



## As Published in the July/August 2003 ACTHA Newsletter:

### “MAXIMIZE YOUR TIME.... AND YOUR INVESTMENT”

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*Helping Homeowners Protect Their Investment*

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Many people who move into condominiums or town homes have the expectation that the management of their property will be taken care of on their behalf. What they may not consider is that they are also putting what is no doubt their largest investment into the hands of people that probably have no experience on how to properly manage this important asset.

You wouldn't just give your neighbor \$300,000 to play the stock market on your behalf without knowing their credentials, would you? Of course not! You would first do your research to make sure that whoever you give your assets to is qualified and trained to hopefully give you the largest return on your dollar.

Well, you should have the same diligence with your property investment since you will inevitably want to sell it one day. It can mean the difference between making a profit on your property and selling it within a month or getting stuck with two mortgages because you didn't want to lose that great house in the suburbs. The more popular the building, the more activity your unit will see the first days on the market—and vice versa—setting the tone for all future building sales. This may be hard to believe, but it is not an exaggeration... owners in some of the better run condo or town home properties have even seen a 50-75% increase in unit value—in just five years of their construction and initial purchase! Now that's something to aspire to—especially given our recent economy.

Real estate buyers today are much more savvy than they were even just a few years ago. They're not just asking about size, location, cost and amenities anymore. They're also researching how stable an association is as part of their decision-making process. In addition, the responsiveness of your property manager or board member to condo disclosure requirements can actually make or break a sale. And that affects every owner because all sales will be compared when you try to sell your unit. According to Bill Barnes, real estate agent with Re/Max Midtown in Chicago, "If a building is hard to work with or it doesn't portray itself well in general, agents will hesitate showing it to their potential buyers. Buildings get reputations within the real estate industry—the one with A+ marks will get sold before the questionable ones, sometimes even before it's listed! I have buyers that want to live in a particular building because they've heard how much the owners love it—those sellers can command a higher price."

There are many signs of a stable association: regular and organized meetings with agendas, professional minutes, realistic budget, healthy reserves, long-term financial strategy (reserve study), well-maintained common areas and responsive management. A well-run association is like a well-run business ... if marketed effectively, the product sells and creates profit for the stockholders! Whether a condo or town home is professionally or self-managed, it is the board of directors' responsibility—like

the CEO of a business—to ensure that it is being managed efficiently and in the best interest of all the members of the association (all owners) to ensure the “product” (your unit) will sell profitably.

Angela Falzone, consultant for Association Advocates with 25-years of property management expertise, offers insight into condo law, “We don’t get to make this stuff up. The Illinois Condominium Property Act supercedes all Declarations and Bylaws and clearly outlines exactly what is required by law. Boards and owners have to look no further than their own Decs and Bylaws to identify the proper way to manage their property, and to ensure their association is meeting its fiduciary obligations to its owners. As per the Act, the first duty of the board of managers is ‘to provide for the operation, care, upkeep, maintenance, replacement and improvement of the common elements...’ which can only result in the increased value of the property.”

Sounds pretty simple, right? Well, unfortunately many board members have never even read their Bylaws, let alone the appropriate sections in the Act! And, yes, that should concern you. As a condo law attorney for more than 20 years, Jeffrey J. Knuckles of Knuckles & Associates, adds, “It is also easy for Board members to forget that they are the officers of a not-for-profit corporation. Accordingly, they are to manage the association as they would manage a business. This can be difficult because personal feelings and opinions can cloud the Board’s ability to make business decisions. After all, the corporate decisions made by the Board affect people’s homes. Therefore, not only must the Board abide by the Association’s governing documents and the Act, it also must abide by the terms of The Illinois Not For Profit Corporation Act.”

But, in all fairness, owners do not just wake up one day and become a board member. It can be a thankless job—or it can be wonderfully rewarding. Most board members spend hours upon hours trying to do the right thing on behalf of their association, which ultimately affects each owner’s investment. This is not a job they officially trained for nor are they getting paid to do it. So, it is understandable why many associations—especially the new construction properties—end up managing in “crisis reaction mode” which quickly leads to board member burnout and frustrated owners.

It does not have to be this hard! There are many steps associations can take to help their board members do a good job while maximizing their time and your property investment. The easier you make their job, the more things they can do that will benefit all owners. The more proactive and efficient the association’s procedures are, the less expense to the association in the long term and time spent on getting things done. Here are some helpful tips to ensure your association ranks with the better properties:

**1. Education, Education, Education**—Give the board the tools and the knowledge to do a good job so they can spend what little volunteer time they have actually “doing” what’s needed instead of spinning their wheels trying to figure out what needs to get done. Remember, we don’t have to make this stuff up—it’s already been done for us! ACTHA conferences and other seminars are a great place to start. Encourage more than just board members to attend. The more owners involved, the more the work can be spread out and new board members can be trained for the future. Maybe the association can even offer to pay the seminar fees for board and committee chairs to encourage involvement (after approving the expense at an open meeting, of course!).

**2. Board Training**—Sometimes a management company might offer this service or you can hire an independent consultant to train the board on the specifics of their Bylaws and Declaration and assess whether the procedures in place are the most efficient ones. The biggest mistake boards tend to make is having the attitude “we’ve been doing it this way for years” so it must be right. Often “their way” is not consistent with condo law and may cost the association unnecessary expenses and/or potential litigation that could have been avoided with some simple training. Here are some questions to ask...

