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COMMONtary is a free publication intended to provide helpful and relevant information to Eastern Iowa Condominium Association Boards of Directors and Management Professionals. We hope that you will find COMMONtary to be a valuable resource in managing your community or portfolio of communities.

# COMMONtary

A NEWSLETTER FOR EASTERN IOWA CONDOMINIUM ASSOCIATIONS AND MANAGEMENT PROFESSIONALS

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### NOTICE:

COMMONtary is provided for general informational purposes only and should not be construed as rendering specific legal advice to your particular association. Legal principals referred to in COMMONtary are subject to change from time to time. Boards are urged to consult with legal counsel prior to acting on any information contained in COMMONtary.

# COMMONtary

A NEWSLETTER FOR EASTERN IOWA CONDOMINIUM ASSOCIATIONS AND MANAGEMENT PROFESSIONALS

ISSUE NO. 1

JANUARY 2013

## Reminder: Biennial Reports Due April 1st

Iowa non-profit corporations are required to file biennial reports with the Iowa Secretary of State between January 1<sup>st</sup> and April 1<sup>st</sup> of each odd-numbered year. These reports may be

filed online or by mail. There is no fee for non-profits to file. Do not forget to file yours. For more information visit [www.sos.iowa.gov](http://www.sos.iowa.gov).



## Five Tips Every Board Can Use

**(1) Read Your Documents** – The best way to keep your association out of trouble and functioning properly is to thoroughly know your condominium documents. Read actively, highlighting provisions of interest and make notes in the margins. Have a question? Ask your property manager and/or association attorney.

**(2) Dictate How Owners Communicate with the Board** – As a member of your association's board, you obviously have a strong interest in your community. However, you are also an unpaid volunteer with other responsibilities. Cut down on telephone calls and unwanted interruptions by establishing a procedure for owners to communicate with the board. Establishing a central e-mail account and directing owners to communicate with the board by e-mail is one option. Beyond enabling you to address association matters on your own schedule, this option enables you to easily share re-

sponsibility with your fellow directors.

**(3) Not Every Matter is a Board Matter** – You are a board member, not a babysitter. Unit owners are bound to have disputes with one another. Some of these disputes require board intervention, others do not. Next time you are asked to intervene in a dispute between neighboring owners, remember that not every matter is a board matter. Determining whether board action is required may entail reviewing your documents or consulting your property manager and/or attorney.

**(4) Look to the Future when Preparing Your Annual Budget** – Never underestimate the importance of a healthy capital reserve fund. FHA guidelines require the boards of approved condominium project to contribute no less than 10% of their annual operating budgets to capital reserves. While these guidelines may or may not apply to your community, set-

ting aside at least 10% of your budget for capital reserves is a good rule of thumb. Granted, not every condominium is the same. Ten percent may not be the right number for your community. Prepare a schedule for future maintenance items. Then, determine whether your association will likely have the necessary resources available to fund those items when the time comes without having to levy special assessments. If your community is particularly large, commissioning a professional reserve study may be advisable.

**(5) An Ounce of Prevention is Worth a Pound of Cure** – It is less costly and time-consuming to identify potential liabilities and remedy them before a lawsuit occurs, rather than after. If you have not already done so, have your association attorney review your documents to ensure they do not contain any provisions which could potentially result in liability if left unchecked.

## The Dish on Satellites



When it comes to regulating satellite dishes in a condominium community, the Federal Communications Commission ("FCC") has the final word. Generally, a condominium resident has a right to install a satellite dish measuring less than one meter (39.37") in diameter on any property that the resident owns or leases, or that is assigned for the resident's exclusive use. For example, a resident could install a satellite dish on a deck, patio, balcony, or other limited common element (subsequently referred to in this article as "Acceptable Areas").

Conversely, a resident generally has no right to install a satellite dish upon the common elements of a condominium. However, a board may, in its business judgment, allow satellite dish installations upon the common elements.

An association's ability to regulate satellite dish placement within Acceptable Areas is extremely limited under applicable FCC regulations.

An association's rules may not impair a resident's ability to install, maintain, or use a satellite dish. A restriction "impairs" a resident's ability to do these things if it: (a) unreasonably delays or prevents use; (b) unreasonably increases costs; or (c) precludes a person from receiving an acceptable quality signal. The way the FCC has interpreted guidelines a-c, above, effectively precludes most regulations when a satellite dish is installed within an Acceptable Area.

