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***SUCCESSFULLY TRANSITIONING A COMMUNITY FROM
DEVELOPER TO OWNER CONTROL***

**2008 New Jersey Cooperator Co-op & Condo Expo
Wednesday, May 14, 2008**

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New Jersey Law Blog:
<http://www.njlawblog.com>

- I. Developer Turnover of Control and of Plans/Documents
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 - B. Selection of Experts

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In an effort to safeguard our environment, Stark & Stark has made the seminar materials available online at its blog, <http://www.njlawblog.com>. The full seminar packet will be posted Thursday, May 15, 2008, together with a podcast of this presentation.

QUESTIONS & ANSWERS

N.J.S.A. 46:8B-12.1



Effective: [See Text Amendments]

New Jersey Statutes Annotated Currentness
 Title 46. Property (Refs & Annos)
 Subtitle 2. Real Property Only (Refs & Annos)
 Chapter 8B. Condominiums (Refs & Annos)
 Article IV. Administration

→ 46:8B-12.1. Members of governing board; elections; written approval of actions by developer; control by board; delivery of items

a. When unit owners other than the developer own 25% or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect not less than 25% of the members of the governing board or other form of administration of the association. Unit owners other than the developer shall be entitled to elect not less than 40% of the members of the governing board or other form of administration upon the conveyance of 50% of the units in a condominium. Unit owners other than the developer shall be entitled to elect all of the members of the governing board or other form of administration upon the conveyance of 75% of the units in a condominium. However, when some of the units of a condominium have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business, the unit owners other than the developer shall be entitled to elect all of the members of the governing board or other form of administration.

Notwithstanding any of the provisions of subsection a of this section, the developer shall be entitled to elect at least one member of the governing board or other form of administration of an association as long as the developer holds for sale in the ordinary course of business one or more units in a condominium operated by the association.

b. Within 30 days after the unit owners other than the developer are entitled to elect a member or members of the governing board or other form of administration of an association, the association shall call, and give not less than 20 days' nor more than 30 days' notice of, a meeting of the unit owners to elect the members of the governing board or other form of administration. The meeting may be called and the notice given by any unit owner if the association fails to do so.

c. If a developer holds one or more units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the developer:

(1) Assessment of the developer as a unit owner for capital improvements.

(2) Any action by the association that would be detrimental to the sales of units by the developer. However, an increase in assessments for common expenses without discrimination against the developer shall not be deemed to be detrimental to the sales of units.

d. Prior to, or not more than 60 days after, the time that unit owners other than the developer elect a majority of the members of the governing board or other form of administration of an association, the developer shall relin-

N.J.S.A. 46:8B-12.1

quish control of the association, and the unit owners shall accept control. Simultaneously, the developer shall deliver to the association all property of the unit owners and of the association held or controlled by the developer, including, but not limited to, the following items, if applicable, as to each condominium operated by the association:

- (1) A photocopy of the master deed and all amendments thereto, certified by affidavit of the developer, or an officer or agent of the developer, as being a complete copy of the actual master deed.
- (2) A certified copy of the association's articles of incorporation, or if not incorporated, then copies of the documents creating the association.
- (3) A copy of the bylaws.
- (4) The minute books, including all minutes, and other books and records of the association, if any.
- (5) Any house rules and regulations which have been promulgated.
- (6) Resignations of officers and members of the governing board or other form of administration who are required to resign because the developer is required to relinquish control of the association.
- (7) An accounting for all association funds, including capital accounts and contributions.
- (8) Association funds or control thereof.
- (9) All tangible personal property that is property of the association, represented by the developer to be part of the common elements or ostensibly part of the common elements, and an inventory of that property.
- (10) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the condominium and in the construction and installation of all mechanical components serving the improvements and the site, with a certificate in affidavit form of the developer, his agent, or an architect or engineer authorized to practice in this State that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the condominium property and for the construction and installation of the mechanical components serving the improvements. If the condominium property has been declared a condominium more than 3 years after the completion of construction or remodeling of the improvements, the requirements of this paragraph shall not apply.
- (11) Insurance policies.
- (12) Copies of any certificates of occupancy which may have been issued for the condominium property.
- (13) Any other permits issued by governmental bodies applicable to the condominium property in force or issued within 1 year prior to the date the unit owners other than the developer take control of the association.
- (14) All written warranties of the contractor, subcontractors, suppliers, and manufacturers, if any, that are still effective.
- (15) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer's records.

