
OREGON PLANNED COMMUNITY ACT

AS SECTION IS EXPECTED TO READ IN THE PUBLISHED 2009 EDITION OF ORS

94.665 Authority of association to sell or transfer common property and grant easements and other interests.

(1) Except as otherwise provided in the declaration, a homeowners association may sell, transfer, convey or subject to a security interest any portion of the common property if 80 percent or more of the votes in the homeowners association, including 80 percent of the votes of lots not owned by a declarant at the time of the vote, are cast in favor of the action.

(2) A sale, transfer, conveyance or encumbrance by a security interest of the common property or any portion of the common property made pursuant to a right reserved in the declaration under this section may provide that the common property be released from any restriction imposed on the common property by the declaration or other governing document if the request for approval of the action also includes approval of the release. However, a sale, transfer or encumbrance may not deprive any lot of its right of access to or support for the lot without the consent of the owner of the lot.

(3) Subject to subsections (4) and (5) of this section, unless expressly limited or prohibited by the declaration, the homeowners association may execute, acknowledge and deliver leases, easements, rights of way, licenses and other similar interests affecting common property and consent to vacation of roadways within and adjacent to common property.

(4)(a) Except as otherwise provided in the declaration and paragraph (b) of this subsection, the granting of a lease, easement, right of way, license or other similar interest pursuant to subsection (3) of this section shall be first approved by at least 75 percent of owners present at a meeting of the association or with the consent of at least 75 percent of all owners solicited by any means the board of directors determines is reasonable. If a meeting is held to conduct the vote, the meeting notice must include a statement that approval of the grant will be an item of business in the agenda of the meeting.

(b)(A) The granting of a lease, easement, right of way, license or other similar interest affecting common property for a term of two years or less requires the approval of a majority of the board of directors.

(B) The granting of a lease, easement, right of way, license or other similar interest affecting common property for a term of more than two years to a public body, as defined in ORS 174.109, or to a utility or a communications company for installation and maintenance of power, gas, electric, water or other utility and communication lines and services requires the approval of a majority of the board of directors.

(5) Unless the declaration otherwise provides, the consent to vacation of roadways within and adjacent to common property must be approved first by at least a majority of owners present and voting at a meeting of the association or with the consent of at least a majority of all owners solicited by any means the board of directors determines is reasonable. If a meeting is held to conduct the vote, the meeting notice must include a statement that the roadway vacation will be an item of business in the agenda of the meeting.

(6) An instrument that sells, transfers, conveys or encumbers common property pursuant to subsection (1) of this section or grants an interest or consent pursuant to subsection (3) of this section shall:

(a) State that the action of the homeowners association was approved in accordance with this section; and

(b) Be executed by the president and secretary of the association and acknowledged in the manner provided for acknowledgment of the instruments by the officers.

(7) The association shall treat proceeds of any sale, transfer or conveyance under subsection (1) of this section, any grant under subsection (4) of this section or any consent to vacation under subsection (5) of this section as an asset of the association. [1981 c.782 §47; 1987 c.447 §112; 1999 c.677 §20; 2009 c.641 §12]