

WELCOME! YOU'RE IN! THE PROGRAM WILL BEGIN SHORTLY...



VATC LUNCH & LEARN SERIES
FEBRUARY, 2021

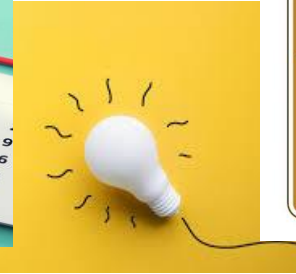


AN INTRODUCTORY EXAMINATION OF ...

27A VSA

Condominiums and Planned Communities





Questions? **ONE EXTRA ANNOUNCEMENT**

- Use the Q&A at bottom of your screen and type in. Generally: Questions will be answered at the end of the program.
From 1pm to 2 pm today. Don't miss the VBA program as part of Real Property Law Day Virtual Mini-Series

CLE Certificate? Will be posted to the Home Page of our website
Presenter: LIAM MURPHY

Watch Later? **Topic: Properties which are Non-Conforming or Non-Complying or Subject to Unenforceable Violations (and MORE!)* - 1.0 MCLE**
Video will be archived (with others) on our website.

Next Month's Program: March 10, 2021

- Hint: When you get a notice... register ... you will receive a Zoom invite
You can still register!! Call the VBA office @ 802.223.2020

WANT TO UNIMPRESS AND GET OFF ON THE WRONG FOOT...?



DON'T USE THE WRONG VERNACULAR



-

DON'T refer to Title 27



-

DON'T refer to PUD



-

DON'T refer to Apartments



-

DON'T refer to Common Areas and
Facilities



TITLE 27 (PRE '99) VS. TITLE 27A (POST 1/1/99)



DISTINCTION:



APARTMENT OR MOBILE
HOME SITES VS. UNITS



CONDOMINIUMS OR
MOBILE HOME SITES ONLY
VS. CONDOMINIUMS AND
PLANNED COMMUNITIES



FEWER/DIFFERENT
REQUIREMENTS VS. MORE
REQUIREMENTS



PLAT AND FLOOR PLANS
VS. PLAT ONLY

TITLE 27A UNIFORM COMMON INTEREST OWNERSHIP ACT

EFFECTIVE 1/1/99

So what the heck is a **Common Interest Community**?

§1-103(7)

Real estate described in **a declaration** with respect to which a person, by virtue of **ownership of a Unit**, is obligated to **pay for a share of the expenses** related to taxes, insurance, maintenance, services and other expenses related to property **other than the person's Unit**.

§1-103(30) **Unit**: A physical portion of the CIC designed for separate ownership or occupancy.

§1-103(4): **Common Elements**: Everything other than a Unit.

§1-103(19): **Limited Common Elements**: Part of the CEs allocated for the exclusive use of 1 or more, but fewer than all, of the units.

TITLE 27A UNIFORM COMMON INTEREST OWNERSHIP ACT

EFFECTIVE 1/1/99

Okay so what is not a 27A CIC?

General Exceptions (check the details):

§1-207 Non-residential projects;

§1-209 Small condo (major CAVEAT: not what you think!)

§1-210 Other exempt real estate arrangements

§1-211 Covenants; cost-sharing agreements

§2-103 Small project exemption (again, be very careful)



WHAT KIND OF 27A REGIME DO I HAVE AND HOW DO I KNOW?

Condominium

CIC in which portions of the real estate are designated for separate ownership and the remainder is designated for **common ownership solely by the owners of those portions.**

A CIC is not a condo unless the undivided interests in the CEs are vested in the owner.

1-103(8)

Planned Community

A CIC which is not a condominium or a cooperative.



CREATING ONE YOURSELF?



What does your client want?



What is the best fit for the project?



What does the town want/what will it allow?



What will sell?

Options:
Get in on the ground floor and, if you want help, involve us early!

