



KEOUGH
MOODY

**August
2018
Newsletter**

It's already August and with August comes the 2019 budget season for our community association managers and associations. In looking ahead to 2019, we have a few reminders.



First, if your association does not already have a dispute resolution procedure for owner complaints, as required by the Condominium and Common Interest Community Ombudsperson Act, it should work to adopt such a policy by year end as associations are required to have such a policy effective January 1, 2019. Next, before executing major or recurring contracts, boards should consider having their attorneys review the contracts to confirm that its interests are appropriately protected. Finally, year-end is an appropriate time to clean up the association's books; therefore, delinquent reports should be reviewed in order to determine whether any accounts should be written-off to bad debt. By planning now, hopefully your 2019 will be off to a smooth start!

Chuck Keough

SOCIAL MEDIA AND YOUR ASSOCIATION

In July, our firm hosted a seminar about hot topics in associations. This seminar touched on a number of issues which we see impacting our clients. One of those issues was the use of social media by an association, its board members, and its membership.

Social media, and in particular, Facebook, is a great tool for people to stay in contact and share information. It seems to follow that Facebook is also a great way for associations to share information with and involve its membership. Unfortunately, without proper planning and the establishment of protocols, an association Facebook page can cause a lot of headaches for the association, its board members, and often, its legal counsel.

If your board believes that a Facebook page or group is beneficial to the community, it should undertake several steps before going "live." First, the board needs to determine whether to establish a Facebook page, which is generally open to the public, or a Facebook group, where content is limited to members of said group. The reason behind the Facebook presence will generally help dictate whether a page or group should be formed. In other words, if the board wants to utilize the social media platform to share content which is generally reserved for the members only, a private group should be formed.

Once a group or page is formed, the board must determine who is going to administer the page or group. Please note that it will generally not be the association's community association manager. Therefore, a board member or other community volunteer will need to be designated to administer the page or group. A policy will need to be adopted by the board as to the extent of the administrator's authority with respect to the page. That policy should include, at a minimum,

criteria for approving new members to the group and direction as to what information and responses can be posted on the association's behalf (communication policy). Such a communication policy is necessary as the board must act as a whole with respect to association issues. In addition, a code of conduct should be adopted and published in the group or on the page, which identifies what sort of comments and behavior will result in deletion and/or being blocked from the page or group. Board members should not deviate from an adopted communication policy, regardless of whether they believe they are acting individually or not.

While the board can control its actions with respect to an association Facebook page or group, it must understand that it cannot control the actions of others. Facebook pages or groups often become a place where owners express their discontent about all aspects of the association, board, and management. As long as those comments do not violate the code of conduct, those comments should not be deleted from an association-run social media platform as an owner could argue that such an action violates his/her First Amendment rights. Board members must exercise restraint in not responding to these comments, except as may be authorized by the communication policy. Despite a Facebook presence, the proper venue for addressing association issues must continue through association management or at an open meeting of the Board. Exercising restraint when under attack and/or not addressing an issue when posted on Facebook is often difficult for some individual board members. As a result, many associations elect not to have a Facebook presence at all.



DOES YOUR ASSOCIATION HAVE UNCLAIMED FUNDS?

From time to time, checks are not cashed by an association or an association loses track of a CD or other account held in a banking institution that it no longer uses. Those funds ultimately find their way to the Illinois State Treasurer as unclaimed. Recently, our office was contacted by the Illinois State Treasurer to advise of sizable sums held by its office on behalf of our clients. We have worked with the Treasurer to reclaim those funds for the association. In addition to those sizable sums, there are also smaller amounts due and owing to associations across the state. You are encouraged to check with the Illinois State Treasurer to determine whether that office is holding funds on behalf of your association (or you, personally). The link to search their records is <https://icash.illinoistreasurer.gov/app/claim-search>.

If your association needs help in getting funds released, our office would be happy to assist in getting the appropriate documentation submitted.

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