested from the developer include, but are not limited to, bank statements, budgets, contracts, construction plans, co-owner records, financial statements, governing documents (the Master Deed, Condominium Bylaws, Rules and Regulations and Articles of Incorporation), insurance policies, meeting minutes, modification agreements, tax identification numbers, tax returns, vendor contact information and warranties.

— Developer Turnover Issues

Decide Whether to Retain a Professional Property Management Company



New boards will need to decide whether they want to self-manage the association or hire a professional management company to do so. Professional management is often helpful for new boards as they have experience in going through the developer turnover process. Associations that are already professionally managed will need to decide whether to continue with the existing management company or whether to hire a new management company. [MCL 559.155](#) permits associations to void some management contracts within 90 days of the transitional control date and to shorten the length of certain management contracts.

Retain a Community Association Attorney



Your association should consult and retain an attorney, such as [Hirzel Law, PLC](#), who is well-versed in condominium law and has experience in the developer turnover process. In addition to developer issues, the association should have an attorney review the governing documents to determine if updates are necessary, which is very common after developer turnover. Similarly, an attorney can assist with bylaw enforcement, collections and operational questions.

— Developer Turnover Issues

Check the Annual Reports and Update the Resident Agent ☐

Developers do not always file annual reports. A new board should review the [LARA website](#) to ensure that all annual reports have been filed with the State of Michigan and whether the contact information for the resident agent needs to be updated.

Review the Association's Insurance Policies ☐

Developers do not always obtain the proper insurance for an association. Associations should consult with an insurance agent who is experienced in insuring community associations to confirm that they have proper insurance coverage, including a general commercial liability policy, a directors and officers policy and worker's compensation.

Review the Financials ☐

A new board should review the financials to ensure that the developer has fulfilled its financial obligations prior to the transitional date, including funding a [reserve account](#) on or before the transitional control date. Also, in many cases, the association budget is artificially low so that a developer can sell units. A new board should review the budget to ensure that it is adequate and the association is set up for long-term success.

Retain a Certified Public Accountant



Associations should hire a CPA who can file tax returns, prepare financial statements and perform [audits or reviews](#) for the association. An accountant should analyze and document all income and expenses during the developer's control to ensure the developer has not improperly billed development expenses to the association.

Hire an Engineer to Inspect the Condominium and Perform a Reserve Study



A new board should hire a professional engineer to inspect the common elements and document any construction defects. Even if there are no defects, an association will need a reserve study to determine the useful life of the common elements and to budget for long-term expenses associated with them.

Do Not Sign Agreements with the Developer Without Consulting an Attorney



Some developers will attempt to have a new board sign a release after turnover without having fulfilled all their obligations. Do not sign a release without first consulting with an attorney.



We hope this checklist helps you complete a successful developer turnover. If you have questions or are in need of legal counsel, contact the attorneys at Hirzel Law, PLC.

CONTACT US

Disclaimer: Hirzel Law, PLC has created this checklist for informational purposes only. Downloading and relying on this checklist does not form an attorney-client relationship between Hirzel Law, PLC and the reader. An experienced condominium and real estate attorney should be consulted regarding specific questions as the answer to many legal questions is highly fact specific. If you have specific questions, you can learn more by contacting Hirzel Law, PLC at hirzellaw.com.