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(16) Leases of the common elements and other leases to which the association is a party.

(17) Employment contracts, management contracts, maintenance contracts, contracts for the supply of equipment or materials, and service contracts in which the association is one of the contracting parties and maintenance contracts and service contracts in which the association or the unit owners have an obligation or responsibility, directly or indirectly to pay some or all of the fee or charge of the person or persons performing the service.

(18) All other contracts to which the association is a party.

CREDIT(S)

L.1979, c. 157, § 2, eff. July 19, 1979.

HISTORICAL AND STATUTORY NOTES


2003 Main Volume

Title of Act:

An Act to amend and supplement the "condominium Act," approved January 7, 1970 (P.L.1969, c. 257). L.1979, c. 157.

LIBRARY REFERENCES

2003 Main Volume

Condominium  8.
Westlaw Topic No. 89A.
C.J.S. Estates §§ 211 to 216, 230.

RESEARCH REFERENCES

2008 Electronic Update

Forms

New Jersey Pleading and Practice Forms § 13:2, Statutes Governing Condominiums.

Treatises and Practice Aids

13 N.J. Prac. Series § 5.33, The Condominium Act.

15 N.J. Prac. Series § 14.3, Nature of Condominium Ownership.

15 N.J. Prac. Series § 14.32, Condominium Association--In General.

15 N.J. Prac. Series § 14.33, By-Laws.

15A N.J. Prac. Series § 29.34, Condominium--Unit Deed.

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N.J.S.A. 45:22A-47



Effective: [See Text Amendments]

New Jersey Statutes Annotated Currentness

Title 45. Professions and Occupations (Refs & Annos)

Subtitle 2. Occupations Subject to Other Regulation

Chapter 22A. Real Estate Developers, Certain (Refs & Annos)

II. Planned Real Estate Development Full Disclosure Act (Refs & Annos)

→ 45:22A-47. Procedure for transfer of control of association to the owners

a. Irrespective of the time set for developer control of the association provided in the master deed, declaration of covenants and restrictions, or other instruments of creation, control of the association shall be surrendered to the owners in the following manner:

(1) Sixty days after conveyance of 25 percent of the lots, parcels, units or interests, not fewer than 25 percent of the members of the executive board shall be elected by the owners.

(2) Sixty days after conveyance of 50 percent of the lots, parcels, units or interests, not fewer than 40 percent of the members of the executive board shall be elected by the owners.

(3) Sixty days after conveyance of 75 percent of the lots, parcels, units or interests, the developer's control of the executive board shall terminate, at which time the owners shall elect the entire executive board; except that the developer may retain the selection of one executive board member so long as there are any units remaining unsold in the regular course of business.

b. The percentages specified in subsection a. of this section shall be calculated upon the basis of the whole number of units entitled to membership in the association. The bylaws of the association shall specify the number or proportion of votes of all units conveyed to owners that shall be required for the election of board members. Unless the bylaws provide otherwise, each unit conveyed to an owner shall be entitled to one vote. A developer may surrender control of the executive board of the association before the time specified in subsection a. of this section, if the owners agree by a majority vote to assume control.

c. Upon assumption by the owners of control of the executive board of the association, the developer shall forthwith deliver to the association all items and documents pertinent to the association, such as, but not limited to, a copy of the master deed, declaration of covenants and restrictions, documents of creation of the association, bylaws, minute book including all minutes, any rules and regulations, association funds and an accounting therefor, all personal property, insurance policies, government permits, a membership roster and all contracts and agreements relative to the association.

d. The association when controlled by the owners shall not take any action that would be detrimental to the sale of units by the developer, and shall continue the same level of maintenance, operation and services as immediately prior to their assumption of control, until the last unit is sold.

e. From the time of conveyance of 75 percent of the lots, parcels, units, or interests, until the last lot, parcel,

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unit, or interest in the development is conveyed in the ordinary course of business, the master deed, bylaws or declaration of covenants and restrictions shall not require that more than 75 percent of the votes entitled to be cast thereon be cast in the affirmative for a change in the bylaws or regulations of the association.

f. The developer shall not be permitted to cast any votes allocated to unsold lots, parcels, units, or interests, in order to amend the master deed, bylaws, or any other document, for the purpose of changing the permitted use of a lot, parcel, unit, or interest, or for the purpose of reducing the common elements or facilities.

