

Georgia Association of REALTORS®

**EXPEDITION:
EXCELLENCE**

2012 Inaugural Meeting
Grand Hotel Marriott Resort, Golf Club & Spa
Point Clear, Alabama • February 8-11



Education Session O

Life's Tough, Get a Helmet: Gearing Up of a Smooth Closing

GREC Course Code #62123

Jamie Platt Lyons, Esq.
Friday, February 10, 2012

You cannot receive Georgia C.E. credit for this course if you have taken it in the last 366 days.

Due to seating capacities dictated by local fire code ordinances, seating for all education sessions will be based on a first come-first serve basis. GAR will not be allowed to have attendees sitting on the floor or standing up once the room's seating is full.


In order to foster a spirit of camaraderie and to avoid the appearance of recruitment, no nametags or clothing with a company logo will be allowed in the education courses. Should an attendee have one on at the time of entering an education course, the facilitators will kindly ask you to remove the name badge or place a blank nametag over the company logo. We appreciate your cooperation in regards to this matter!

**Life's Tough, Get a
Helmet:
Gearing Up for a
Smooth Closing**



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Small Groups



**Community Association Issues
That Cause Closing Problems**

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Community Association Closing Issues

- **Liens (with & without Short Sale)**
- **Who Pays What at Closing**
 - Closing Letter Fee
 - Transfer Fee
 - Initiation Fee
 - Special Assessment
 - Fee for lot to be mandatory
- **Notice of Violation**

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Preventing CA Closing Issues
WHAT CAN YOU DO TO HELP YOUR BUYER???

ed·u·cate [ej-oo-keyt]

- to inform oneself about the best course of action

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Preventing CA Closing Issues

To Get Informed, the Buyer Needs Information

How Do You Get Information?


- **Contract Provisions**
 - **GAR Forms**
 - **Special Stipulations**
- **Independent Verification**

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Contract Provisions

GAR FORMS

- **Purchase and Sale Agreement - F20**
- **Short Sale Exhibit - F94**
- **Community Association Exhibit – F123**



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Purchase and Sale Agreement - F20

8. Title.

A. Warranty: Seller warrants that at the closing Seller will convey good and marketable title to said Property by general warranty deed subject only to . . . declarations of condominium and declarations of covenants, conditions and restrictions of record on the Binding Agreement Date;

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Purchase and Sale Agreement - F20

5. Closing Costs and Other Settlement Expenses

B. Items Paid By Seller at Closing. At closing, Seller shall pay the following:

2. Except as provided above, all sums, costs, charges and fees necessary to clear title encumbrances and/or defects to allow Seller to be able to convey good and marketable title to the Property.

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Purchase and Sale Agreement - F20

5. Closing Costs and Other Settlement Expenses

C. Prorated Amounts: Seller and Buyer agree to prorate the following: (1) real estate taxes and community association assessments, if any, for the calendar year in which the sale is closed, as of the date of closing . . .

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Purchase and Sale Agreement - F20

- **declarations of condominium and declarations of covenants, conditions and restrictions of record**
- **sums, costs, charges and fees necessary to clear title encumbrances**
- **community association assessments**

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Short Sale Exhibit – F94

This Agreement is therefore contingent upon Seller’s mortgage lender(s) and, if applicable, other lien holders agreeing to: (1) take a reduced pay off such that the purchase price of the Property is sufficient to satisfy and discharge all of the mortgage(s), liens, judgments and other encumbrances on the Property, pay the real estate commission(s) owing to the Broker(s) and pay the other expenses Seller herein, without Seller having to pay any additional sums; and

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Comm. Assoc. Exhibit – F123

Community Association GAR Exhibit – F123

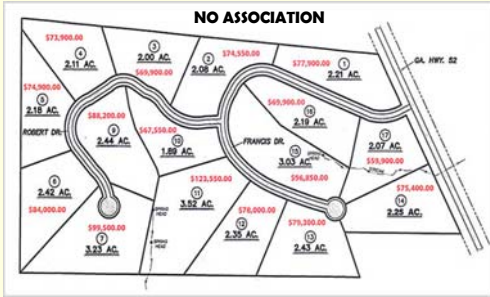
A. TYPE OF ASSOCIATION

Seller hereby discloses to Buyer that, in purchasing the Property, Buyer will either become a mandatory member or have the opportunity to become a voluntary member in the following type of community association:

