

Owners have no property interest in a reserve fund

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I am the treasurer of a 73-unit condominium association in the northern suburbs. Recently, we had a reserve study done that said that the association should have approximately \$500,000 in the reserve account. Our current reserve account is practically nil, so owners will have to make significant cash contributions over the years to fund the reserve. Needless to say, owners are not happy.

It seems to me that a seller should be able to recover from a buyer the amount of his reserve contributions that have not been used and are held in cash by the association. Can an owner sell his unit for market value, plus the reserve contributions? Would this be appropriate to do, or is it commonly done?

I am trying to console our association members that all is not lost when they make reserve contributions.

Unit owners do not have a property interest in the association's reserve fund. The fund is an asset of the association, mandated by law, which must be held for future capital expenditures. While a seller and buyer are free to negotiate any price for a unit, the owner's "share" of the reserve fund should not be a factor in determining the purchase price.

The small reserve fund in your association indicates that the board has not increased assessments sufficiently to provide a reasonable reserve. The current and future boards should correct this problem by increasing assessments. A reasonable reserve fund will serve to minimize the cost of future expenses to unit owners and positively affects the market value of a unit.

I recently purchased a condominium for investment purposes and signed a five-year lease with my tenant. No sooner was my lease signed than the condominium association voted to amend the bylaws to restrict leasing. Owners voted to limit the number of rental units to three, and to limit the length of leases to no more than one year. My unit was the third unit rented this year. If another owner wants to rent their unit, do I have to kick my tenant out so that other owners have a chance to rent? Shouldn't I be grandfathered or exempt from these restrictions if my lease was signed before the amendment?

Your current lease is exempt from the leasing restriction in the bylaws. You do not have to terminate the lease.

An existing lease is a contract that remains intact. A leasing amendment adopted by a condominium association applies to new leases after the effective date of the amendment. The effective date is generally the date of recording the amendment, unless the board adopts a later effective date as part of the change.

I am a first-time condominium unit owner in the city. Shortly after moving in, I noticed that my ceiling was damp. Three weeks later, my ceiling began leaking and I sustained about five gallons of water over a 10-hour period.

After investigation by management and an outside plumbing contractor, it was determined that this damage came from the baseboard heater of the unit above me. However, the management company advised me that I am responsible for repairs to my unit, because the leak did not occur from the negligence of my neighbor. In reading our documents, it appears that owners are responsible for damages caused by their failure to maintain or repair items in their unit.

Who is responsible for my damage?

Your upstairs neighbor. Under Section 9.1 of the Illinois Condominium Property Act, owners are responsible for damage to another unit or the common elements resulting from the operation of a unit. The operation of your neighbor's baseboard heater is the type of incident that applies to this provision of the act.

The board of directors and management should undertake common-element repairs, which means they should fix the drywall of your unit. Your neighbor should reimburse the association for the cost of the repairs. The owner is also responsible for any damage to furnishings. Given the difficulty of recovering damage costs from a neighbor who is unwilling to recognize this responsibility, owners should have appropriate insurance.

We are a small condominium building in the northern suburbs. Instead of providing hard copies of association documents, our board established a secured Web site. Our site provides a list of names and phone numbers of owners, meeting minutes and perhaps association financial records.

Does the Web site comply with provisions of the Condominium Act?

To the extent that the site permits owners to inspect and copy association documents, it appears to be a valid means for the board to satisfy its disclosure obligations. Owners still have the right to inspect and copy association records, including other financial information pertaining to association expenses, the insurance policy and the declaration and bylaws.

By the way, the condominium board is not supposed to make phone numbers available to other unit owners.