

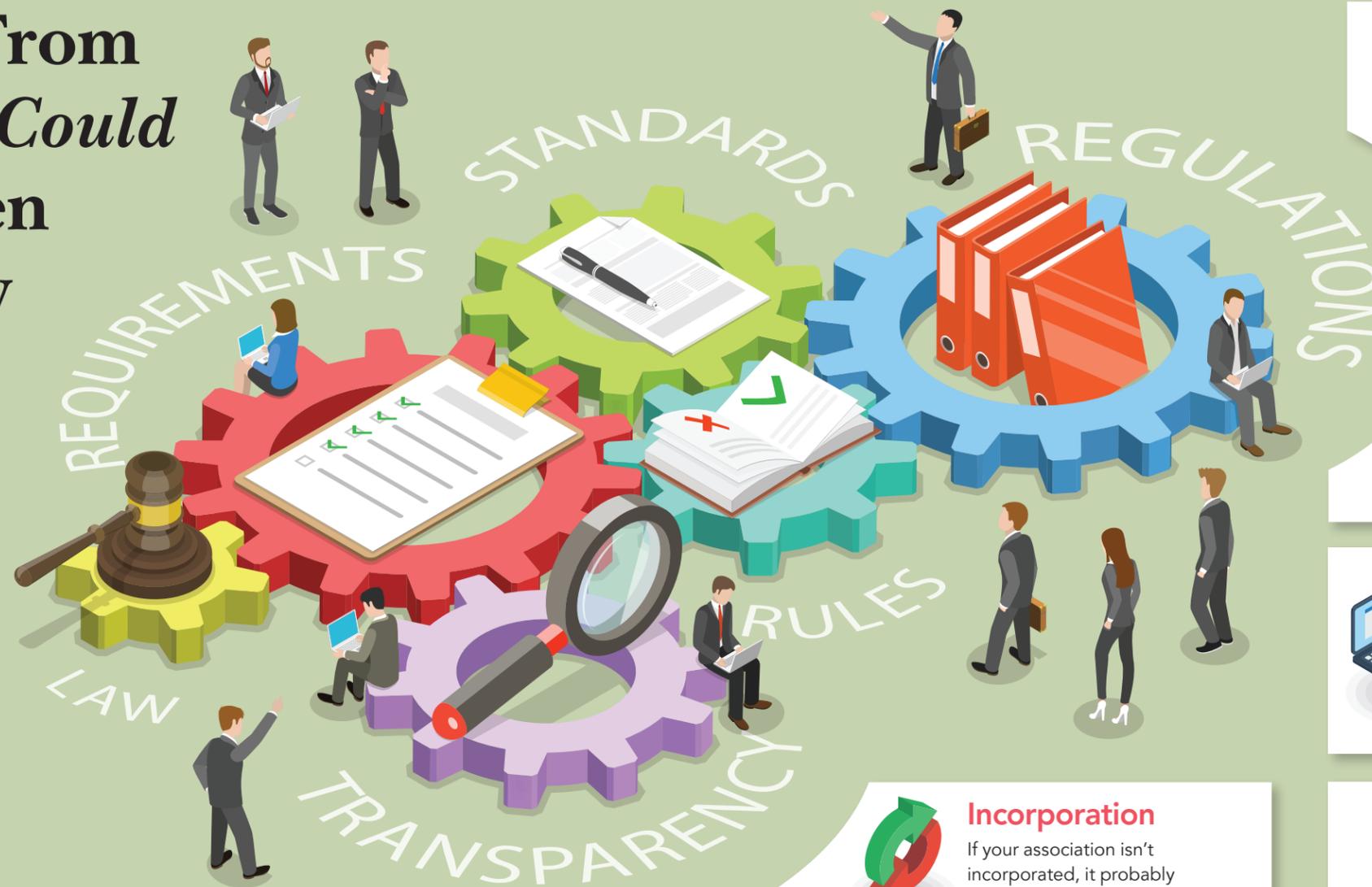
Best Practices From WUCIOA That *Could* Be Adopted Even If The New Law Doesn't Apply

By Josh Rosenstein

In the more than 50 years since Washington's first-generation condominium law, common interest communities (CICs) have proliferated. Washington had a smattering of laws treating different types of CICs — condominiums, plat communities and cooperatives — differently, even though from a resident's point of view they have similar goals and operations.

