

2023 November 28

Re: Homeowners' Association/Residents' Associations

This is a response to the Administrative Inquiry submitted by Councillor Wyness at the 2023 September 12 Combined Meeting of Council, which included the following question:

What are Homeowners Associations/Residents' Associations (HOAs/RAs)? How are they different from Community Associations?

HOAs/RAs are non-profit corporations typically set up under the Alberta *Societies Act*, the Alberta *Companies Act*, or the *Canada Not-for-profit Corporations Act*. In general, land developers set up HOAs/RAs to maintain amenities like lakes, green spaces, and recreation facilities. HOAs/RAs receive mandatory membership dues to help maintain these amenities, made possible by encumbrances registered by developers on homeowners' land titles. An HOA/RA may also be party to restrictive covenants registered on homeowners' land titles.

A Community Association is a non-profit corporation usually set up under the Alberta *Societies Act*. Membership in a Community Association is voluntary, and the organization exists to provide recreation and other services. Many Calgary communities have both an HOA/RA and Community Association. Although most Community Associations align with City of Calgary community boundaries, some have boundaries that serve several communities.

How many HOAs/RAs are there in Calgary?

The City of Calgary does not track the number of HOAs/RAs and identifying the number would be resource intensive. Having 'resident association' in the name is insufficient method of identification and some communities have multiple HOAs/RAs.

What role, if any, does the Government of Alberta play in regulating the activities of HOAs/RAs? Does the Government of Alberta currently regulate the activities of HOAs/RAs in any way?

The Government of Alberta *Societies Act* and *Companies Act* govern how an entity is created and remains a valid legal entity under such Acts, the Government of Alberta does not govern how HOAs/RAs operate.

What role, if any, does The City play in regulating the activities of HOAs/RAs? Does The City currently regulate the activities of HOAs/RAs in any way?

The City does not regulate or govern the activities or operations of HOAs/RAs.

How is an HOA/RA created?

HOAs/RAs are created by land developers, at the developers' sole discretion, during the establishment of a new community.

Does The City have any control over whether a HOA/RA is created in a new community?

The City does not have control, as developers are not required to seek The City's permission prior to establishing a HOA/RA. The City cannot block a developer from creating a HOA/RA.

In general, what factors can contribute to a developer's decision to establish a HOA/RA?

The City is not involved in the developer's decision to establish an HOA/RA and cannot speak to what factors may have contributed to its decision to establish them. Whether to establish an HOA/RA is at the complete discretion of the developer.

What is the Enhanced Landscape Maintenance (ELM) program? What is the relationship between the ELM program and HOAs/RAs? How many HOAs/RAs are part of the ELM program?

The ELM program enables Calgary communities to choose to pay for a higher level of parks maintenance (e.g. more frequent grass mowing). ELM involves The City entering into a landscape maintenance agreement with a Community Association or HOA/RA and providing funding equal to the money The City would have otherwise spent on standard maintenance of the designated areas. The community group arranges for enhanced parks maintenance. Currently 15 HOAs/RAs are part of the ELM program.

What are Optional Amenity Agreements (OAA)? What do OAAs involve? How many HOAs/RAs have these kinds of agreements with The City?

OAAs allow third-party groups to put enhanced above spec amenities like benches and gazebos on City-owned land. There are 104 active OAAs in 75 communities, with more being executed.

How many HOAs/RAs currently lease City-owned land?

The City has five agreements with HOAs/RAs for licenses on City-owned land. Real Estate & Development Services manages these agreements on behalf of Parks & Open Spaces under the Real Property Bylaw (49M2022).

In general, how do these lands come to be owned by The City and then leased to a HOA/RA?

These lands are acquired through various means including reserve dedication, road right-of-way dedication, and direct purchases from developers for future capital projects. In this last instance the license agreements are temporary in nature until The City requires the land for capital construction projects.

What types of amenities are provided on these lands?

The agreements in place are for amenities such as entrance features, greenhouses, enhanced lighting etc. These amenities built by developers and/or community groups are above The City's standards. Agreements are put in place to ensure these groups manage the maintenance and have adequate insurance to manage these assets on City owned land.

If a HOA/RA were to, for whatever reason, stop maintaining its assets (lakes, green spaces, recreation facilities, etc.) what would happen to said assets? If a HOA/RA were to abandon its assets, what would happen to them?

The answer depends on who owns the land the asset sits on and if the asset is located on City-owned lands, what type of agreement is in place. For assets located on HOA/RA-owned land, lands and assets are treated as any other privately owned lands in Calgary. Depending on the situation, if a property becomes abandoned and falls into disrepair, becomes unsightly or unsafe, it may trigger provisions of the *Alberta Municipal Government Act*, *Alberta Safety Codes Act* or City bylaws and possibly HOA/RA bylaws.

For assets situated on City-owned land, it will depend on the type of asset and the agreement in place with The City for maintenance, repair and removal. If an asset is governed by an OAA,

The City would maintain the asset to a standard level. The City may also replace any enhanced feature, due to safety or lifecycle concerns, with a standard amenity or elect not to replace the enhanced amenity. OAs require that the developer pay rehabilitation and removal funds up front to rehab and removal should the developer or HOA/RA step away from their obligations. The goal is to allow developers to enhance communities while ensuring taxpayers are not required to pay for enhanced amenities.

Do HOAs/RAs pay property taxes?

No. Property owned, held by, and used in connection with a Residents' Association is exempt from paying municipal and provincial property taxes in accordance with the Alberta *Municipal Government Act* (s. 362 364), the *Community Organization Property Tax Exemption Regulation* AR 281/1998 (s. 14.1) and the Residents Association Property Tax Bylaw 5M2013.

For the purposes of determining property tax exemptions for Residents Associations, the definition of "residents association" and criteria for "non-profit organization" from the Alberta *Community Organization Property Tax Exemption Regulation* AR 281/1998 are used, from section 13(e.1) and section 6, respectively.

What general impact, if any, can the presence of a HOA/RA have on property assessments?

The presence of an HOA/RA and its associated amenities and fees are captured through the neighbourhood/location factors in the assessed value of a property.