



## Can an HOA Enter a Unit?

There may be times when an HOA Board may be in a situation where it needs to enter a condominium or townhome Unit in their community. The Board does not have unrestricted access to the Units in their community, and the limits and the authority to enter a Unit are governed by the HOA's Declaration.

Some reasons the Board may need to enter a Unit may include, but are not limited to:

- Maintenance of General Common Elements
- Addressing an emergency within the Unit
- Addressing an emergency from a Unit that is affecting other Units or Common Areas
- Addressing health or safety concerns

### Notice Requirements Before Entry

In general, the governing documents will provide the notice requirements, if any, that must be satisfied before entry can occur. Regardless of your HOA's notice requirements, or lack thereof, an attempt to give reasonable notice can be considered a best practice for Boards to follow. In the event of a dispute, a Court is likely to look more favorably towards the HOA if some reasonable notice was given before entry occurred.

However, in emergency cases, there is usually no time to provide notice to the Owner. If the HOA has to enter a Unit without notice to the Owner, then the emergency contractor should be accompanied by either a manager, HOA employee, or a Board member. They could later serve as witnesses in the event of a dispute by the Owner.

### Procedure of Entry

- 1) Consult the HOA's legal counsel to determine that the reason for entering the Unit is allowed.
- 2) Provide reasonable notice, if possible, even if such notice is not required by the Declaration.
- 3) Schedule the entry for a reasonable time.
- 4) Use best judgment in emergency situations.

Entry should be approached with the mindset of protecting the HOA and the Board while still addressing the needs of the HOA. By following the proper procedure before entry, your Board will be able to address any problems that require entry while also staying protected from liability.

Ideally, if these procedures are followed, the Owner will give permission to enter their Unit. However, for the occasional circumstance where an Owner is unavailable, uncooperative, or combative, a police escort may be necessary for entry. In such a situation, the first step is to call the non-emergency police phone number and ask for their procedure and assistance with entry. Provide the address and an explanation for why entry is needed and occurring. Lastly, have a copy of the Declaration and any notices sent to the Owner on-hand for any officers' reference.

Adhering to notice requirements, following the proper entry procedure and consulting with the HOA's legal counsel for the proper circumstances of Unit entry will ensure your HOA is protected from any trespassing or other claims while still allowing the Board to operate as needed.

**If you have questions regarding your Board's ability to enter a Unit, contact us at [info@westernlawgroup.com](mailto:info@westernlawgroup.com)**

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**THIS IS NOT LEGAL ADVICE. FOR INFORMATIONAL PURPOSES ONLY.**

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