CREDIT(S)

L.1993, c. 30, § 5, eff. July 29, 1993.

HISTORICAL AND STATUTORY NOTES

1995 Main Volume

Statements: Committee statement to Senate, No. 217--L.1993, c. 30, see N.J.S.A. § 45:22A-43.

ADMINISTRATIVE CODE REFERENCES

Termination of agreements and contracts affecting common elements and facilities, see N.J.A.C. 5:26-8.5.

Transfer of administration and control, see N.J.A.C. 5:26-8.4.

LIBRARY REFERENCES

1995 Main Volume

Regulation of real estate transactions; statutory disclosure requirements, see Consumer Protection § 8.

Regulation of real estate transactions; statutory disclosure requirements, see C.J.S. Credit Reporting Agencies; Consumer Protection § 40 et seq.

RESEARCH REFERENCES

2008 Electronic Update

Treatises and Practice Aids

13 N.J. Prac. Series § 5.42, Community Association.

NOTES OF DECISIONS

Construction and application 1/2

Municipal obligations 2

Transfer of easement 1

1/2. Construction and application

Amendments to the Planned Real Estate Development Full Disclosure Act (PREDFDA) regarding governance of homeowners associations for planned unit developments (PUDs) applied retroactively to homeowners association of PUD, though PUD was constructed prior to the effective date of the PREDFDA, as such amendments

did not relate to the creation or sale of units within a development, but rather addressed the administration and management of PUDs, amendments were intended to prescribe a consistency of management methods in all types of PUDs and to safeguard the interests of individual owners or occupants, applying amendments retroactively promoted then intended consistency, and amendments required that any associations not in compliance prior to amendments' effective date to make proper amendment or supplementation of by-laws. *Committee for a Better Twin Rivers v. Twin Rivers Homeowners' Ass'n*, 383 N.J.Super. 22, 890 A.2d 947 (A.D.2006), certification granted 186 N.J. 608, 897 A.2d 1061, certification denied 186 N.J. 608, 897 A.2d 1061, order corrected and superseded 188 N.J. 357, 907 A.2d 1016, reversed 192 N.J. 344, 929 A.2d 1060. Associations ↪ 2

1. Transfer of easement

Intent of the developer in regards to transfer of easement from developer to community development association, such that association had rights and duties to maintain development's property including detention basin, had to be derived from the terms of the overall declaration setting forth easement and the circumstances surrounding its adoption, where declaration did not expressly discuss concept of transition. *Poblette v. Towne of Historic Smithville Community Ass'n, Inc. a New Jersey Corp. and Roseland Management Co., Inc.*, 355 N.J.Super. 55, 809 A.2d 178 (A.D.2002). *Waters And Water Courses* ↪ 156(5)

Developer's intent in drafting easement, permitting community development association right to enter member properties including detention basis for installation and maintenance of storm water, sanitary sewer, and drainage facilities, as set forth in Declaration of Covenants, Conditions, and Restrictions, was to allow for transfer of rights and duties under easement from developer to association; developer's intent was intertwined with purpose of the Planned Real Estate Development Full Disclosure Act, which required that a developer form an association to manage and maintain in perpetuity facilities of development. *Poblette v. Towne of Historic Smithville Community Ass'n, Inc. a New Jersey Corp. and Roseland Management Co., Inc.*, 355 N.J.Super. 55, 809 A.2d 178 (A.D.2002). *Waters And Water Courses* ↪ 156(5)


After community developer's bankruptcy, a de facto transfer to community development association of rights and duties occurred, including duty under easement that association enter member properties for installation and maintenance of storm water, sanitary sewer, and drainage facilities, and thus association had duty to maintain detention basin, even though expert testified formal transition of duties regarding basin was necessary, and there was no evidence of such a transition of rights from developer to association; primary purpose of association was to assume such rights and duties, including duty to maintain detention basin, as it was built to serve common interests of property owners, and matter was one for court to determine, rather than an expert. *Poblette v. Towne of Historic Smithville Community Ass'n, Inc. a New Jersey Corp. and Roseland Management Co., Inc.*, 355 N.J.Super. 55, 809 A.2d 178 (A.D.2002). *Waters And Water Courses* ↪ 156(5)