1. Not a CIC

Biggest questions typically include:

2. Reserved development Full on 27A's (formal)?

- # of units;

3. Planned Community: Full on 27A regime - generally involves reserved land; local zoning; development rights

- what regime to create

4. Planned Community: Exempt regime

Discussion to follow

LAND RECORDS REVIEW

Declaration – read it carefully

- What type of regime? Compliance with 27A.
- Review definitions (Unit boundaries, CEs, LCEs; property; **reserved development rights**)

Plat – review it carefully

- Review to determine consistency with other docs and the type of regime established by Declaration;
- Establish compliance/certification 27A V.S.A. §2-109

Deed – check it over

- Review to determine consistency with Declaration and type of project established by Declaration

Bylaws – must be reviewed

- An important component, for sure but since they regulate the governance/operation of the Association and don't affect title, we do not review.



	Condominium	Planned Community
Deeded interest	Unit and undivided percentage interest in the Common Elements	Unit only
Common Elements 1-103(4)	All portions of the common interest community other than a Unit. “A CIC is not a condominium unless the CE are vested in the unit owners” (8)	Any real estate owned (or leased) by the Association , other than a Unit.
Allocated Interests 1-103 (2)	<ol style="list-style-type: none"> 1. Common expense liability; 2. Votes in the Association; and 3. Undivided interest in the common elements 	<ol style="list-style-type: none"> 1. Common expense liability; and 2. Votes in the Association
Exemption available for residential?	<p>No*. New projects subject to the Act.</p> <p>* Previous small condo Exemption from 2005-2012 (originally 10, then 12 Units or less) exempt from 2-101(b) and a couple of sections of 2-109 (certified by other than engineer/surveyor)</p>	<p>Yes. 27A V.S.A. §1-203</p> <ol style="list-style-type: none"> 1. 24 or fewer Units AND no reserved development rights OR 2. Annual average Common Expenses may not exceed \$300 (as adjusted by CPI since 1999)

GETTING CREATIVE WITH UNITS

Defining Unit is an important component of the Declaration.

Condominium

- Bricks and mortar:
 - Inside a unit
 - Outside
- Airspace
 - So-called footprint lots
 - Land included
 - Land excluded



GETTING CREATIVE WITH UNITS

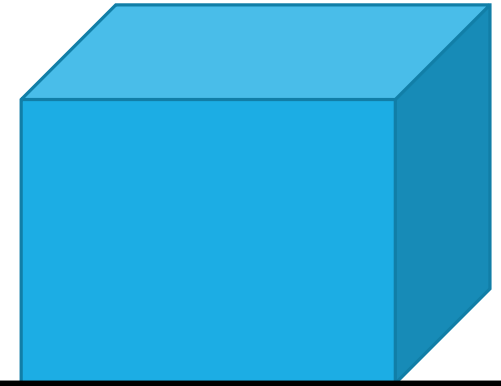
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1. Condominium

