

## **Homeowners' Associations in the Village of Sherman**

There are Homeowners' Associations in a number of subdivisions in the Village of Sherman. Recently there have been various questions regarding the operation and the responsibilities of these associations.

Village subdivision regulations do not require a Homeowners' Association but their creation is encouraged by the Village and by the Developer. Generally, the creation of an association is a voluntary choice made by the developer of a subdivision in order to accomplish the developer's objectives for the subdivision. The rights and obligations of a Homeowners' Association is governed by the covenants typically created by a developer in the course of establishing a subdivision. The covenants are recorded at the Sangamon County Recorder's Office so that there is a permanent public record of the requirements and restrictions which affect each and every lot within the subdivision.

In many cases, the covenants for a subdivision include provisions establishing a Homeowners' Association, minimum building requirements, an architectural control committee, parks and common areas and other matters affecting the property within the subdivision. It is typical that the covenants for the association will provide for dues to be assessed by the association so that it can accomplish its obligations, such as maintaining any common areas, parks and drainage ponds, and the method by which the members of the association will elect directors. Often the developer retains control over the association's activities for some time after creation of the subdivision in order to allow for the sale of lots and the construction of homes that will promote additional development of the subdivision. There is in many cases a specific triggering event, which might be the sale of a certain number of lots or a percentage of the total number of lots available for sale, before which the developer will control all of the activities of the association and the architectural control committee and after which all of the owners of the lots will participate in the association.

The covenants applicable to a specific subdivision are considered to be permanent (unless otherwise provided in the covenants) encumbrances on the subdivision lots. In addition, the covenants are private restrictions governing the subject properties and the individual owners. The covenants, including any homeowners' association, do not involve the Village and the Village typically does not have any legal authority to enforce specific terms or conditions in the covenants. However, the Village does work closely with the Home Owner's Associations/Developer to assure compliance with such standards in the covenants. For example, if an owner submits a building permit application to the Village, the owner is required to have sign off of the application by the Homeowner's Association or Developer before it may be approved. If there is no HOA in your subdivision then the sign off must come for the Developer. If the Developer is not available or no longer available then it is duly noted on the application however, the Village continues to utilize the guidelines in the covenants when approving the application and final inspection.

We encourage everyone to review whether there are covenants applicable to your property. The list of subdivisions on the Village Website has most, if not tall, covenants available for viewing. However, where there are none listed, covenants may be obtained through the Sangamon County Recorder of Deeds office at the Sangamon County Building, 2<sup>nd</sup> Floor; 200 South 11<sup>th</sup> Street, Springfield, IL. You may also obtain a copy of them from the title insurance company or your property lender.

If you live in a subdivision without an HOA but are interested in considering how to establish one, please contact Village Hall and we would be happy to discuss the process on how you may go about forming an HOA or put you in contact with the those persons that can help.