2. Municipal obligations

Municipality's obligation to provide for snow and ice removal to qualified private community under the Municipal Services Act was delegable to developer in accordance with development agreement and Municipal Land Use Law until the developer was required to terminate its control of the executive board of the homeowners' association. *Ramapo River Reserve Homeowners Ass'n, Inc. v. Borough of Oakland*, 186 N.J. 439, 896 A.2d 459 (2006). *Zoning And Planning* ↪ 382.6

Under the Municipal Land Use Law, a municipality was authorized to delegate to a developer, within the context of a written development agreement, the obligation to provide or pay for the municipal services that municipal-

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ity was statutorily required to reimburse for or provide to qualified private communities under the Municipal Services Act; however, such delegation terminated once the developer was required to terminate its control of the executive board of the homeowners association of that qualified private community. *Ramapo River Reserve Homeowners Ass'n, Inc. v. Borough of Oakland*, 186 N.J. 439, 896 A.2d 459 (2006). Zoning And Planning  382.6

N. J. S. A. 45:22A-47, **NJ ST 45:22A-47**

Current with laws eff. through L.2008, c. 18 and J.R. No. 1.

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CONDOMINIUM ASSOCIATION SUCCESSFUL

IN APPEAL AGAINST DEVELOPER

Following up on a previous post related to what may be the first appeal of its kind - the New Jersey Appellate Court's reversal of a trial court's refusal to order a condominium developer to provide a very detailed affidavit, in accordance with New Jersey's Condominium Act (PDF), N.J.S.A. 46:8B-12.1d (the "Condominium Act"), and New Jersey's Planned Real Estate Development Full Disclosure Act, N.J.S.A 45:22A-21 et seq. ("PREDFDA").

The trial court, on that remand ordered by the appellate court, ordered the developer to provide an affidavit, required by the Condominium Act, with a specific listing of each plan, by sheet number, content and last revision date, as reflected in the title blocks of the relevant plans.

In turn, this condominium was successful in securing greater detail from its developer, which will help it in its analysis of any construction defects existing within it.

If you would like to discuss this case or how it affects community associations in more detail, please contact David J. Byrne at 609.895.7365 or by email at dbyrne@stark-stark.com.

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A SPONSOR-PLACED BYLAW VETO CLAUSE

INVALIDATED BY SUPERIOR COURT JUDGE

A condominium client represented by Stark & Stark's Community Associations Group successfully challenged, and secured the invalidation of, a clause placed in the bylaws by that condominium's sponsor by which that sponsor reserved to itself the right to veto any decision of the condominium's board. When creating the bylaws to impose upon that condominium's owners, this sponsor of a condominium in Jersey City included a provision by which it could veto "any action" that that sponsor "in its absolute and sole discretion" felt impaired or "adversely" affected the sponsor's rights, or caused the sponsor to "suffer any financial, legal or other detriment", or which "may have any direct or indirect detrimental impact upon" that sponsor.

Fortunately for this condominium, and for any similarly situated condominium, New Jersey's Condominium Act (the "Act") allows for a sponsor veto of a much, much limited nature. The Act invalidates only the following condominium actions, if not approved in writing by a sponsor: (1) assessment of the sponsor for capital improvements; or, (2) any action detrimental to the sale of units (although an increase in maintenance fees, without discrimination against that sponsor, is not "detrimental" to the sale of units).

In voiding and invalidating this sponsor's overreach, and improper veto clause, the court relied upon both the clear language of the Act, but also upon the New Jersey Supreme Court's important decisions of the past 6 years: Fox v. Kings Grant Maint. Ass'n. and Brandon Farms Property Owners Ass'n, Inc. v. Brandon Farms Condo. Ass'n., Inc. Both of those cases forcefully stand for the proposition that when owners assume control of a condominium that control is to be absolute. The Supreme Court in Fox wrote that the "unit owners' interests take precedence over any outside interest, whether that interest is a developer ... or any other outside party." In Brandon Farms, the Supreme Court invalidated a developer-created governance scheme because it violated "the public policy set forth in the Act by putting the developer's interest in selling ... homes ahead of the Condominium Association's interests".