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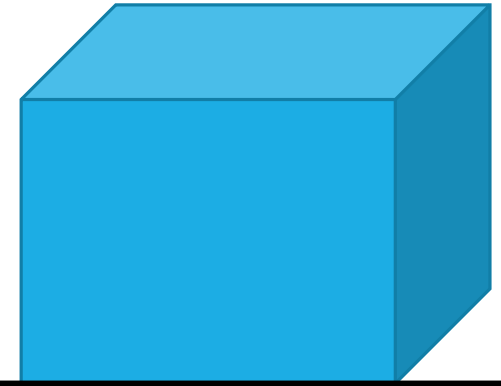
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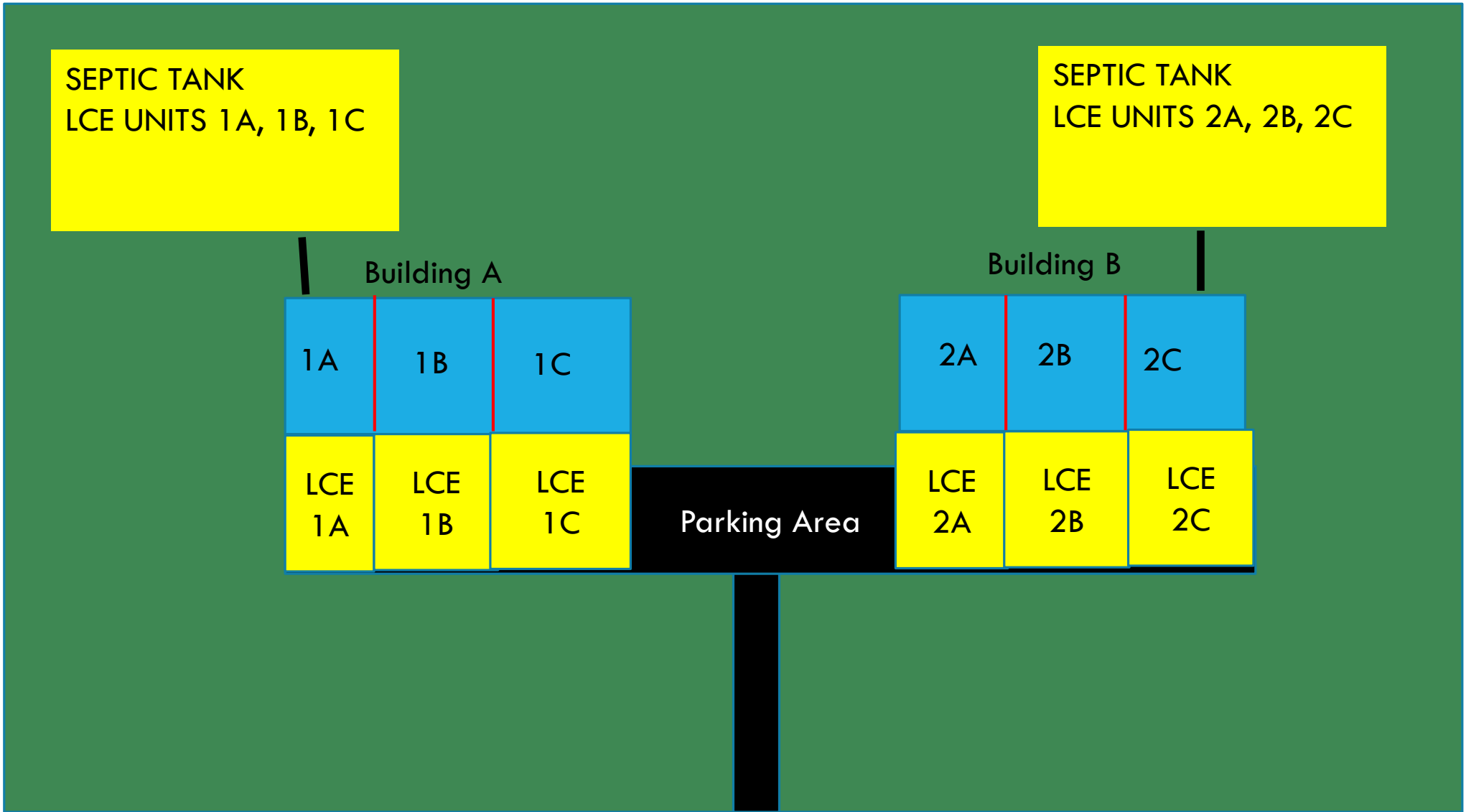
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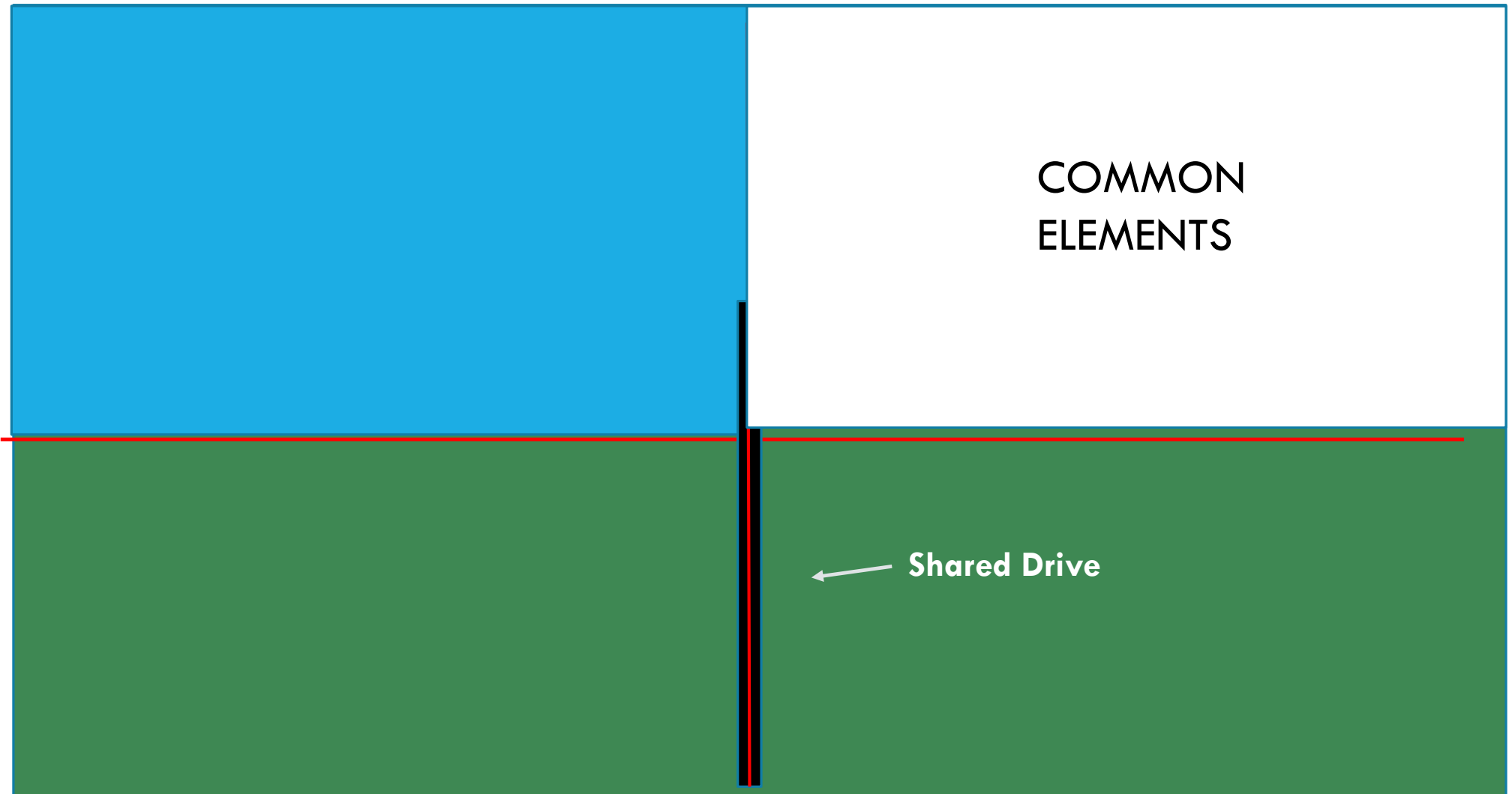


