

Board needs owners' OK for certain bylaw updates

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Q. We are a small condominium association in Chicago in a building that is 40 years old. When the building was converted 12 years ago, the developer created documents that have caused problems over the years. There have never been changes to the declaration and bylaws.

We realize that we must update our documents. Are there standard clauses that a condominium association like ours should consider adopting?

There are several issues that are ignored in the bylaws that we also want to address. These issues include rental of units, maximum number of residents per unit, the association's right of first refusal, satellite dishes, noise standards and pets.

A. Your board has two primary considerations in changing the documents. The board should revise the documents to comply with the law. These changes do not require the consent of the unit owners and may be done solely by the board of directors under Section 27 of the Illinois Condominium Property Act.

The changes mandated by statute include the right of owners to contest assessment increases over 15 percent and to challenge individual expenditures over 5 percent of the annual budget; new insurance coverage requirements; access to units for repairs by association contractors; and the procedure to levy fines against unit owners.

The other items must be voted on by unit owners. It will require a supermajority of the unit owners to prohibit leasing of units, set a maximum number of residents per unit and create the association's right of first refusal by amendments to the declaration.

The installation of a satellite dish is governed by federal law. Noise standards and pet behavior (i.e. owner behavior) will be changes to association rules that the board adopts.

Q. I am the president of a building that recently has been turned over to the unit owners. Initially, we had a treasurer, secretary, vice president and myself as officers of the association. The secretary and treasurer resigned their positions because of the time commitment. The vice president and I suggested that the association hire a property management firm to help handle the load, but the unit owners do not approve this alternative. However, no one is willing to step into the vacated positions. Owners want repairs and improvements, but no one wants to assist in the administration of the association.

Can I, as president, table all non-emergency issues until the end of my term? Can I make an executive decision to hire a property management company?

A. The business decisions of an association, including the postponement of non-emergency issues and hiring a property management company, can only be done by a vote of the board of directors. The vice president and you, as the remaining directors, may hire a property manager. Owners do not vote on a decision to hire a professional management firm.

Your fellow unit owners must realize they are no longer tenants. Either they participate in the association or they accept the decision of the board to hire a property management company.

Self-management works for an association only if the owners have the discipline and desire to operate as a professional manager.

Q. We have a board member who took his name off the title to his home because he filed for bankruptcy. He put his wife's name on the title to the unit. According to the public tax records, she is still listed as the owner.

Should we ask for the resignation of this board member because he is no longer a unit owner? His term will expire on Sept. 30, but I believe he is planning to run for re-election.

A. Unit ownership is the only requirement for a person to serve on the board of directors of an Illinois condominium. If this board member is not a title holder, he cannot serve on the board, must resign and cannot run for re-election.

Q. I live in a condominium in a southwest suburb. Our association received \$8,000 from the developer as reimbursement for his share of common-area taxes and related legal fees.

The board strongly believes that this money qualifies as association funds and can be used as they see fit. A group of owners and I disagree and feel this money should be equally distributed to the owners. Who is right?

A. The board is correct. The funds were used to pay a common expense and any reimbursement should go to the association funds. The board can use these funds for operating expenses or as a contribution to reserves. This payment is association money.

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