In our case, the sponsor, by creating this veto clause, and then attempting to utilize it, was attempting to exert lingering control over the condominium's owners. This sponsor was also seeking to ensure its interests, and not the owners' interest, were the key focus of that condominium. Neither would be permitted by this court and thus Stark & Stark's client was freed from this "veto" clause and the sponsor's conduct.

If you would like to learn more about this case, issues related to developer and/or sponsor control of condominiums, or about the Fox and/or Brandon Farms case, please contact David J. Byrne at 609.895.7365 or dbyrne@stark-stark.com.



Effective: [See Text Amendments]

New Jersey Statutes Annotated Currentness

Title 45. Professions and Occupations (Refs & Annos)

Subtitle 2. Occupations Subject to Other Regulation

▣ Chapter 22A. Real Estate Developers, Certain (Refs & Annos)

▣ II. Planned Real Estate Development Full Disclosure Act (Refs & Annos)

→ 45:22A-28. Public offering statement; form; contents; use as advertisement

a. A public offering statement shall disclose fully and accurately the characteristics of the development and the lots, parcels, units, or interests therein offered, and shall make known to prospective purchasers all unusual or material circumstances or features affecting the development. The proposed public offering statement submitted to the agency shall be in a form prescribed by its rules and regulations and shall include the following:

(1) The name and principal address of the developer;

(2) A general narrative description of the development stating the total number of lots, units, parcels, or interests in the offering, and the total number of such interests planned to be sold, leased or otherwise transferred;

(3) Copies of any management contract, lease of recreational areas, or similar contract or agreement affecting the use, maintenance, or access of all or any part of the development, with a brief and simple narrative statement of the effect of each such agreement upon a purchaser, and a statement of the relationship, if any, between the developer and the managing agent or firm;

(4)(a) The significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations, affecting such lands and each unit, lot, parcel, or interest, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect such lands; and

(b) In the case of a conversion subject to the provisions of the "Tenant Protection Act of 1992," P.L.1991, c. 509 (C. 2A:18-61.40 et al.), the information required pursuant to section 14 of P.L.1991, c. 509 (C. 2A:18-61.53);

(5)(a) Relevant community information, including hospitals, health and recreational facilities of any kind, streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities and customary utilities; and

(b) The estimated cost, size, date of completion, and responsibility for construction and maintenance of existing and proposed amenities which are referred to in connection with the offering or disposition of any interest in the subdivision or subdivided lands;

(6) A copy of the proposed budget for the operation and maintenance of the common or shared elements or interests;

(7) Additional information required by the agency to assure full and fair disclosure to prospective purchasers.

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b. The public offering statement shall not be used for any promotional purposes before registration of the development and afterwards only if it is used in its entirety. No person may advertise or represent that the agency approves or recommends the development or dispositions therein. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement, unless the agency requires or permits it.

c. The agency may require the developer to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of a planned real estate development may be made after registration without the approval of the agency. A public offering statement shall not be current unless all amendments have been incorporated.

d. The public offering statement shall, to the extent possible, combine simplicity and accuracy of information, in order to facilitate purchaser understanding of the totality of rights, privileges, obligations and restrictions, comprehended under the proposed plan of development. In reviewing such public offering statement, the agency shall pay close attention to the requirements of this subsection, and shall use its discretion to require revision of a public offering statement which is unnecessarily complex, confusing, or is illegible by reason of type size or otherwise.

CREDIT(S)

L.1977, c. 419, § 8, eff. Nov. 22, 1978. Amended by L.1991, c. 509, § 22, eff. June 1, 1992.

HISTORICAL AND STATUTORY NOTES

1995 Main Volume

1991 Legislation

L.1991, c. 509, § 22, in subsec. a., par. (4), designated existing text as subpar. (a); and, added subpar. (b).

Statements: Introductory statement to Assembly, No. 5321--L.1991, c. 509, see N.J.S.A. § 2A:18-61.40.