Does your board prepare a proper meeting agenda with advance distribution to the owners? Are you aware that Minutes can become a legal document that can be used in litigation? Do you have an insurance policy which matches the requirements of your Bylaws and the Act? Does your board appear frustrated, overworked and unappreciated? Are the owners angry and complaining about the same things over and over? Those may be signs that the existing processes in place might not be the most efficient and it's time to reassess.

**3. Self-Management**—It usually isn't cost-effective for smaller buildings to be professionally managed, as there is often a minimum monthly fee for the better management companies. If you have a board that understands the Bylaws and Declaration and has a procedural plan in place—which it actually implements—then being self-managed does not have to be the chore that it sometimes appears to be. There are condo accountants, maintenance companies and consultants that you can outsource to help make your jobs easier, which will still be less expensive than hiring an annual management company. Do you have an Operations Manual specifying the procedure, contacts and numbers to call in an emergency? Do you have a Maintenance Criteria Checklist itemizing the weekly, monthly and annual requirements to keep your building running efficiently? Do you have a calendar with the dates for contract renewals? In most cases, all it takes is having your property assessed to give your board the tools it needs so the building can then run itself efficiently. But, don't be penny-wise and dollar foolish. Avoiding necessary expenses to decrease your assessments now may also decrease your resale values later. A problem usually doesn't just go away, it tends to get worse creating expenses which could have been easily avoided.

**4. Professional Management**—If the owners don't want to do the work (and who can blame them?!), hire a management company. But, when you do, make sure you are clear about your expectations and criteria and put it in the contract to avoid extra costs for added services—but if you want extra services, expect to pay for them. A good management company will be responsive to the owners and the board. If they're not, perhaps the board and the property manager are not on the same page regarding the association's expectations. Or, perhaps you have the right management company but need to request a property manager with fewer buildings in their portfolio. Or, perhaps the board is expecting services that are actually not included in the contract. Here are some signs that it might be time to make a change... Does it seem to take an unrealistic amount of time to get action items resolved by the management company? Is the board completing action items that should be handled by the hired property manager? Are complaints from owners increasing instead of decreasing? Is the building not being maintained to the satisfaction of the owners? Communicate with your property manager... be clear, set goals and, if you're still not getting the services you expect, shop around. Transitioning between management companies may not be completely painless, but it may be worth many frustration-free years—if you select the right one—which will protect your property at the standards the owners deserve.

**5. Communication, Committees & Social Events**—Open communication between the board and owners will prevent the “we” and “them” syndrome that often leads to negative politics. Instead, encourage participation from owners for committee involvement as it will save the board time and empower owners to take an active role in benefiting their building. This will also present an outlet for those owners who like to “offer their opinion” during meetings and will give them an opportunity to put their ideas into action. Here are some ideas for possible committees: Welcoming New Owners, Aesthetics, Operations, Maintenance, Capital Improvements, Developer Turnover, Financial, Rules & Regulations, Social Events, Community. As a reminder, just as there are specific procedures to adopt Rules & Regulations, there are also procedures to follow for the adoption of committees and their role within the association. Committees and social events can bring your internal community together. The more you can foster goodwill and community spirit among the owners, the happier they will be, the

more empowered they will be to help the association, and the better your building's reputation will be—all big pluses contributing to high resale values.

**6. Community Involvement**—The more active your building is with the local community organizations, other condo or town home associations, the alderman's office, the chamber of commerce and any local festival committees, the more of a voice you will have to positively influence major decisions—and deter negative ones—that will impact your property's value. For example, the commercial district might seek certain parking requests that would block access to your garage and create potential traffic problems for your owners. Get on the committee to combat this and you won't have to worry about your future potential buyer not being able to find parking to come to your open house! Good or bad PR for a building and/or a community can add to or detract from the value of your property. You also might make some new friends and have fun—it's a win-win all the way around!

**7. Developer Turnovers**—This topic can be an entire article in and of itself, however, the main thing for you to understand for new construction or conversions is the importance of ensuring that all developer turnover issues be addressed as quickly as possible and knowing when to seek legal and financial advice. It is recommended that an attorney and CPA specializing in condo associations be hired shortly after turnover to ensure all documentation and monies due the association are received. "The Act clearly states the obligations of the developer to the association—both before and after turnover. If an association waits too long to address problems, they stand the chance that the corporate entity the developer created for the project will be dissolved, making it more difficult to hold him accountable," explains Falzone, who has mediated settlements from both sides of the table. A poor developer reputation—or a special assessment to owners for legal fees and/or common area expenses not completed by the developer—may negatively influence a future buyers' decision and/or lower the resale value you had anticipated.

The more proactive the association's procedures, the less reactive the board will need to be to address the crisis of the moment or recouping monies owed. Ralph Picker, CPA and managing principal of Picker & Associates, offers advice from his 30 years of experience with condo associations and providing investigative audits for turnovers, "If the board does not act timely and decisively, as a consequence, the unit owners may experience an abrupt and substantial assessment increase and the possibility of the value of their units falling. This can easily be prevented by bringing in the appropriate experts early on to advise the board of its fiscal and fiduciary responsibilities." In addition, a thorough report from an expert or a letter from a condo law attorney will most likely be taken more seriously by a developer—than a letter from the board president—which will hopefully prevent costly litigation.

Condo or town home living may have its unexpected surprises but it can be extremely rewarding—and financially beneficial—if your association meets the needs and expectations of its owners. The more educated homeowners are about their rights and the responsibilities of their association, the better they can ensure that their investment is working as hard for them as possible. Don't just stand in the sidelines expecting somebody else to do it for you... get involved, get educated and have fun! The more information you have, the easier it will be, the more things will get done, the happier the owners will be and the higher your resale values will be! Spend your time enjoying your home and not running it.