Let's review our terms for a "Traditional Condominium"



Let's make a CIC ... let's make a PCI!

1. Define Unit.



ROUTE 66

Let's make a CIC ... let's make a PC!

1. Define Unit.



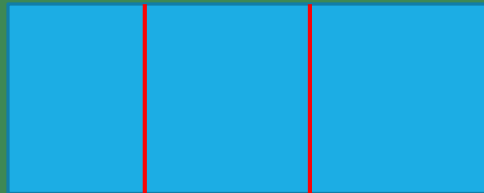
Building A

Building B

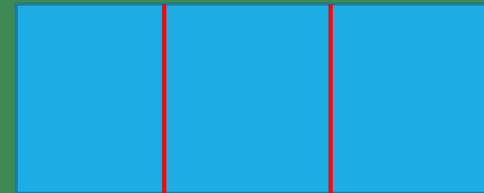
Let's make a CIC ... let's make a PC!

1. Define Unit. Here it is. What are the CE's?

Building A



Building B



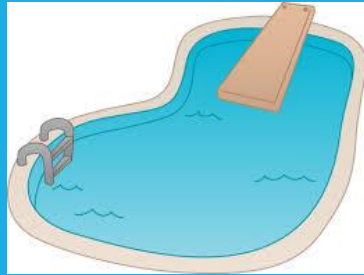
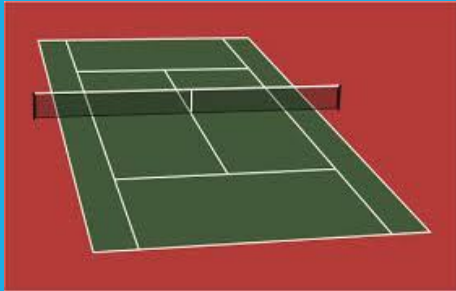
THE TURDUCKEN

Turducken is a dish consisting of a deboned chicken stuffed into a deboned duck, further stuffed into a deboned turkey. Outside of the United States and Canada, it is known as a three bird roast.



MASTER & SUB ASSOCIATIONS

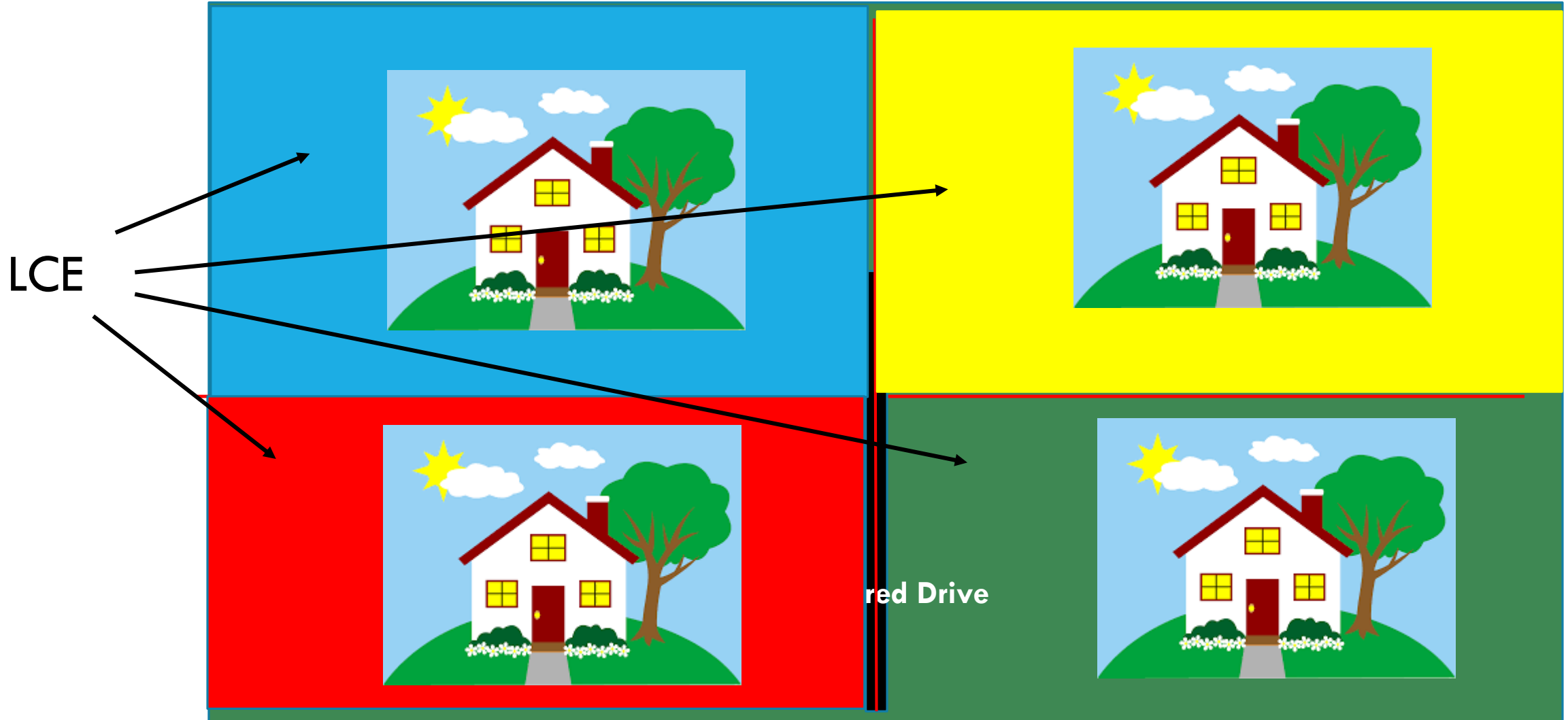
Common Elements



← Shared Drive

ROUTE 66

Can't get local subdivision approval?
No problem or is it??



