

Fosco, VanderVennet & Fullett, P.C.

1156 Shure Drive

Suite 140

Arlington Heights, IL 60004

PAUL FOSCO
CHARLES T. VANDERVENNET
STUART A. FULLETT
SCOTT A. ROSENBLUND

BRADLEY J. RETTIG
KATERINA TSOUKALAS-HEITKEMPER
CHAD R. SOUDERS

Phone 847-259-5100
Facsimile 847-259-5511

ADDITIONAL OFFICES
CHICAGO
HOMWOOD
BY APPOINTMENT ONLY

OF COUNSEL
D. JAMES BADER

DEVELOPER AND TURNOVER ISSUES

By: Charles T. VanderVennet

An association passes through many phases during its lifetime. The end of the development stage is marked by a **Turnover** to the owners. Turnover is the time of transition of the developer's authority and responsibility for administration of the property to board members elected by the membership. The **Owner** board replaces the **Developer** board and takes over the responsibility for the property and authority to act.

Turnover can be exciting, energized, combative or anti-climactic depending on how the developer and owners approach it. With a bit of awareness and planning, it can be a calm and routine moment in the association's life. It could be a difficult time if proper groundwork has not been established by the developer or if the owners are not ready to take over the administration of the property. A number of pitfalls can be avoided.

Not surprisingly, the Developer often takes very good care of itself with language in the association's governing documents. The Developer often retains a wide-ranging entitlement to use association property so long as the Developer owns even just one unit within the association. That entitlement typically includes access to the property, use of the units as model units for sales and marketing purposes and use of those units while completing or correcting construction, alterations, additions or improvements at the development. There may be some room for regulation of that activity through properly-adopted Rules and Regulations, so long as the rules do not take away a right given to the Developer by the covenants set forth in the Declaration.

The portions of the Illinois Condominium Property Act ("Act") applicable to condominium turnovers are summarized on the attached pages. Only Section 18.5(f) of the Act applies to non-condominiums. Beyond that, non-condominiums must rely only on provisions of their governing documents but some guidance may be derived from the other statutory provisions.