- Mandatory Membership Condominium Association**
- Mandatory Membership Homeowners Association**
- Voluntary Membership Homeowners Association**

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Communities with Covenants



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Communities with Covenants



Mandatory Membership Association



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Voluntary Membership



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Communities with Covenants



Voluntary – Mandatory Hybrid

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Communities with Covenants



Mandatory on Paper, but Defunct in Reality

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Comm. Assoc. Exhibit – F123

- B. EXISTENCE OF MASTER ASSOCIATION**
- C. CONTACT INFORMATION FOR ASSOCIATION**
- D. ANNUAL ASSOCIATION ASSESSMENTS**
- E. INITIATION FEE**
- F. ACCOUNT STATEMENT LETTER**
- G. SPECIAL ASSESSMENTS**
- H. ASSESSMENTS PAY FOR . . . (check boxes)**
- I. ADDITIONAL FEES FOR SERVICES AND FACILITIES**

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Comm. Assoc. Exhibit – F123

J. NO WARRANTY.

The information in this exhibit is deemed accurate but is not guaranteed. Buyer should contact the Association to confirm what assessments and fees Buyer will owe if Buyer purchases the Property and the services and amenities that will be available to Buyer in living in the community.

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Preventing CA Closing Issues

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Special Stipulations

- Who is going to be doing what is referenced in the stipulation?
- What is it they are going to be doing?
- When is it going to be done?
- Where is it going to be done?
- How is it going to be done?
- Who is going to pay for it?*
- What happens if it is not done?*

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Special Stipulation Seeking Community Association Legal and Financial Documents

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Special Stipulations

Special Stipulation for Association Docs. and Covenants

Within ___ days of Binding Agreement Date (leave time to review during due diligence) Seller , at Seller's sole cost and expense, shall provide Buyer with:

- a complete set of all of the recorded legal instruments for _____ and any and all proposed amendments thereto, including but not limited to the Declaration, Bylaws, Architectural Guidelines and Rules and Regulations; and
- a complete set of the general financial records of _____ Association, Inc., including, but not limited to, the operating budget for the current fiscal year, the most recent profit and loss or other financial statements and any capital reserve fund study. (If not done, Buyer can terminate during due diligence.)

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Special Stipulation to Submit Lot to Mandatory Membership from Voluntary Membership

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Special Stipulations

Special Stipulations for Voluntary to Mandatory

Buyer Offer: Property must be submitted to mandatory membership covenants and association at Seller's sole cost and expense at or before Closing or Buyer may terminate this Agreement unilaterally and all earnest money shall be immediately returned to Buyer.

Seller Counteroffer: Property must be submitted to mandatory membership covenants and association at or before Closing. Seller and Buyer shall each pay half of any fees incurred to submit lot to mandatory membership covenants and association.

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Special Stipulations

Special Stipulation if Mandatory on Paper but Defunct

At Closing Seller shall sign an affidavit, which shall survive Closing confirming that:

- No association for the subdivision has levied any fees, dues or assessments against the Property.
- If any such fees, dues or assessments ever were levied or claimed against the Property, Seller has paid such monies in full prior to or through the Closing.
- If an association ever makes a future claim for fees, dues or assessments owed during the time Seller owned the Property, Seller shall pay all such amounts immediately upon Association's request.

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Preventing CA Closing Issues To Get Informed, the Buyer Needs Information

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Independent Verification

TITLE SEARCH:
Land Records for
Covenants/Private Laws
www.gsccca.org

State Index Searching
 - Real Estate Deed - Plat Index
 - Lien Index - PT-61

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Community Association Closing Issues

- Liens – F20 & F94
- Initiation Fees – F123 & Spec. Stip. & Indep. Verif.
- Closing Letter Fees – F123
- Lot not submitted to mandatory membership – Spec. Stip. & Indep. Verif.
- Covenant Violations – sheds; fences; colors; maintenance – F20 & Indep. Verif.

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Lazega & Johanson
Attorneys at Law

COMMUNITY ASSOCIATION DISCLOSURE
EXHIBIT “ _____ ”



2012 Printing

This Exhibit is part of the Agreement with an Offer Date of _____ for the purchase and sale of that certain Property known as: _____, Georgia _____.

