



Gray Systems Incorporated
LEADING PROFESSIONAL EDUCATION PROGRAMS

What's common?

Defining the common areas vs. units

The Florida Statutes govern community living in Florida and chapters 718, 719 and 720, specifically, set forth the laws for the ownership and use of property within a community. Since real property within communities is owned by unit owners or members as well as the association, it's important to know which portions of the property are considered common areas and which are not.

Under section 718.103(8), the term "common elements" is defined as the portions of the condominium property not included in the units. That's fairly broad and non-descript and must be read in conjunction with the definition of a unit, which is defined in section 718.103(27) as a part of the condominium property which is subject to exclusive ownership. Units may include improvements, land or land and improvements together, as specified in the Declaration.

In a cooperative, common areas include the portions of the cooperative property not included in the units, another broad definition found in section 719.103(7), but the statute goes a bit further in narrowing the definition than the Condominium Act, and states that common areas include the cooperative property which is not included within the units, easements through units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to units and the common areas, an easement of support in every portion of a unit which contributes to the support of a building, the property and installations required for the furnishing of utilities and other services to more than one unit or to the common areas and any other part of the cooperative property designated in the cooperative documents as common areas. Section 719.103(25) defines a unit as a part of the cooperative property which is subject to exclusive use and possession. A unit may be improvements, land, or land and improvements together, as specified in the cooperative documents. Both statutes provide for honing of the definition of a unit within the documents.

The Homeowner's Association Act veers from the definitions found in chapters 718 and 719 by defining the common area as all real property within a community which is owned or leased by an association or dedicated for use or maintenance by the association or its members. The definition, found in section 720.301(2) continues, stating that whether or not title has been conveyed to the association, common areas include real property dedicated for the use by the association or its members by a recorded plat or real property committed by a Declaration of Covenants to be leased or conveyed to the association. Because of the nature of a homeowner's association, "community" is defined as the real property that is, or will be subject to a Declaration of Covenants, which is recorded in the county where the property is located and includes all real property, even the undeveloped phases, that is or was the subject of a development-of-regional-impact development order, including any approved modifications.

A member of a homeowner's association may include a parcel owner or an association representing parcel owners or a combination thereof, and includes any person or entity obligated by the governing documents to pay an assessment or amenity fee, as defined in section 720.301(10).

Although the definitions vary somewhat, the bottom line is that common areas are those for the use and benefit of the community as a whole and are not held for the exclusive use and possession of a unit owner or member.

Click below to read the definitions.

[Condominium Act](#)

[Cooperatives Act](#)

[Homeowner's Association Act](#)