LCE

Red Drive

ROUTE 66

EXERCISING RESERVED DEVELOPMENT RIGHTS

1. Declaration declared 4 units; reserved rights to add 8 additional (stated maximum).
2. Additional units come “on line” (ready to go)
3. Declarant amends Declaration (including Plat, if necessary) to add the Units.

NB: Pay attention to the **Allocated Interest**.

- Declaration needed a FORMULA for adding Units.
- Amendment must match the FORMULA.





SO THEN, JUST WHAT IS A PUD?

Not a 27A concept

Generally, a local zoning term which may, or may not, involve land being owned by an association.

Secondary Market concept:
The age-old lender request
for an ALTA 5.1

REMEMBER THIS SLIDE?

Okay so what is not a 27A CIC?



General Exceptions (check the details):

§1-207 Non-residential projects (advanced course).

§1-209 Small condo (major CAVEAT: not what you think!)

§1-210 Other exempt real estate arrangements

§1-211 Covenants; cost-sharing agreements

§2-103 Small project exemption (again, be very careful)

1-209 SMALL CONDOS



Here's the "trick":

A. This actually existed from 2005-2011. Rare sighting but you might come across one.

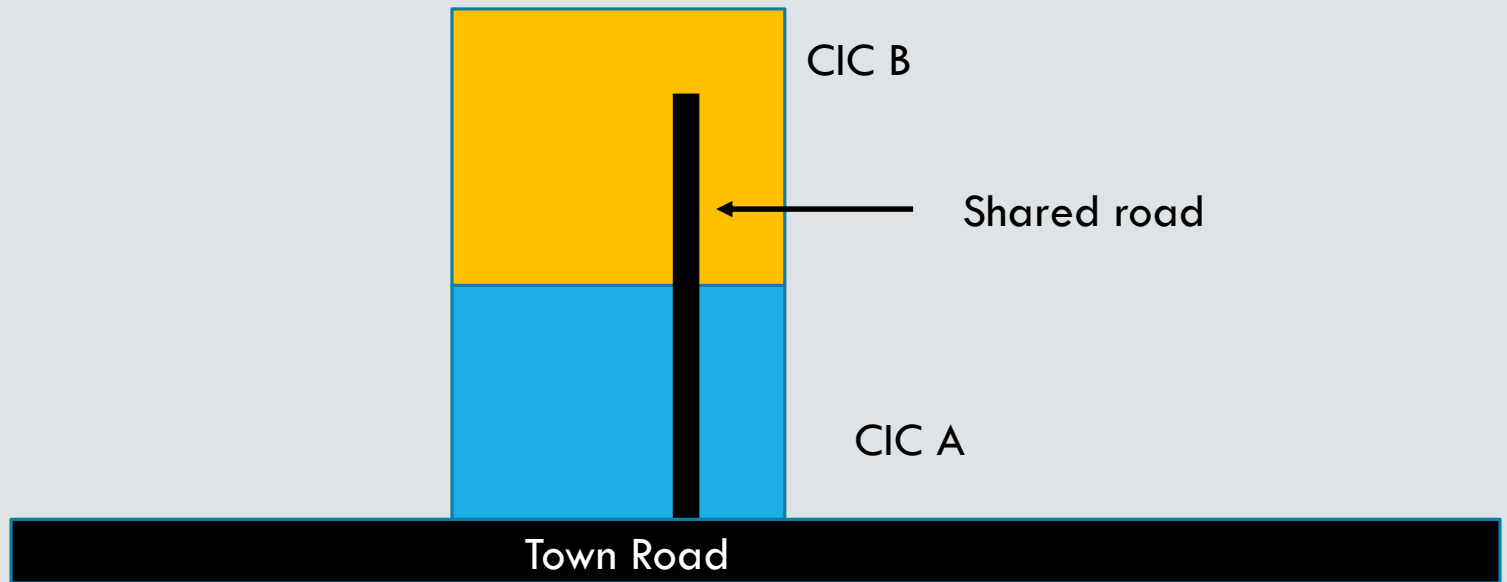
B. Statute changed in 2011.

