

This month we address two items: (1) a question asked occasionally regarding an association's ability to require 'good standing' as a predicate to serving on a board, and (2) practical rule enforcement tips as the weather changes.

Also, please join us on March 12 at Crystal Tree Golf and Country Club from 6:00pm - 8:00pm for a seminar discussing 'Frequently Asked Condominium and Community Associations.' [RSVP Here.](#)

Additionally, we will host a similar seminar March 18 at Chandler's Chophouse at Schaumburg Golf Club in Schaumburg from 6:00pm- 8:00pm. [RSVP Here.](#)

Finally, please join us on April 17 at the CAI Legal Forum at Navy Pier. We look forward to seeing you at upcoming events.

Enjoy the article and as always, we welcome your feedback. Please let us know if you have any questions about the new laws or the articles we have written by contacting Chuck Keough at cmk@kmlegal.com.

Chuck Keough

Association Myth of the Month

At the recent CAI Illinois Condo-HOA 2020 Conference and Expo, Keough and Moody principals, Gabriella Comstock and Dawn Moody, presented a seminar on busting association myths. Each month in 2020, we will be debunking an association myth. For March, 2020, we consider the myth that a member must be in good standing (i.e. current on assessments and not in violation of the governing documents) in order to be qualified to serve as a Board member.

While an individual association's governing documents may require a member to be in good standing to serve as a board member, there is currently no state law which establishes this as a requirement. For those associations which have a good standing requirement set forth in the governing documents, there are two schools of thought among attorneys in our industry as to whether such a requirement is enforceable. Some attorneys believe that any sort of qualification other than ownership violates the terms of the Illinois Condominium Property Act and the Illinois Common Interest Community Association Act. Others believe that it is enforceable so long as it is set forth in the Association's Declaration or By-Laws.

This myth essentially arises from common sense (which the law does not necessarily mirror). In order for a board member to fulfill his/her fiduciary duty, he/she has an obligation to strictly adhere to the association's governing documents. If that proposed board member is already in breach of that obligation, by either not paying common expenses or adhering to the rules and regulations, it is questionable how serious that board member takes his/her fiduciary obligations. Therefore, while a requirement of good standing is not currently legally mandated by state statute for current and prospective board members, it is always a best practice.

Practical tips to start property maintenance rule enforcement this Spring

This weekend, we will be springing forward into Spring. Hopefully, with the change of our clocks, we will also start seeing a return to warmer weather. With that warmer weather, the season of property inspections and rule violations will be upon us. Here are some practical tips to help make sure that your community looks good during the upcoming months:

- Ensure that the association has a set of clearly defined, objective rules and regulations for the community. Rules and regulations establish a set of expectations for community living, as well as the consequences for failing to meet those expectations. This document is vitally important to

help ensure that community standards are defined and maintained. In order to be enforceable, rules and regulations should be defined in terms of "shall" or "must." While terms, such as "request" or "encourage," may seem more neighborly, the purpose of rules is to require (or prohibit) certain conduct. If a board wants to ensure residents do (or do not) take certain action, it must mandate it rather than merely encourage it.

- Conduct a spring inspection of the property in order to identify common violations of the governing documents. Once identified, the board should notify the membership of the common deficiencies noted and action steps needed to correct those deficiencies. It should then note to the residents when it will begin conducting property inspections and starting enforcement efforts.
- Establish realistic deadlines to address violations before further enforcement efforts start (i.e. assessing fines). If correction of a violation requires warmer temperatures, it is reasonable for a board to stay the imposition of fines until such time as a violation could be (and is not) remedied.
- Confirm that appropriate enforcement procedures have been adopted by the board. These procedures include a fine schedule for those owners who fail to comply with the Association's Rules and Regulations, as well as a process by and through which owners can avail themselves of their right to be heard.
- Fine owners as necessary to obtain compliance with the Association's Rules and Regulations. To the extent possible, it is advisable to send photographic evidence of the violation to the owner, so that they can see the violation. In addition, the Association should advise the owner as to what steps need to be taken to correct the violation, as corrective steps may not otherwise be clear to an owner.

With clear, objective guidelines, proactive communication, and the tools to compel compliance, an association should be in a good position to ensure that community standards are maintained throughout the year. If your association lacks appropriate rules and regulations or your association needs further assistance in addressing an eyesore within your community, our office can help! Contact Chuck Keough via email at cmk@kmllegal.com.