The new Washington Uniform Common Interest Ownership Act (WUCIOA), effective July 1, 2018, establishes consistent rules for all new CICs while at the same time modernizing them to reflect decades of experience of owners, boards, managers, attorneys and others. For the most part, CICs existing before WUCIOA's effective date don't have to comply with WUCIOA and are still governed by the law applicable to them before July 1, 2018. However, due to the work of the Washington Legislature, WSCAI, attorneys, and many others to reflect current best practices in WUCIOA, many CICs may want to follow WUCIOA standards anyway.

This article identifies some of the WUCIOA provisions that existing condominiums, plat communities and co-ops should consider following even if they aren't required to.



Association Records

While the existing Washington Condominium Act (WCA) requires that associations keep certain financial and other records, WUCIOA includes a long list of records which all associations must retain and the retention periods for many of them. Boards of non-WUCIOA CICs which keep records according to WUCIOA arguably satisfy their record-keeping obligations. WUCIOA requires CICs subject to it to keep: current budget, receipts and other accounting records (seven years); meeting minutes, owner actions and committee actions; owner roster, including addresses and voting percentages; organizational documents; financial statements and tax returns (seven years); roster of directors and officers; financial and other records for resale certificates; contracts (seven years); materials used in consideration of architectural and design review requests (seven years); materials used in enforcement actions (seven years); insurance policies; warranties to the association; official notices to owners or the association; and ballots and other voting documents and records (one year after vote). **RCW 64.90.495.**



Incorporation

If your association isn't incorporated, it probably should be. **RCW 64.90.400.**



Open Meetings/ Executive Sessions

In many ways, WUCIOA encourages transparency in association actions. WUCIOA requires notice to owners of upcoming board meetings and that all board meetings be open for observation. At the same time, it allows a closed executive session to protect certain actions that would compromise the associations' interests if not kept private, including consulting with the association's attorney, discussing personnel matters, contracts and negotiations, and protecting an individual's privacy. **RCW 64.90.445(2).**



Borrowing

For greater owner participation in decision-making about loans, your association could follow WUCIOA guidelines, including detailed notice of a proposed loan to all owners and a meeting at which the owners have an opportunity to discuss and reject the proposed loan. **RCW 64.90.405(4).**



Financial Statements and Audits

WUCIOA requires annual financial statements on an accrual basis and an audit if assessments are over \$50,000. Rules for financial statements and audits promote financial health. **RCW 64.90.530.**



Notices

WUCIOA includes detailed procedures to allow any notice to be delivered electronically, including email, text and posting on a website. Electronic delivery of notices is the future, if not the present. **RCW 64.90.515.**



Rule-making

Under WUCIOA, the board must provide all owners notice of any proposed rules and the date on which the board will consider them for adoption. Following this procedure could lead to better rules and better compliance because owners are more aware of and invested in them. **RCW 64.90.505.**



Voting procedures

WUCIOA allows owner voting at meetings, by absentee ballot, by proxy, and by mail or email without a meeting. Selecting the method of voting most appropriate for a particular issue could increase owner interest and participation in community affairs. **RCW 64.90.455.**

Opting into WUCIOA in its entirety is not appropriate for every existing CIC. However, many CICs can take advantage of some or all of the WUCIOA-based current practices described in this article by changing their governing documents without opting into WUCIOA. This article is not intended to constitute legal advice. You should consult with your attorney to determine whether adopting any such provisions is appropriate for your CIC and, if so, the proper procedure to do so. Some changes will only require Board action, while others may require an amendment to either the declaration or bylaws. [↑](#)