Applies to projects which restrict ownership of a unit to entities that are controlled by, or affiliated with, or managed by the declarant.

1-210 OTHER EXEMPT REAL ESTATE ARRANGEMENTS



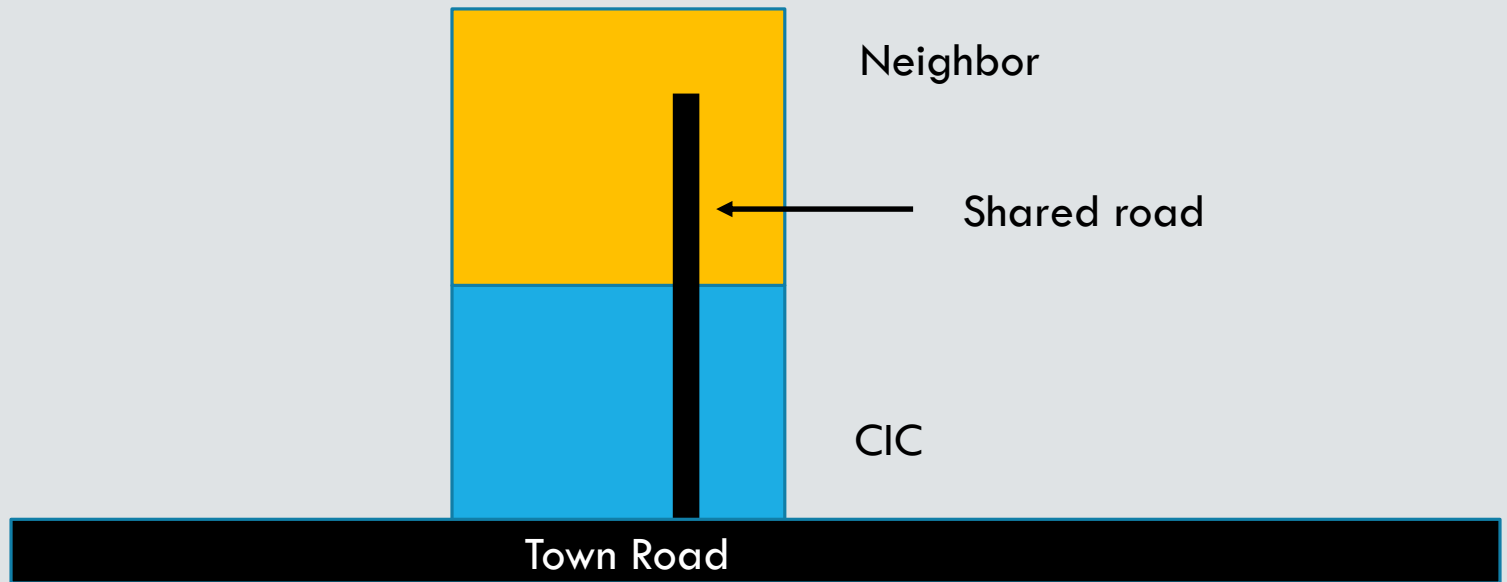
A. Arrangements between 2 or more CICs to share costs



