

Association of Condominium,
Townhouse, and
Homeowners Associations



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Upcoming ACTHA Events

Webinars Every Month!

“Learn & Lead” begins in Jan.

For details, visit www.actha.org

“APATHY: What Happens When No One Wants to Serve on the Board”

By Rob Kogen of Kovitz Shifrin Nesbit

If you serve on the board of directors of a condominium, townhouse or homeowners association, you understand that there is a lot of apathy with regard to the administration of the association. Owners are reluctant to serve on the Board of Directors and attend meetings.

What happens when owners aren’t willing to serve on the Board or quorum cannot be achieved at the annual meeting where directors are elected?

Under Illinois law, a condominium association with twenty (20) or more units shall have a quorum requirement of twenty percent (20%). This means that owners that have twenty percent (20%) of the total vote must be present in person or by proxy in order to conduct the annual meeting and elect directors. If you reside in a common interest community, such as a townhouse or homeowners association, the quorum requirement is set forth in the governing documents. If the documents do not specify a quorum, the newly enacted Common Interest Community Act provides that the quorum shall be twenty percent (20%).

If your Association does not establish a quorum at the annual meeting, the meeting cannot be held. Fortunately, under Illinois law, the current board will remain intact. Pursuant to Section 108.10(d) of the General Not-For-Profit Corporation Act, board members shall serve until their successors are duly elected. As such, the current board members remain on the board until a quorum is established and an election is held and completed. This allows the association to continue to conduct business even if an election is not held.

Continued on page 5



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TIP OF THE MONTH

Ideas on Ways to Delay, Reduce or Avoid Assessment Increases

- ⇒ Reduce frequency of contractual services: Start snow contract later such as covering four months rather than five, eliminate all extra services by keeping the contract to the bare essentials, clean gutters once a year rather than two
- ⇒ Check out brokers for electricity and natural gas: but be careful, they are not always cheaper than buying direct from the utility!
- ⇒ Use energy saving light bulbs. There can be a big savings and Commonwealth Edison offers a rebate as well.
- ⇒ Be aware that you cannot skimp on reserve funding if your owners have FHA loans and FNMA requires 10% of the operating budget by kept in reserve.
- ⇒ If you are currently having an audit every year, consider alternating with a review, if your documents permit.

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Don't let FHA mortgages elude your grasp.

New federal regulations have made FHA spot financing obsolete. Your condominium, townhouse or homeowners association must become FHA-certified for any new purchasers to qualify for FHA financing.

New rules trigger lengthy delays.

As of February 1, 2010, new HUD regulations went into effect, requiring associations to certify with the FHA. There may be months-long delays in HUD processing of applications for certification for those associations which don't act quickly. Buyers of properties in those associations will be unable to acquire mortgages.

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What can you do?

The attorneys at Kovitz Shifrin Nesbit can find out if your association is FHA-certified, and, if not, we can assist your board in expediting the complex certification process.

Don't let time run out and cause your property value to depreciate.

Contact the professionals at Kovitz Shifrin Nesbit at ksnlaw.com — or call 847-537-0500 today.

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MESSAGE FROM THE PRESIDENT

As we near year-end, this has probably been one of the most productive for ACTHA. Among our accomplishments and new endeavors:

ACTHA is engaged in an active effort to repeal the licensing tax on associations with 10+ units for the administration and enforcement of the Manager Licensing Act. While we did not initially prevail, ACTHA did garner 80 yes votes in the House before being asked by the Senate sponsor to hold the bill until the Department could more accurately determine the cost for implementation. This amount has now been determined and ACTHA will once again initiate legislation to repeal a tax on consumers that no other licensed profession has for their constituency.

ACTHA hosted its first North Expo as well as its Spring Conference and South Expo. The regional expos are designed to provide education and networking with area businesses conveniently and at minimal cost.

ACTHA is now doing webinars on a regular basis – at least once a month and sometimes more! We don't think webinars replace the solid give and take that a seminar can provide, but we recognize their convenience. And now, ACTHA is providing attendees and those who weren't able to attend the tools they missed to listen again whenever and where ever with program recording and power point presentation availability.

ACTHA is excited to announce the next phase of its Certification Program: Learn and Lead, since it was begun five years ago. The program extension will be for graduates ONLY and will be a case study for condo owners and another for non-condo owners. This two-hour discussion will bring in all of the six elements we considered crucial when the program was initially designed: governance, administration, meetings/elections, physical components, financial and insurance/risk management. It will allow graduates to delve

into the pro's and con's, weigh different options and strategize opportunities. Again *only for graduates* – but you still have an opportunity to do the case study being offered at the Spring Conference on April 2 as ACTHA will offer the six part series twice in early 2011. (For details, visit www.actha.org and click on "Education/Certification.")