Committee Statements to Senate, No. 148--L.1977, c. 419, see N.J.S.A. § 45:22A-21.

ADMINISTRATIVE CODE REFERENCES

Amendments to the public offering statement, see N.J.A.C. 5:26-4.5.

Contents of public offering statement, see N.J.A.C. 5:26-4.2.

Proposed public offering statement, mandatory provisions, see N.J.A.C. 5:26- 9.3.

Public offering statement, see N.J.A.C. 5:26-4.1 et seq.

LIBRARY REFERENCES

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Westlaw

NJ ADC 5:26-7.1
N.J.A.C. 5:26-7.1

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N.J. Admin. Code tit. 5, § 26-7.1

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NEW JERSEY ADMINISTRATIVE CODE
TITLE 5. DEPARTMENT OF COMMUNITY AFFAIRS
CHAPTER 26. PLANNED REAL ESTATE DEVELOPMENT FULL DISCLOSURE ACT REGULATIONS
SUBCHAPTER 7. WARRANTIES

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Current through May 5, 2008; 40 N.J. Reg. No. 9

5:26-7.1 Warranty on construction

(a) The developer of a planned real estate development or retirement community shall warrant the construction of the unit or interest as provided in the New Home Warranty and Builders' Registration Act, c.467, P.L. 1977.

(b) The developer of a planned real estate development or retirement community shall, in addition to the warranties required under the New Home Warranty and Builders' Registration Act (P.L. 1977, c.467), warrant the following to be free from defect due to material and workmanship for a period of one year from the date of possession or settlement: outbuildings, driveways, walkways, patios, retaining walls, and fences. The developer shall also warrant that all drainage is proper and adequate and that all off site improvements are free from defects for a period of one year from the date of construction.

(c) Developer shall warrant that all lots, parcels, units or interests are fit for their intended use.

<General Materials (GM) - References, Annotations, or Tables>

N.J.A.C. 5:26-7.1, **NJ ADC 5:26-7.1****NJ ADC 5:26-7.1**
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NJ ADC 5:26-7.2
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N.J. Admin. Code tit. 5, § 26-7.2

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TIONS
SUBCHAPTER 7. WARRANTIES**

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5:26-7.2 Warranty on construction of common facilities

- (a) The developer of a planned real estate development or retirement community shall warrant the construction of the common facilities for a period of two years from the date of the completion of each of the common facilities;
- (b) The developer shall warrant that the common facilities are fit for their intended use;
- (c) The developer shall repair or correct any defect in construction, material or workmanship in the common facilities within a reasonable time after notification of the defect.

<General Materials (GM) - References, Annotations, or Tables>

N.J.A.C. 5:26-7.2, **NJ ADC 5:26-7.2**

NJ ADC 5:26-7.2
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NJ ADC 5:26-7.3
N.J.A.C. 5:26-7.3

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N.J. Admin. Code tit. 5, § 26-7.3

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SUBCHAPTER 7. WARRANTIES**

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5:26-7.3 Warranty as to description

The developer shall expressly warrant that any lot, parcel, unit, interest, or common facility will substantially conform to the model, description or plans used to induce the purchaser to enter into a contract or agreement to purchase unless noted otherwise in the contract.

<General Materials (GM) - References, Annotations, or Tables>

N.J.A.C. 5:26-7.3, **NJ ADC 5:26-7.3**

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N.J. Admin. Code tit. 5, § 26-8.6

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**NEW JERSEY ADMINISTRATIVE CODE
TITLE 5. DEPARTMENT OF COMMUNITY AFFAIRS
CHAPTER 26. PLANNED REAL ESTATE DEVELOPMENT FULL DISCLOSURE ACT REGULATIONS
SUBCHAPTER 8. COMMUNITY ASSOCIATIONS**

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5:26-8.6 Assessments for common expenses

(a) Until such time as the association shall make an assessment for common expenses, the developer shall pay all of the expenses of the common elements and facilities.

(b) When the association has made a common expense assessment, the assessment shall be assessed against the units individually owned and under development in proportion to the benefit derived by the unit from the items included in the budget.

<General Materials (GM) - References, Annotations, or Tables>

N.J.A.C. 5:26-8.6, **NJ ADC 5:26-8.6**

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