

# Board can make budget retroactive to Jan. 1

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Q. Last December, our board presented the 2005 budget to the unit owners. The budget provides for a 25 percent assessment increase. It is my understanding that the owners must have 30 days to review the budget or challenge any increase.

The board did not vote to adopt the budget until Feb. 2 of this year and made this budget retroactive to Jan. 1. How can the board present a budget that becomes effective only 22 days after delivery to the owners, and make it retroactive on less than 30 days' notice?

Is there a limit on the number of special assessments a building can levy? I have been in this building for four years and I am facing my third special assessment (totaling \$52,000). I have lived through four separate boards of directors and each year a new board introduces a new special assessment. I am completely tapped out.

A. The board can adopt a budget that is retroactive to the beginning of the fiscal year. Your board has given the owners the required 30 days' notice before formally adopting the budget. Because expenditures cover the entire year, the budget may be retroactive to Jan. 1.

For assessment increases of more than 15 percent, owners have 14 days from the adoption of the increase to petition for a vote on the assessment. The time period for owners to challenge the budget by a petition expired Feb. 16.

The increases are not special assessments under the Illinois Condominium Property Act, but, rather, assessment increases for major projects. The Condominium Act defines a "special assessment" as an increase in assessments over the current budget, or an expense that was not anticipated in the current budget. Each of your additional assessments were adopted as part of the regular budget.

This pattern of large annual assessment increases indicates a lack of proper financial planning. The board should obtain a reserve study to carefully monitor future major expenses; and increase contributions to the reserve fund for these projects.

Continuing major expenses also indicates deferred maintenance. But, it is not reasonable to expect owners to pay for large projects in consecutive years.

Q. I am the condominium president for my building in the western suburbs, which automatically makes me a member of the recreational association board. The recreational board is a master association responsible for common elements outside of the individual buildings.

The common parking lot administered by the recreational board is in terrible condition. A new parking lot was installed 12 years ago, but suffers from lack of proper maintenance. We do not have funds in our recreational reserves to rebuild the lot, which means we will have to impose a special assessment. My fellow board members are opposed to this increase, because all of our buildings have had special assessments. However, many owners have threatened to sue the recreational association and the board if they fall in the parking lot.

How do I convince the other members of the recreational board of the need for this expense? What is the liability we face from our residents, many of whom are elderly?

A. The recreational board has a duty to maintain the areas under its control. This board is also

faced with the prospect of a large assessment because of lack of regular maintenance. The board has two choices: Spend the funds to renovate the parking lot or face claims by owners from injuries. The increase in the association's insurance premiums arising from these claims will offset any savings from deferring assessments for the necessary renovation work.

Owners must also realize they will have to pay higher assessments needed to restore the parking lot and maintain it in a safe condition.

Q. My 20-story apartment building was converted to condominium in the late 1970s. At the time, each person could buy up to five spots. I am upset because I don't own a car and the association doesn't charge a parking assessment. The board wants to levy a special assessment to resurface the separate garage structure. It's not open to the public, I would never use it, and it doesn't help the value of my condo. Shouldn't there be an assessment for parking spot owners?

A. If parking spaces are individual units, the parking space owners will pay a separate assessment for the percentage of ownership assigned to their space. If the spaces are limited common elements assigned to particular units, the declaration may provide authority for the board to charge these individuals for maintenance of the parking area.

The presence of a garage at your building will enhance the value of your condo. You may not benefit directly at this time, but a prospective buyer is likely to come from the large market of individuals who will need a parking space.