

# Do developers have to pay HOA dues?

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Q. While my last neighborhood was being built out, the developer and builders paid partial dues to the neighborhood association, based on the number of unbuilt lots and unsold homes they were working on. In my current neighborhood, the association only receives dues from those of us who have closed on our homes. Although the developer controls the neighborhood association, homeowners pay all costs for maintaining common areas. This is a large burden for a limited number of homeowners. Can the developer be required to pay some portion of dues, based on the lots and homes he still owns, and assume some responsibility for neighborhood costs? After all, he benefits most from an attractive neighborhood.

It is common and perfectly legal for developers to place provisions in a community's Declaration of Covenants, Conditions and Restrictions that limit the amount of assessments the developer or homebuilders have to pay on lots it owns.

In some cases, the developer exempts itself from assessments or pays a reduced rate. In other cases, the developer reserves the option of either paying assessments on its lots, or funding the operating deficit of the HOA.

In still other cases, the developer may fund the operating deficit of the HOA, but reserve the right to treat those advances as a loan to the HOA, which it can demand repayment of at any time.

Determining a developer's liability for payment of assessments would require an analysis of the community's governing documents in each case, as there are no N.C. laws that regulate the developer's liability.

You're correct in noting that, as a practical matter, the developer has a vested interest in seeing that the HOA is adequately funded so that the common areas and entranceways are attractively maintained.

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