



REMINDER TO CONDOMINIUM ASSOCIATIONS:

Have you adopted an accessible parking policy?

Section 18.12 was added to the Illinois Condominium Property Act and went into effect on January 1, 2025. This new section, which applies only to condominium associations, requires **all** condominium associations that have parking to adopt a policy that addresses how to reasonably accommodate a unit owner who is disabled and requires an accessible parking space to ensure access to the building. Per the statute, the policy must be adopted by March 31, 2025. If your association has not yet adopted this policy, please contact us to discuss what needs to be done to ensure your condominium association is in compliance with the Act.



The Corporate Transparency Act Rollercoaster Continues

The March 2025 Developments

Since December 2024, the Corporate Transparency Act (“CTA”) has taken us on a rollercoaster ride. The CTA has been the subject of various litigation, which has placed enforcement of the CTA and the requirement for domestic reporting companies to file Beneficial Owner Information Reports (BOIR) on and off hold several times. Most recently, on February 17, 2025, the Federal Government was successful in having the hold issued on mandatory BOIR filings lifted in the *Samantha Smith* case (6:24-CV-336-JDK). As a result, the Financial Crimes Enforcement Network (FinCEN) advised that mandatory filings were again required and set forth a March 21, 2025, filing deadline.

This deadline appears to no longer be a deadline. On February 27, 2025, FinCEN announced that it would not issue any fines or penalties or take enforcement actions against companies, which failed to file its BOIR by the existing deadline. Subsequently, on March 2, 2025, the Treasury Department announced that it would seek to issue rules narrowing the scope of the CTA to foreign reporting companies only and that it would not impose fines, penalties, etc., against domestic reporting companies. Therefore, at this moment, while the CTA does exist and remains good law, the current administration has taken the position, at least for the moment, that it will not be enforcing the BOIR requirements against domestic companies and will not be imposing any penalties or fines for non-compliance. In other words, BOIR filings are currently optional, at best.

While BOIR requirements appear to be dead for the moment, the last several months have taught us that things with the CTA may change and may change quickly. Although community associations may take the March 21, 2025, deadline off of their radar, they should not write off the CTA completely. We still may not be at the end of this rollercoaster ride.

KEOUGH AND MOODY WEBINARS

Gabby and Dawn (and perhaps some special guests) will be continuing their webinars throughout 2025. The next Keough & Moody webinar is scheduled for Wednesday, **March 12, 2025**. Upcoming webinars are scheduled for **April 16** and **June 18** at noon. Information regarding these webinars, as well as registration links, are located at the bottom of this Newsletter. In addition to our in-house webinars, Keough & Moody encourages everyone to attend the upcoming CAI-Illinois Legal Forum on May 13 and May 20, where Gabby and Dawn will also present.

Identifying and Handling Nuisances

(Especially When Offender or Complainer Number 1 is Involved)

Register Now!



Dawn Moody



Gabby Comstock

March 12, 2025
12:00 p.m.



Identifying and Handling Nuisances (Especially When Offender or Complainer Number 1 is Involved)

March 12, 2025, 12:00 p.m.

2 hours of continuing education credit will be provided

Nuisances are popping up in every community association. They are violations that are tricky to handle because some people find everything annoying and everything to be a nuisance. They are also tricky to handle because if a nuisance situation is not properly handled, it can easily spin out of control. It can also subject the association (and its manager or board members) to accusations of discrimination or breach of fiduciary duty. Last year, an Illinois appellate court issued a ruling in a case that centered around a chronic complaining unit owner who repeatedly alleged that her neighbor was engaged in nuisance activities. This court ruled in favor of the condominium association and highlighted all that the association and its management team did that was RIGHT.

Join Dawn and Gabby in this 2-hour webinar as we go through this case and discuss how to handle nuisances properly and how to avoid traps (that are tempting when you are dealing with offender or complainer number one). There will be time for questions, too!

**Register
Here**

“Identifying and Handling Nuisances (Especially When Offender or

Complainer Number 1 is Involved)” is approved by Community Association Managers International Certification Board (CAMICB) to fulfill continuing education requirements for the CMCA® certification.

It is also approved by the IDFPR to fulfill continuing education requirements for maintaining a community association manager license.



WHO DO YOU AGREE WITH ON THIS ONE?

April 16, 2025, 12:00 p.m.

2 hours of continuing education credit will be provided

Back by popular demand! Dawn and Gabby are ready to tackle some common situations where they may not see completely eye-to-eye. After all, often, there is not just one way to handle a situation. It is good to hear how different attorneys approach different topics. During this presentation, Dawn and Gabby will discuss common requests received by a board and management. They will guide you through what management and the board should do in response to the requests and how a court may view the board's actions. The goal of this presentation is to have each attendee leave with a better understanding of how important it is to handle requests in a fair and consistent manner. Attendees will also leave understanding how to address situations, which may not be as simple as they may appear.

Join Dawn and Gabby in this 2-hour webinar as they go through these scenarios and debate the issues! There will be time for questions, too!

Registration is required:

**Register
Here**

“Who do You Agree With on this One?” is approved by Community Association Managers International Certification Board (CAMICB) to fulfill continuing education requirements for the CMCA® certification.

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DAMAGE TO PROPERTY: MAINTENANCE vs. INSURANCE

June 18, 2025, 12:00 p.m.

2 hours of continuing education credit will be provided

There is damage to property: what now? Do we file an insurance claim? Do we fix it? Do we demand the owner makes his own repairs? Do we leave it to the unit owners to sort through? Join Dawn and Gabby as they tackle this common, but challenging problem. Come learn more about who is responsible for obtaining what insurance and what to do when there is a loss. More importantly, come learn why there is a difference between the duty to maintain versus the duty to insure. Lastly, in this presentation, Dawn and Gabby will go through a case study that involved a K&M client which demonstrates all the challenges that can arise when there is property damage.

