



Indiana Statutes re:
Common Area Property &
Tangible Personal Property
Tax Exemptions

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Indiana Code 6-1.1-10-37.5

Common areas in a residential development; land; improvements; exemption procedures; review by the county board

Sec. 37.5. (a) As used in this section, “common area” means a parcel of land, including improvements, in a residential development that:

(1) is legally reserved for the exclusive use and enjoyment of all lot owners, occupants, and their guests, regardless of whether a lot owner makes actual use of the land;

(2) is owned by:

(A) the developer, or the developer's assignee, provided such ownership is in a fiduciary capacity for the exclusive benefit of all lot owners in the residential development, and the developer has relinquished all rights to transfer the property other than to a person or entity that will hold title to the property in a fiduciary capacity for the exclusive benefit of all lot owners;

(B) each lot owner within the residential development, equally or pro rata; or

(C) a person, trust, or entity that holds title to the land for the benefit of all lot owners within the residential development; *[such as a homeowners association]*

(3) cannot be transferred for value to another party without the affirmative approval of:

(A) all lot owners within the residential development; or

(B) not less than a majority of all lot owners within the residential development, if majority approval is permitted under the bylaws or other governing documents of a homeowners association, or similar entity;

(4) does not include a Class 2 structure (as defined in IC 22-12-1-5) *[a Class 2 structure is a home]*; and

(5) is not designed or approved for the construction of a Class 2 structure.

The term includes, but is not limited to, a lake, pond, street, sidewalk, park, green area, trail, wetlands, signage, swimming pool, clubhouse, or other features or amenities that benefit all lot owners within the residential development.

(b) As used in this section, “lot owner” means an individual or entity that is the owner of record of a lot, parcel, tract, unit, or interest within a residential development, upon which a Class 2 structure (as defined in IC 22-12-1-5) is or will be constructed.

(c) As used in this section, “residential development” means a parcel of land that is subdivided into lots, parcels, tracts, units, or interests:

(1) all of which, except for a common area, include an existing Class 2 structure (as defined in IC 22-12-1-5) [*i.e., a home*], or are designated for the construction of a Class 2 structure; and

(2) each of which is encumbered by substantively identical restrictive covenants concerning one (1) or more servient estates located within the boundaries of the original undivided parcel, or other governing document of record.

(d) Notwithstanding any other provision of this article, a common area is exempt from property taxation, provided that the common area easements and covenants restricting the use and conveyance of common areas to lot owners are recorded, and notice is provided, to the appropriate county or township assessor.

(e) A county or township assessor shall designate an area as a common area after:

(1) receiving notice as provided in subsection (d); and

(2) determining that the area is a common area.

(f) If a county or township assessor determines that the area is not a common area, or determines that the area fails to meet the requirements of subsection (d), then the county or township assessor shall send a written statement to the owner of the common area not later than thirty (30) days after receiving the notice under subsection (d). The written statement shall contain:

(1) the specific provisions on which the county or township assessor based the determination; and

(2) a statement that the owner of the common area shall have thirty (30) days to address the specific provisions provided in subdivision (1), and to establish the area as a common area that meets the requirements of subsection (d).

(g) If a county or township assessor fails to send a written statement to the owner of a common area as required by this section, then the area for which notice was provided in subsection (d) shall be considered a common area for purposes of this section.

(h) Once an area has been designated a common area, no subsequent refile of a common area property tax exemption is required unless an area designated as a common area subsequently fails to meet the definition of a common area as provided in this section.

(i) A common area may be created at any time during or after a residential development is created. For purposes of the exemption under this section, a common area may be created or expanded after the initial approval of the residential development only if that creation or expansion of the common area:

(1) is approved by:

(A) all lot owners within the residential development; or

(B) not less than a majority of all lot owners within the residential development, if majority approval is permitted under the bylaws or other governing documents of a homeowners association, or similar entity; and

(2) receives any approvals required by the county or municipality in which the common area is located.

(j) An owner of an area may obtain review by the county property tax assessment board of appeals of a county or township assessor's determination under subsection (f).

As added by P.L.148-2015, SEC.5.

Indiana Code 6-1.1-10-37.8

Homeowners associations; held for use, benefit, or enjoyment of members

Sec. 37.8. For assessment dates after December 31, 2015, tangible personal property is exempt from property taxation if that tangible personal property:

(1) is owned by a homeowners association (as defined in IC 32-25.5-2-4); and

(2) is held by the homeowners association for the use, benefit, or enjoyment of members of the homeowners association.

As added by P.L.203-2016, SEC.2.