ACTHA's GOING GREEN! Beginning January 1, member associations can help cut down on paper and postage costs by agreeing to "Go Green"! For members agreeing to receive their renewal notices and newsletters electronically, we are offering a dollar savings incentive. And what's wonderful about the program is that you will be able to add all of your board members and owners to receive the newsletter electronically! **ACTHA has hired an Associate Director – Kevin Miller.** Many of you may have already met Kevin at one of the Expo's or through email or the phone. He is a June 2010 graduate of Loras College with a major in public relations and communications.

Finally, the BEST NEWS! While prices keep going up and the economy continues to stagnate, ACTHA continues to keep its membership dues and conference fees at the same level. ACTHA truly is one of the best deals in town particularly for associations – because ACTHA is the only organization truly devoted to representing YOUR interests.

So ACTHA has lots going on but never so much that we can't take time out to hear your thoughts and suggestions. We always welcome input because ACTHA is YOUR organization. Always feel free to contact our Executive Director Gael Mennecke at 312-987-1906 or gael@actha.org or contact me at beth@bethlloyd.com We look forward to hearing from you.

Beth Lloyd, ACTHA President

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Also common is where board members resign prior to the annual meeting. Under Illinois law, a board must consist of at least three (3) persons. However, due to apathy, we understand that it is difficult to always have owners waiting to serve on the board in the event of vacancies.

Although members of the board serve until their successors are elected, they may resign at any time. Members of the board cannot be forced to serve. However, it is good practice to serve until either one's term expires or the board can find a replacement.

If one lives in a condominium association and board members resign prior to their successors being elected, Section 18(a)(13) of the Illinois Condominium Property Act provides that two-thirds (2/3) of the remaining board members may appoint replacements to fill one or more of the vacancies. These appointments serve until the next annual meeting. In the alternative, the remaining board member(s) or twenty percent (20%) of the membership by petition may call for a special election at which time the board members elected would fill the remainder.

Due to apathy, the board should try and make serving on the board as painless as possible. Under the Condo-

minium Act and the Common Interest Community Act, a board must only have four (4) meetings per year. If your board has too many meetings, this could lead to a shortage of candidates.

Under Illinois law, any person may serve as a proxy-holder. The only requirements for a proxy is that the proxy be executed by the owner, bear the date of execution and clearly state who shall act as the owner's proxy. If the proxy is sent out by the board for an annual election of a condominium association, it must also list all known candidates or provide a space for an owner to write in a name. A condominium association may also conduct elections by absentee ballot if the board has adopted rules and regulations that provide for the use of such ballots. Without such rules, owners in a condominium association may not vote by absentee ballot. If you reside in a townhome or homeowners association governed by the Common Interest Community Act, the statute provides for the use of absentee ballots. As such, rules and regulations are not required. However, they are recommended to ensure that the election process is conducted in a fair and legal manner.

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WHAT IS A “WEBINAR”?

A webinar is an online seminar where participants may listen in through their computer speakers or by telephone while viewing a slide outline on their computer screen.

HOW DOES A WEBINAR WORK?

The presenter shows their presentation, usually through a slide presentation viewed on their computer monitor. Audience members can hear the presenter through their computer speakers.

HOW DO I INTERACT WITH THE PRESENTER?

If an audience member has a question they may type their question to the presenter or they can speak directly to the presenter, if a microphone is available to them or if they are using a telephone for the webinar.

CAN YOU SEE THE PRESENTER?

If the presenter's webinar is a slide presentation then no. The way you could see the presenter is if he or she had their presentation on a webcam which is different from a webinar.

WHAT ARE THE HARDWARE REQUIREMENTS FOR THE WEBINAR?

Depending on the computer, there are certain requirements in order to attend a webinar. The one thing that people will need, if they are using the computer, is speakers. This will allow the presenter to be heard during the presentation. While a microphone is not required, we do recommend that participants use a microphone or headset for their computer. This will allow individuals to speak directly to the presenter.

Other requirements for those who are using a PC are:

- ⇒ Internet Explorer 6.0 or newer or Mozilla Firefox 3.0 or newer
- ⇒ Windows 2000 or newer
- ⇒ Cable modem, DSL, or better internet connection
- ⇒ Minimum of Pentium class 1 GHz CPU with 512 MB of RAM

Other requirements for those who are using a Mac are:

- ⇒ Safari 3.0 or newer or Mozilla Firefox 3.0 or newer
- ⇒ Mac OS X 10.4 or newer
- ⇒ PowerPC G4/G5 or Intel Processor (512 MB of Ram or better)
- ⇒ Cable modem, DSL, or better internet connection

If you do not have computer speakers, you may call in to listen to the presentation and ask the presenter questions. You will receive the telephone number and pin number after completing the registration forms.

