

# Board has to confront a combative treasurer

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Q. I live in a 48-unit, self-managed condominium association. In preparing our 2004 financial statement, it appears that the treasurer has made a 10 percent error. She will not allow anyone to assist her in preparing the association's financial records. She also has a history of writing checks to herself and had the board president pre-sign checks to override the two-signature rule adopted by the board.

This same person has had water damage, but does not carry condominium owner's insurance. She is very combative, but the board is willing to overlook this because it is cheaper than getting an outside management firm. However, recent decisions by the board have led some of us to question the decision to be self-managed.

A. Particularly with condominium associations, cheaper is not always better.

The board has three alternatives. The directors may replace the treasurer, although she will remain on the board. The directors may also retain an accounting firm or management company to take over the accounting function of the association. The third alternative is for the board to retain a professional management firm.

Board members of a self-managed association have the same legal duty as a professional manager. They are held to the standard of a management firm whose members have formal training and industry certifications.

From your description, the check-writing process alone warrants a change for this office, although I do fault the board for not taking control of this situation by demanding and reviewing monthly financial statements and visually inspecting copies of all checks. There are no circumstances that justify pre-signing or post-dated condominium association checks.

These operating practices also raise the question of whether your association has a fidelity bond. A fidelity bond protects the association against theft of funds by those who handle money for the condominium. Under Section 18(g) of the Illinois Condominium Property Act, an association and a management firm must have a fidelity bond. Without a management company, a fidelity bond is the only protection for the association against misuse of funds.

The scenario you have described and the passive approach to management indicate that your association should consider professional management, even at an increased cost.

Q. The owners and some board members in our building have asked to see a copy of our

window replacement contract. The president of the board blocked the request by saying that the purpose cited by the owners was not correct. What is a proper purpose, and who decides what is proper? If a request is denied for this reason, what is the recourse of an owner?

A. There is absolutely no legal justification for an association president to deny the right of a board member to inspect a window replacement contract.

Regarding the request by any unit owner, a proper purpose is a broad standard that generally includes concerns about association finances and does not show an improper motive.

Owners are justified in their request to inspect the window replacement contract to confirm that the board has obtained a fair market price, determine whether the contract is a fixed price or open-ended agreement, and verify that the work will be done within a reasonable time period.

If the request of an owner to inspect association records is wrongfully denied, the board may be liable to the owner for attorneys' fees under Section 19 of the Condominium Act. For this reason, the board, and not the individual association president, determines whether a request to inspect association records is proper.

Q. Our condominium association consists of 13 buildings and 156 units. We are set for a transfer from the developer to unit owner control in approximately four months. How can the owners prepare for a seamless transfer and continued intelligent management of our association affairs?

A. The owners should hold informal meetings to discuss matters of common concern and determine the most qualified individuals to run for the first unit owner board. Owners should also inspect the financial records of the association kept by the developer board and compile lists of any concerns or construction defects that may appear on the property. It will also be helpful for the owners to determine the existing contracts to which the association is a party.

Q. My question concerns the right of an association to information regarding the sale of a unit. Our declaration states that the seller must give the board at least 30 days' prior written notice of a proposed sale or lease. The notice must state the name and address and personal references of the proposed buyer, as well as the terms of the sale. The association does have a right of first refusal, which the board must exercise within 30 days after receiving the notice.

With these powers, does the board have the right to know the selling price of a unit and who will be residing in the unit? Our secretary does not believe that the association can request this information.

A. The board of directors has the power to adopt rules regarding the sale of a unit. The

rules must be consistent with the powers given to the board under the declaration.

With the declaration language you cited, it is reasonable for the board to request a copy of the sales contract to identify the owner. It is also reasonable for the board to obtain a list of persons who will reside in the unit.

The University of Chicago Graham School of General - Studies will hold its second annual condominium board members and owners forum from 9 a.m. to 4 p.m. on April 9 at the Gleacher Center, 450 N. City Front Plaza Drive. Topics will include condominium law and legal issues, managing condo finances, risk management and insurance, and maintaining the property. The program is open to condo owners, board members, prospective buyers and real estate professionals. For further information, contact the university at 800-997-9689, or register online at <http://www.grahamschool.uchicago.edu>.

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