A limited number of regulations may nevertheless be imposed with respect to such installations, including regulations which:

- Prohibit drilling any holes in a common element exterior wall;
- Require painting a satellite dish to match the community's aesthetic, so long as doing so would not interfere with reception or impose unreasonable costs;
- Impose legitimate safety rules, provided the justification for such rules are set forth in the text of the rule or regulation; or
- Prohibit a satellite dish from being installed in such a manner that it more than slightly extends beyond the plane of an Acceptable Area so as to protrude into the common elements.

Regulations which are absolutely prohibited include any regulation which:

- Imposes a fee to install a satellite dish;
- Requires the board's approval to install a satellite dish (although requiring notice is permitted); or
- Limits the number of satellite dishes that may be installed within an Acceptable Area

Considering the complexity of the FCC's regulations, as applied to any particular condominium community, it is strongly urged that a board consult its attorney before adopting rules and regulations governing satellite dishes. If a board has already adopted such rules or regulations, it is similarly advisable to consult legal counsel.

For more information on the FCC regulations referenced in this article, including a segment on frequently asked questions, visit [www.fcc.gov/guides/over-air-reception-devices-rule](http://www.fcc.gov/guides/over-air-reception-devices-rule).



## Drop the Hammer on Delinquent Owners: Adopt and Enforce a Formal Collections Policy

If your association does not have a problem collecting assessments from its members, consider yourselves lucky...very lucky. Most associations, at one point or another, find themselves battling delinquencies. For some associations, delinquencies are a minor and infrequent aggravation. For others, they can be a constant source of anxiety and frustration. Taken to the extreme, delinquencies can cripple an association, leaving it underfunded and unable to perform necessary responsibilities. All too often, the result is deferred maintenance and a resulting reduction in property values.

So, what is a board to do? Adopting and enforcing a formal collections policy is a step in the right direction. An effective collections policy essentially outlines what actions the board will take when assessments are not paid; at what stages in the process those actions will be taken; and who, be it a property manager, attorney, or director, is authorized to take those actions on the board's behalf. An effective collection policy also incorporates enough flexibility for the board to diverge from its usual course when circumstances dictate that a different approach is required.



Examples of actions boards may take to collect on delinquent accounts include: friendly reminders from the board or the association's property manager, the imposition of late fees, formal demands for payment, attorney demand letters, assessment liens, and in extreme instances, foreclosure. You should, however, carefully review your community's condominium documents before adopting a collections policy. This is necessary in order to determine exactly what tools are available to your specific association when it comes to collecting assessments, and under what circumstances those tools may be utilized.

Most associations' documents include language indicating that a delinquent owner is responsible for the association's

collections costs, which may include, without limitation, postage, management fees, and/or attorneys' fees. When and if to involve an attorney in an association's collections process is a question every board should carefully consider in adopting a collections policy.

While hiring an attorney does entail certain costs, which the association must initially bear, a letter from an attorney at an appropriate stage in the process, or the filing of an assessment lien, can effectively entice a delinquent owner to make payment. Alternatively, a letter from an attorney, or an assessment lien, may be just the push needed to bring a delinquent owner to the table to negotiate a reasonable payment plan.

Simply adopting a collections policy, however, is not likely to be an effective strategy unless it is diligently enforced by the board or its representatives. Simply demonstrating to owners that their failure to pay assessments in a timely manner will result in predictable, and at times costly consequences, may be enough to make them think twice before skipping a payment.

also offers a number of flat fee services and volume discounts.

To learn more, or to schedule an appointment to meet with Steve, call him at **319-365-9101 (x139)**, email him at [sleidinger@lynchdallas.com](mailto:sleidinger@lynchdallas.com), or visit [www.lynchdallas.com](http://www.lynchdallas.com) to learn more about Steve and his practice.

## About the Author



Steve Leiding is an attorney with Lynch Dallas, P.C., in Cedar Rapids, Iowa. Steve has served as general counsel to condominium and homeowners' associations since 2006. During this time, he has represented associations on a host of matters, including collections, enforcement, document amendment and interpretation, litigation, operational issues, corporate govern-

ance, and others. He also has years of experience drafting original condominium documents for residential and commercial developers.

Steve would welcome the opportunity to meet with your board to discuss the possibility of representing your association, whether as general counsel or special counsel with respect to a specific project or matter.

Lynch Dallas, P.C. provides services to condominium and homeowners associations at competitive hourly rates, and



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