HOW LONG WILL THE WEBINAR TAKE?

Generally ACTHA's webinars are scheduled for one hour but may run over depending on questions and answers. One may join or exit at any time.

HOW IS A TOPIC DETERMINED?

Topics are determined by the level of interest. If several request a specific subject ACTHA will try to host a webinar on that topic. We also present webinars suggested by presenters.

LEGISLATIVE CORNER

The 97th General Assembly convenes January 12th and will struggle on until May 31st, and possibly longer. (On the 12th, legislators will be given a report on the total State income from all sources that can be expected for the ensuing fiscal year beginning July 1, 2011. That amount would, in effect, establish the limit by which the total appropriations should not exceed, but as we know, there are creative techniques that can be employed to provide “cloud cover.” Also, revisions in the projections can, and will, be made in March. At this point, we know some things (all bad):

- ⇒ *Tax revenues are declining, and will continue to do so,*
- ⇒ *State debt is \$13 billion, and increasing,*
- ⇒ *The cost of borrowing funds will increase,*
- ⇒ *Funds will continue to decline for school districts and for local governmental units.*
- ⇒ *Federal funds will be harder to find.*

Conclusion: It is my opinion that borrowing will have to continue, expenditures will be reduced or frozen and an income tax increase passed. (The revenue from that increase would not be available for another year.)

Redistricting of the State and U. S. Congressional districts will demand an enormous amount of time, effort, diplomacy and political artistry. Many people will be involved and serious tensions will be felt between the two political parties as well as within. We can also expect the final product to be litigated. However, with the election of Governor Quinn and the Democratic majorities in the House and Senate, the adoption of the “Democratic Map” appears likely.

Add the distractions of the two Chicago Mayoral elections (Feb. 22 Primary, April 5) and the April trial of the former Governor to the State’s political mix, and we will have a most interesting first six months.

Today, we do not know whether there will be deadlock or compromise among the political leaders. The one thing we do know is that the enormous amounts of campaign funds expended this year are a portent of even greater demands in future political campaigns.

Dick Lockhart, Social Engineering Associates and ACTHA Lobbyist

What is a Webinar continued from page 6

IS THERE A COST?

The cost for ACTHA members is \$20. The cost for non-members is \$50. This also includes the outline and webinar recording upon request.

HOW OFTEN ARE THESE HELD?

ACTHA tries to have one webinar a month; however there have been times where we have had more than one webinar a month.

WHAT IF I AM LATE FOR THE WEBINAR? HAVE TO LEAVE EARLY? ARE THERE MAKE-UP SESSIONS?

You may dial in or exit at any point during the webinar. There are no makeup sessions for a webinar, but those who attend or have paid for the webinar are given a link to where they can view the PowerPoint and recording of the webinar. If individuals are unable to participate they are able to download the webinar recording and the PowerPoint for \$20.

HOW DO I REGISTER?

There are two steps to the registration process. Step 1 is to register on ACTHA’s website (www.actha.org) at the link found under “Education/Webinars”. Once finished with the registration form, the participant will be directed to www.paypal.com for payment. Step 2: ACTHA will email the participant a short form to complete for webinar participation.

WHEN IS THE NEXT SCHEDULED WEBINAR?

ACTHA has one Tues., Dec. 7 on Window Replacement with Woodland Windows and Doors as the presenter. It is scheduled for noon—1 p.m..

Question of the Month



Q. If an owner does a reverse mortgage do they still hold title to the property since only owners have rights in a condo association?

A. The title to the property remains with the owner, not the reverse mortgage company. A Home Equity Conversion Mortgage (HECM) or reverse mortgage is in fact just a mortgage. It is very different from a conventional mortgage but it is recorded in the county recorders office and becomes a lien on the title. If the property is owned by an individual, that individual is still in title. If the property is held in a trust with the individual being the beneficiary, that is the way it remains with a

reverse mortgage.

On October 4th, 2010 the HECM Saver was introduced by the Federal Housing Administration. This new program greatly reduced the up front costs of obtaining a reverse mortgage. The costs to create a reverse mortgage was one of the reasons many have not applied.

Condo owners are using these government-insured mortgages to extinguish existing mortgages thus eliminating mortgage payments and improving cash flows. They may also be used to pay special assessments, for home improvement or home modification. They are using the money to fund long term care insurance or to just maintain or improve their life style to offset reductions in income due to reduced dividends.

In order to obtain a reverse mortgage the building and association must be FHA approved as outlined in the ACTHA NEWS of June 2010.

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