1-210 OTHER EXEMPT REAL ESTATE ARRANGEMENTS



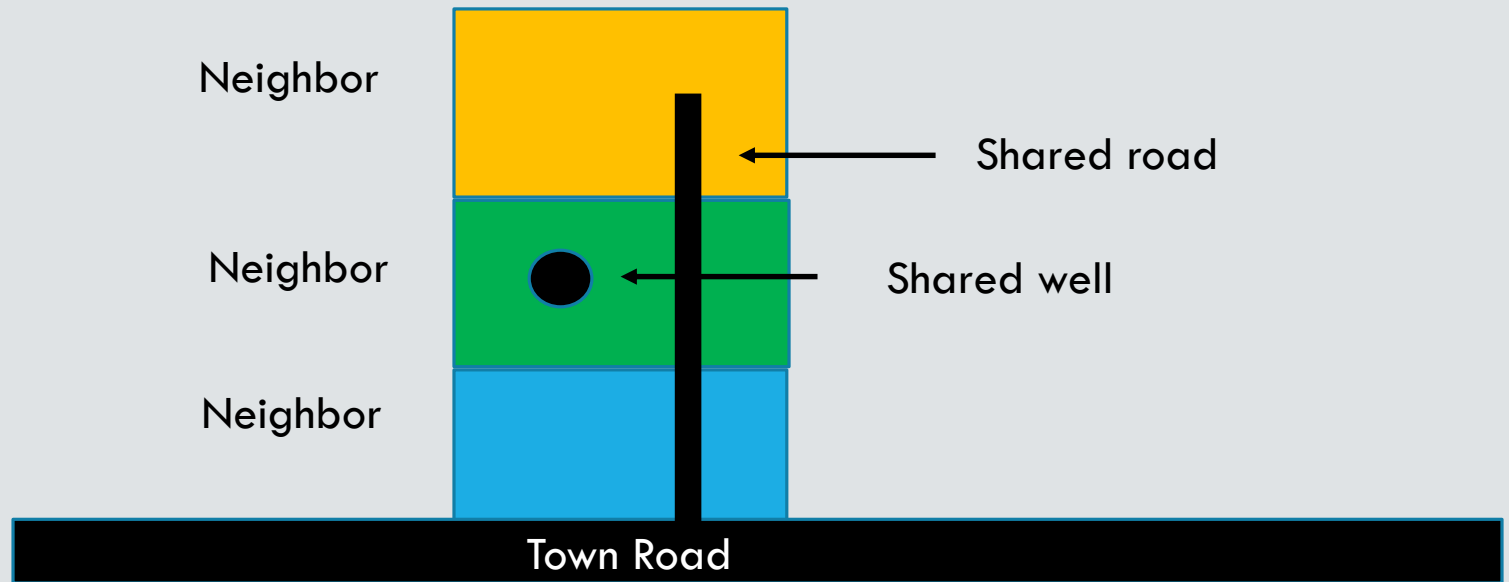
B. Arrangement between Association and neighbor NOT in the CIC



1-211 COVENANTS; COST SHARING AGREEMENTS



Owners of separately owned parcels share costs associated with party wall, driveway, well, or other similar use is not a CIC





1-203 EXCEPTION FOR SMALL PROJECTS AND LIMITED EXPENSE LIABILITY PLANNED COMMUNITIES

Very commonly used but:

- Applies only to Planned Communities;
- Applies only to Planned Communities:
 - a. 24 or fewer units and NO reserved Development Rights;
OR
 - a. annual average expense is below the statutory rate (\$300 in 1999).

SO WHAT
SHOULD I
CREATE?





Answer: Answer: Answer: Answer:

1. Own the Common Elements? True/False

Answer:

Answer: Answer: Answer: 9. True Answer:

2. CE's of a PUD have an interest in the PUD? True/False



1. What is the major distinction between a Condominium and a Planned Community?

2. So, in a Condominium who owns the Common Elements?

3. What are the Allocated Interests in a Planned Community (hint - there are 2)?

4. What are the Allocated Interests in a Condominium (hint – there are 3)?

5. A PUD is a 27A concept. True/False

6. A condominium Unit can be a cube of air (air space). True/False

7. A road sharing agreement between 5 neighbors creates a CIC? True/False

8. A Planned Community Unit must include land? True/False

9. An easement can be a Common Element? True/False

10. One can avoid a subdivision by created limited common elements? True/False

EXTRA CREDIT: This was the best CLE presentation you have EVER attended? True/False

QUESTIONS?



SEE YOU ON MARCH 10 FOR THE NEXT VATC LUNCH & LEARN