

# Owner's rep has right to inspect books, records

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Q. My elderly parents live in a condominium in the northwest suburbs. Within the last six months the association has become self-managed.

I requested, and received from the board, the itemized financial statement for 2004, required by the Condominium Act. I have written the board and asked them to explain some of the expenses, especially the withdrawals from the reserve account.

The board president responded by telling me the directors are not required to do financial research for owners. He also stated that all document requests should be in writing, will be evaluated and answered within 30 days; but I must pay a 25-cent-per-page copying charge and a \$95-per-hour locating fee.

Is this statement within the rights and obligations of board members as fiduciaries to the owners? If the board is not required to answer any fund questions, who is?

A. If the annual accounting does not sufficiently answer your questions regarding reserve withdrawals, as the owner's representative you have the right to inspect the association books and records. These records should include copies of any invoices, contracts and checks representing reserve fund expenditures.

The association president is correct in requiring the document request to be in writing, and the board has 30 days in which to respond to the request.

The copying charge seems reasonable, but the locating fee is questionable in this case. Information from the current year should be readily accessible. The purpose of the charge to locate records was generally intended to apply to requests for information from past years, which does require time to recover the records.

Your question illustrates the importance of board communication to the ownership. By clearly explaining the association expenses, particularly reserve fund projects, the board minimizes conflict with owners and promotes the sense of community in the association. Professional condominium managers understand this concept. All too often, self-managed boards become overly defensive when questioned about their activities.

Q. I am a unit owner of a 12-unit condo association in Chicago. The association has three directors and officers who serve on the board. One owner believes that the bylaws should be amended to require 12 board members -- one per unit, so that all units have a vote in the association's administration. What do you think of this proposal?

The treasurer of our association recently submitted her verbal resignation before the end of her term. Should the association require a written, dated letter of resignation?

A. Condominium associations are not run like town hall meetings. Associations have the powers and duties of not-for-profit corporations. These corporations require the members to elect a board to make the business decisions. The minimum number of directors for a not-for-profit corporation is three.

From a business standpoint, fewer decisions will be made and the association will run less effectively if every owner has to vote on a decision.

The treasurer of your association should submit his or her resignation in writing. The Not-for-Profit Corporation Act requires a written resignation of a director or officer.

Q. Our condominium building has a two-bedroom apartment for the building engineer. For many years, he has opted to obtain a rent reimbursement from us and live outside the building. The association has been unable to find another tenant to live in this unit, and many owners want to sell this common-element apartment. Our president says that the association cannot sell the apartment, because we need the consent of mortgage holders for the units. Is that true?

A. No. Section 18(b)(13) of the Illinois Condominium Property Act states that at least two-thirds of the unit owners must approve the sale of a unit on behalf of the association. Mortgagee approval is not required to sell this common-element unit.

Ownership of the unit by the association does not affect the mortgage of any other unit owner. The sale of the unit will not affect the owners' percentage interests in the common elements. If the association is losing money on this apartment, why not sell it?

- The Community Associations Institute of Illinois has two programs scheduled this month. The Community Associations Institute of Illinois will hold a homeowner's forum 7 to 9 p.m. Wednesday at the White Eagle Club Property Owner's Association Clubhouse in Naperville. Topics include landscaping and maintenance issues, budgets and reserves and election procedure changes.

CAI will present a program entitled "Dealing With Disaster" from 7 to 9 p.m. March 29 at the Schaumburg Marriott Hotel. For information on both programs, contact the chapter at 630-307-0659.

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