



RE: Frequently Asked Questions for Adopting the Georgia Property Owners' Association Act

Question: As a Homeowners Association, are we not already subject to the Georgia Property Owners' Association Act (the "POA Act")?

Answer: No, that is just our legal name as a nonprofit organization in the state of Georgia. Even if our name ended in Property Owners Association, that still does not mean an association is subject to the POA Act. The POA Act makes clear that it takes the affirmative statement of intent to be bound by the POA Act in our Declaration to be subject to the statutory provisions of the POA Act. Currently, we are only governed by the Georgia Nonprofit Corporations Code. Adoption of the POA Act would take us under the statutory provisions of both the POA Act and the Georgia Nonprofit Corporations Code.

Question: Will adopting the POA Act change our Association's name?

Answer: No, our name will remain The Villages at Godley Station Homeowners Association, Inc.

Question: When was the POA Act made into law?

Answer: The POA Act was enacted into law in Georgia in 1994.

Question: How do we adopt the POA Act?

Answer: By amending the Covenants to affirmatively adopt the POA Act.

Question: If the Members vote to adopt the POA Act, how does that become binding?

Answer: Once approved, the Board of Directors would sign the proposed amendment certifying the proper vote was held and approved and have it recorded in the Chatham County Real Estate Records with our Covenants.

Question: What percentage of Owners will have to vote in favor of adopting the POA Act?

Answer: Based on the language of the Covenants, this amendment will require at least one-thirds (1/3) total Association vote pursuant to Article XVI, Section 16.1(b) of the Covenants.

Question: Will this be the normal standard to amend our Covenants after adopting the POA Act?

Answer: No, the POA Act which requires two-thirds approval of the eligible Association votes for future amendments. This two-thirds standard is the standard in most associations throughout the state of Georgia.

Question: Is there an annual fee for adopting the POA Act?

Answer: No, the Association would not be joining any type of group, getting involved with any other associations, or anything like that. Rather, adopting the POA Act is just agreeing to be bound by the statutory provisions of the Act.

Question: Does the POA Act change the Covenants or make provisions of our Covenants void?

Answer: No, it does not change the language of our Covenants. Typically, the only change in the restrictions is the maximum amount of delinquent interest on unpaid assessments is capped at 10%. Currently, the Covenants provide for delinquent interest at 10% already so there will not be a change in delinquent interest or delinquent fees.

Question: Can I see the language of the POA Act to know what I am voting in favor of adopting?

Answer: Yes, any proposed amendment would provide the full statutory POA Act so that you know what you are adopting. You can also search online for the statutory code starting at OCGA § 44-3-220.

Question: Why should the Association adopt the POA Act?

Answer: There are many reasons why, but in short, as mentioned the Association is automatically statutorily governed by the Georgia Nonprofit Corporation Code. The Georgia Nonprofit Corporation Code is not designed for just homeowners associations, rather all types of nonprofit organizations. In contrast, the POA Act is specifically designed for homeowners associations and helps fill in gaps in our Covenants.

Question: What is the main reason to adopt the POA Act?

Answer: It gives the members the power to amend restrictions in our Covenants by two-thirds approval. The law in Georgia states, that in order to amend our Covenants to add greater restrictions to lots you must have Owner approval (ie. 100% approval). However, the POA Act specifically provides in OCGA § 44-3-234 that the above referenced law is not applicable to Associations who choose to adopt the POA Act.

In other words, by adopting the POA Act it makes sure that if you as members choose to make changes to our Covenants that would be considered greater restrictions, all lots are bound by those changes so long as that amendment passes by the two-thirds standard under the Covenants (ie. everyone plays by the same rules). This must be approved and the amendment recorded prior to adding any greater restrictions to the Covenants.

Question: Will the proposed POA Act Amendment provide for any other changes to the Covenants?

Answer: Yes, the proposed amendment will include adding an initiation fee for all new members coming into the Association.

Question: Will the initiation fee affect current members of the Association?

Answer: No, it would only be charged to people who purchase lots within the Association after the amendment is recorded. While initiation fees are charged by most associations throughout the state, our Covenants currently do not allow them to be charged. Adding the initiation fee will add a new revenue stream for the Association that will not be funded by current members, ie. you, and will allow the Association to add extra funds to the reserves.

Question: Does the Association plan to amend the Covenants again after adopting the POA Act?

Answer: Yes, the Board would like to propose a second amendment to the membership, to among other things, limit the number of rentals in the community moving forward to make sure that the community does not become predominantly rentals, which is where the Association is currently headed.

Question: If the second amendment is successful and I am leasing my Lot prior to the second amendment, will I be able to continue to lease my Lot?

Answer: Yes, the law provides, specifically in the POA Act, that if you are leasing your Lot at the time of an amendment restricting leasing, that you can continue to lease your Lot until it is sold for at least \$100.00.

Question: Since there are going to be two amendments, do I have to cast two separate votes?

Answer: Not necessarily. If you would like, you can give your proxy to someone else, including a member of the Board of Directors, to vote on your behalf of both amendments. This eliminates the need to fill out two ballots and the proxy ballot can be used for both votes. Voting this way can also help ensure that the amendments will pass, cut Association costs, and save volunteer time needed to collect ballots.

Question: If developers know that the POA Act is good for the Association, why would they not adopt the POA Act in the beginning when the Association was formed and the Covenants were recorded?

Answer: While the Board of Directors does not know exactly why the developer did not choose to adopt the POA Act and cannot speak to that directly, the POA Act provides that no lot owner is exempt from paying assessments including developers. Generally, developers are concerned this would apply to lots they own prior to developing and selling said lots and they do not want to have to pay assessments on lots before they develop and sell them. If they adopted the POA Act when forming the Association or during the developmental period, they would have to either pay assessments on all vacant lots or surrender their voting rights on those lots. As you can imagine, they typically do not want to do either one of these.