

Association of Condominium,  
Townhouse, and  
Homeowners Associations



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## November 2007

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### WIN A FREE MEMBERSHIP!

Periodically ACTHA surveys its members to see how we are doing. Inside you will find a questionnaire which we would appreciate your completing and returning by December 15. Those responding by the deadline will be eligible to win a free membership for their association.

And most importantly, you will have helped ACTHA in serving your needs more completely!

## CHICAGO SCAVENGER REBATES

*By: Brad L. Schneider CPA, Certified Fraud Examiner, Condo CPA*

### History

The Chicago scavenger rebate program started on January 1<sup>st</sup>, 1995. It started when a savvy condominium owner noticed that each unit owner was being billed for refuse removal on their real estate tax bill. However, the City of Chicago did not provide garbage pick-up for buildings with over 4 units. The City Ordinance passed by the City Council paid condominium associations the lesser of their actual refuse removal invoices or \$75 per unit. The amount of the rebate can be significant. For example, if the association has 600 units the amount would be \$45,000! Because there are so many condominium associations in the city the amount of the rebate claims became a very large burden on the City's budget. This caused a delay in the payment of claims. Some associations were receiving their rebates 3 or 4 years after the date of filing for the rebate.

### The Change

Then approximately two years ago the City Council decided to catch up on the past due claims and also passed a very important addendum. They required that **all claims must be filed within 1 year** after the year for which the claim was being made. So for example, if you are filing for the 2006 rebate your association has until December 31, 2007 to file the rebate.

### The Problem

After that change in the law, we have been finding an astounding number of associations that are losing rebates. On the audits we perform for city of Chicago associations, the percentage of lost rebates is reaching approximately 60% of these associations. We have even offered a low cost service to file the rebates for the associations however, most

*Continued on page 5*



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## TIP OF THE MONTH

“Everything inside is mine, everything else is the Associations, right?” “WRONG!”

Whether you live in a condominium or townhome association, owners should remember that they have purchased a home and with that, most of the responsibilities that come with owning a home.

Although you may not need to mow the lawn, trim the bushes and fix the roof (these of course, are shared areas). You do not live in an apartment complex and must maintain elements of your home the same as if you purchased a single family home. Location of that element rarely determines who is responsible to repair, maintain or replace it. “The plumbing is inside the walls, so the Association fixes it right?” Not necessarily.

The simplest way to determine if something is the Association’s responsibility (common area/common elements) or your responsibility (limited common elements) is to determine who it serves. Examples: If the drainage pipe, into which everyone’s kitchen sink drains into, has a clog, this is probably a common elements pipe and the Association’s responsibility. If the pipe connecting an owner’s sink to the common elements drain pipe gets clogged, this is probably a limited common element and the owner’s responsibility.

*Martin Stone, VP of Homeowner Association Management  
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## **7% Assessment Cap Renewed**

*By: Joanne Elliott, attorney of Elliott and Associates*

On October 12, 2007, the so-called "7% assessment cap" was expanded and renewed by the Illinois legislature for three more years. The Governor previously vetoed the bill in an attempt to expand it even further. The legislature overrode the Governor's veto.

### **The Cap That Isn't A Cap**

This law is popularly referred to as the *7% assessment cap*. However, for the vast majority of taxpayers, the law DOES NOT cap their assessment growth at 7% per year. Only a small group of taxpayers (those with the least valuable homes and the lowest assessment appreciation) will actually see their assessment growth capped at 7% per year.

### **How Does The Law Work?**

The actual title of this law is *The Alternative General Homestead Exemption*.

Under Illinois law, all taxpayers are entitled to a homestead exemption of \$5,000 per year. This is not a reduction in the tax bill, but a reduction in the taxable property value. Assuming a 7% local tax rate, a \$5,000 homeowner exemption will reduce the tax bill by \$350 per year ( $\$5,000 \times 7\%$ ).

The *Alternative General Homestead Exemption* (so-called *7% assessment cap*) allows for a larger homeowner's exemption. The County computes the actual exemption amount each year. Ideally, the exemption will be large enough so the taxable property value of the home will only grow by 7% from the prior year.

In a year when a home experiences a large re-assessment, the homeowner exemption will *ideally* grow to offset a portion of the assessment increase so the taxable property value (assessment minus homeowner exemption) does not increase by more than 7% from the year before.