A. TYPE OF ASSOCIATION.

Seller hereby discloses to Buyer that, in purchasing the Property, Buyer will either become a mandatory member or have the opportunity to become a voluntary member in the following type of community association (“Association”):

[Select all which apply. The section not checked shall not be a part of this Exhibit.]

- Mandatory Membership Condominium Association
- Mandatory Membership Homeowners Association
- Voluntary Membership Homeowners Association

B. EXISTENCE OF MASTER ASSOCIATION

Seller also discloses to Buyer that in addition to the Association referenced above, there is **OR** is not a master association of which Buyer shall become a member or in which the Association is already a member.

C. CONTACT INFORMATION FOR ASSOCIATION:

(Name, Address, Telephone Number, etc., where Association Dues are Sent by Seller)

D. ANNUAL ASSOCIATION ASSESSMENTS:

[Select all which apply. The sections not checked shall not be a part of this Agreement.]

- 1. Mandatory Membership Association.** Buyer acknowledges that Buyer will have to pay annual assessments to the Association so long as Buyer owns the Property to cover the Buyer’s share of common expenses. The estimated total annual assessment paid by the owner of the Property to the Association is currently _____ and is paid in _____ installments.
- 2. Voluntary Membership Association.** If Buyer becomes a member of Association, Buyer shall be responsible for paying an annual assessment estimated to be _____ and paid in _____ installments.
- 3. Master Association.** If the Buyer of the Property will also be obligated to pay an annual assessment to a master association, the annual assessment is estimated to be _____ and shall be paid in _____ installments.

E. INITIATION FEE.

Any Association initiation fee, membership fee, transfer fee or other similar fee or charge (hereinafter collectively referred to as “Initiation Fee”) shall be paid by the Buyer. To the best of Seller’s knowledge, there is **OR** is not an Initiation Fee. If there is an Initiation Fee, the estimated amount of the Initiation Fee is \$ _____ and is due _____.

F. ACCOUNT STATEMENT LETTER.

Any letter from the Association confirming whether assessments or other amounts are owed on the Property shall be paid by the

- Buyer **OR** Seller. If Seller is paying for the Account Statement Letter, the payment shall be in addition to the Items Paid by Seller at Closing set forth in the Agreement.

G. SPECIAL ASSESSMENTS. [Select all which apply. The sections not checked shall not be a part of this Agreement.]

To the best of Seller's knowledge there is **OR** is not a special assessment owing to or under consideration by the Association or any Master Association. If a special assessment is owing to or under consideration by the Association or any Master Association, it is [Select all which apply. The sections not checked shall not be a part of this Agreement]:

- already passed by the Association in the estimated amount of \$ _____;
- already passed by the Master Association in the estimated amount of \$ _____;
- under consideration by the Association in the estimated amount of \$ _____; or
- under consideration by the Master Association in the estimated amount of \$ _____.

H. ASSESSMENTS PAY FOR FOLLOWING SERVICES AND AMENITIES:

[Select all which apply. The sections not checked shall not be a part of this Agreement.]

The following services and amenities are paid for by the Association from the annual assessment:

Utilities for Property

- Gas
- Water
- Electric
- Heating
- Sewer

Services

- Concierge
- Gate Attendant
- Trash Pickup
- Road Maintenance
- Maintenance of Property
 - Grounds
 - Dwelling Exterior
- Common Area Maintenance

Amenities

- Pool
- Tennis
- Golf
- Clubhouse
- Playground
- Exercise Facility
- Equestrian Facility
- Marina/Boat Storage

Other

- Cable
- Pest and Termite Control
- Fire Insurance on Property
- Common Area Insurance

I. ADDITIONAL FEES FOR SERVICES AND FACILITIES.

If any of the above-referenced services and amenities require the payment of an additional fee to receive the service or use the amenity, please specify the service and / or amenity below and the fee for using (or receiving the same):

J. NO WARRANTY.

The information in this exhibit is deemed accurate but is not guaranteed. Buyer should contact the Association to confirm what assessments and fees Buyer will owe if Buyer purchases the Property and the services and amenities that will be available to Buyer in living in the community.

Buyer's Initials: _____ / _____

Seller's Initials: _____ / _____