

Board can't force owners to contribute time, labor

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Q. I live in a small, self-managed condo building. Being self-managed means we all have to pitch on the building's day-to-day maintenance. Our problem is that all the owners do not pitch in.

Is there any way to write something into our bylaws that addresses this matter, such as specific guidelines that describe everyone's responsibility and provide some consequences for those who do not contribute?

A. You misunderstand the concept of self-management. A self-managed building means that the board of directors has not hired a professional manager. The board of directors becomes the manager of the building. The board may hire outside vendors for tasks relating to administration and maintenance of the property, or perform services themselves with unit owner volunteers.

Condominium owners have the statutory obligation to pay assessments. Owners are not required by law to voluntarily contribute time and labor. A volunteer program may be the most efficient means of operating the building, particularly for a small condominium; but the volunteer concept is not mandatory, so the board cannot force owners to perform services.

A mandatory service requirement by an amendment to the declaration and bylaws conflicts with the Illinois Condominium Property Act and is, therefore, void.

Your volunteer program functions as long as owners agree and participate in a joint effort. Owners who simply want to pay their assessments are not violating the law.

Q. Our 18-unit condominium association has an owner who is leasing a portion of her unit in violation of our declaration and bylaws. We have levied fines, which she refuses to pay.

The board is unsure if legal action would be worthwhile because of the cost and the likelihood of this individual prevailing.

What would you advise?

A. Owners cannot operate a rooming house from their condominium.

The board of directors has several options. Fines are assessments. If the owner refuses to pay fines that have been properly levied, the board may sue the owner for these unpaid assessments and possession of the unit. An order of possession will enable the board to evict the unauthorized tenant.

The board may also file a lawsuit to evict the tenant, because this lease is illegal, and an injunction to prevent the owner from leasing a portion of the unit at any time.

The board is likely to prevail in all of these actions. It is entitled to recover legal fees against an owner who violates association regulations.

My recommendation is for the association to file a two-count complaint against the owner and the tenant, seeking a judgment for the unpaid fines and possession of the unit for non-payment of assessments and illegal occupancy.

The board has no choice but to stop this illegal practice.

Q. I am part of a group of owners in a 96-unit condominium complex who are frustrated by the failure of the board to listen to us at board meetings. The directors have even refused to consider an owners' forum.

How can the wishes or objections of a majority of owners be heard?

A. Owners have the right to petition for a special meeting of the association by submitting a petition signed by 20 percent of the membership. The board must call a meeting of the owners and attend. The gathering will be an official association meeting.

Owner forums are strictly voluntary because they are not part of a formal board meeting. While the directors should attempt to provide these forums, particularly before the board meeting, they do have the right to place a time limit on the sessions because the board members must conduct the association's business.

Q. I live in a gated community in the western suburbs consisting of 78 individual homes of which 64 have been sold and are occupied. The community is an association still under the control of the developer.

Is there a statute in Illinois that requires the developer to turn over control of the association to the owners once a certain number of homes have been sold?

A. Section 18.5 of the Condominium Act applies to non-condo associations, known as common interest communities. Your single-family association is a common interest community.

The developer must turn over control of the association to a board consisting of the majority of owners after 75 percent of the homes have been sold. This turnover point was reached after the closing of the 59th home in your complex. The meeting to elect the owner board must be held on 21 days' notice.

You and other concerned owners should send a demand to the developer for the turnover meeting. If the developer does not respond, the owners should call the meeting.