But, there are limits or ceilings on the size of the exemption. During the first year the new law applies, the exemption cannot exceed \$33,000. During the second year, it cannot exceed \$27,000. During the third year, it cannot exceed \$20,000. The law expires in four years and the exemption amount will then fall to \$5,000.

The bottom line is this: the law does not cap assessment growth at 7% per year for most taxpayers because most taxpayers need an exemption larger than the ceiling limit. For most taxpayers, the exemption will offset the sting of a reassessment, allowing the tax increases to creep in more slowly, year-by-year.

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## **IT HAS COME TO ACTHA'S ATTENTION**

that a few members may have received a 2008 Blue Pages Commercial Directory with pages out of order. If you were one of the unfortunate few, please let us know and we will gladly mail you a correct copy.

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of the management companies feel that it is part of the manager's job.

### **Reasons for Lost Rebates**

There are many different reasons for the lost rebates. Some of which are as follows:

1. A new manager that is not familiar with the Rebate or the Rebate application process.
2. A change in management companies where the old and new management company thinks the other would be responsible for the filing.
3. Multiple changes in on-site managers which causes changes in filing systems and lost applications.
4. Developers that do not know about the rebate and then upon turnover of the association the new management company realizes it is too late to file for the Developer controlled time period.
5. Lost applications within the aldermen's offices where they are initially filed.

Lost applications within the City's Scavenger Rebate Department.

### **The Possible Solutions**

Here are some suggestions to follow in order to prevent lost rebates in the future:

1. All rebates should be filed with **certified mail** return receipt requested. Other delivery methods would be acceptable if they provide proof of filing.
2. Annually, before the year end, we would encourage all managers to call the City Scavenger rebate department to verify that the scavenger rebate claim for their association is on file.

At this point, most management firms make it the responsibility of the on-site manager to file the rebate properly. We would recommend that the responsibility be centralized. A designated person at the management company's main office keep a master list of their Chicago managed associations. They then can either prepare all the applications or at least receive a copy of the filings by each manager including the proof of filing that is so important to dealing with a lost application.

Lost Scavenger Rebates are a very serious problem for Chicago condominium community. It is money that can be very helpful in keeping assessment increases under control. We had an audit client that was an extreme case but had over \$130,000 in lost rebates. I just hope this article gives you some ideas on how to ensure your association(s) are protected from losing rebates that they are entitled to.

*Condo CPA*

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## **LEGISLATIVE CORNER**

ACTHA board member and Legislative Chair, **George Panagakis** was appointed to the recently established Condominium Advisory Council. Also named were former ACTHA board member and current President of ASCO, **Sheli Lulkin**; **Jordan Shifrin**, attorney and principle of Kovitz Shifrin Nesbit and a commercial ACTHA member; **State Representatives Harry Osterman**, the sponsor of the bill and **Angelo "Skip" Saviano**. At press time, we were still waiting to hear who **Senate President Emil Jones** and **Senate Minority Leader Frank Watson** had appointed.

Last month we announced the formation of an ad hoc group composed of attorneys, managers and owners to make recommendations for the Council. We were remiss in not mentioning **Frank Coleman** of Community Advantage who is also serving on this committee.



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## Question of the Month

**Q.** How are proxies voted? Does the presiding officer ask for any proxies when the vote is being taken or is it the responsibility of the proxy holder to step forward with any proxies? If it is the responsibility of the presiding officer to ask for proxies and he/she does not do so and the results of the election are announced without any objections from the proxy holder(s), can the election be legally challenged in the future?

**A.** A proxy is the authorization by one person (in this case a unit owner) to another person (the proxy holder) to act on his or her behalf. Typically, at a unit owners' meeting, there is a registration or sign in process. The proxy holder should register or sign in just as if he/she was the unit owner and would be given a ballot for the unit (in the case of an election meeting or other situation where the unit owners would be voting on a matter). While the presiding officer of the meeting may wish to remind individual owners and proxy holders to register or sign in, the presiding officer has no special duty to remind or ask proxy holders to "step forward" or to vote. If a proxy holder does not register, sign in or vote at the meetings, the proxy holder cannot later challenge the vote results of the meetings after the voting has been closed and the results have been announced.

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