Join Dawn and Gabby in this 2-hour webinar as we go through how to handle damages to property. We will allow time for questions, too.

Registration is required:

**Register
Here**

“Damage to Property: Maintenance vs. Insurance” is approved by Community Association Managers International Certification Board (CAMICB) to fulfill continuing education requirements for the CMCA® certification.

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BUDGET AND RESERVE REMINDERS FOR ASSOCIATIONS

As we close out the books for 2024 and begin audits, it is a good time to take a second look at our budget and financials for 2025. Here are some items that the associations should take a second look at before 2025 gets away from us.

1. Adopt an Accurate Budget

The cost of running an association is going up. Associations are seeing insurance prices skyrocket, and maintenance and repair project prices are increasing. Owners are facing their own financial challenges as their own household expenses are also increasing. This means that, more and more, we are seeing boards face owner pushback and even formal challenges when they increase regular assessments or when they adopt a special assessment. As a result, some boards are hesitant to adopt the budget they know they should adopt when doing so will cause assessments to increase. Based upon that concern, they focus on keeping assessments low rather than adopting the budget and assessments that the association needs. While that approach may save a board from some pushback from its owners, it will only cause more pain down the road. While special assessments are unavoidable from time to time, if a board finds itself having to adopt back-to-back special assessments to cover routine expenses and budget shortfalls, it should take a harder look at its budget to make sure that budget reflects reality.

One thing boards should avoid when adopting a budget is to simply re-date the current year's budget and adopt it anew for the upcoming fiscal year (with or without a percentage increase). As noted above, prices are increasing, so it is not realistic to believe that costs will not increase. Further, a budget should reflect the association's **real** anticipated costs. This requires review of actual expenditures to date, and an honest assessment of what the upcoming fiscal year might look like. All directors should educate themselves to read budgets, and they should not approve budgets prepared by the community association manager or treasurer without reviewing them and truly understanding them.

So, what happens if it already appears that your 2025 budget is not accurate? If it appears that your 2025 budget is no longer accurate due to increased costs, the board may need to adopt a revised 2025 budget mid-year or adopt a special assessment to account for actual costs. What avenue to take may depend on the nature of the increased cost. By way of example, in the event that an association's insurance premium increases significantly, the board should adopt a revised budget to account for that increase in premiums. The process for adopting a revised budget or special assessment may vary from association to association. Therefore, the board should consult its legal counsel to confirm the process. What the board should not do is simply utilize its reserve fund as a matter of course to pay for those increased costs.

2. Obtain and Follow a Reserve Study

Condominium associations are required by statute to maintain reasonable reserves for capital expenditures and deferred maintenance and repair. (765 ILCS 605/9(c)). Most associations are also required by their community instruments to maintain a reserve account, and federally backed mortgage lenders will often not write a loan to purchase a unit within an association with inadequate reserves. Even if maintaining a reserve account is not legally required for your association, good business judgment dictates that every association should maintain one.

The Condominium Property Act lists five specific factors a board should consider when setting the reserve amount, one of which is the reserve study. The Condo Act also requires a board to consider useful life and repair/replacement costs of building components, current and anticipated return on investments, financial impact of the set reserve amount including resale value of units, and the ability of the association to obtain financing. While the board should consider all these factors, when it comes to assessing the tax status of an association and whether reserve transfers impact that status, the reserve study is especially important. As is discussed below, equally important is consultation with the association's accountant.

3. Be Mindful of Reserves Transfers

As already mentioned, establishing, maintaining, and continuing to fund a reserve account are all important for the financial well-being of any association. Reserve accounts are important to fund capital projects, to pay for deferred maintenance and repair, and for unbudgeted expenditures that may arise during the fiscal year. A reserve fund is not, however, a general savings account that should be routinely relied upon to cover operating shortfalls. If the association frequently finds itself needing to dip into reserves to cover routine operating expense overruns, the board should reconsider its budgeting strategy, as discussed above. In addition, specific procedures must be followed any time an association borrows from reserves to cover operating expenses.

As mentioned at the beginning of this section, reserve funds have specific purposes. If reserve funds are used to cover an expense for which they are not designed, such as covering an operating shortfall, the use of those funds must be considered a loan. That loan from reserves to operating must be repaid. Failure to do so could be deemed comingling and could impact the association's taxes and tax status. The timing for repayment will vary depending on circumstances, and the accountant should assist the board to ensure deadlines are met. No matter the timeframe that an association has to reimburse its reserve fund, any loans to operating should be noted on the balance sheet. A plan should be implemented to reimburse reserves within the time frame determined by the association's accountant. Even while this reimbursement is ongoing, new budgeted reserve contributions should continue to be made.

4. Most Importantly: Consult the Association's Accountant

As you may have realized by reading this article, or as you may have learned when dealing with budget and reserve issues in your own association, these issues can be complex and confusing. Further, boards will be protected under the business judgment rule from liability for addressing these issues, provided they follow the advice of their experts. When it comes to reserve transfers, it is imperative that a board obtain advice of a certified accountant. Just as importantly, this advice should be obtained on an ongoing basis. Too often, associations will only reach out to accountants when it is time to file taxes or to have its accounting or audit completed. By then, it is often too late to correct course and ensure that reserve transfers are being handled correctly. (Not to mention that the accountant will be in his/her busy season!) An association's accountant is part of its professional team. The accountant should be routinely consulted - just like the board contacts its attorney when legal questions arise, so, too, should it consult its accountant for financial matters. Then, that accounting advice must be followed and implemented.

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