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How To Collect Correctly With HOAs

by Richard Thompson

The correct collection of money is essential for maintaining a strong homeowner association. If some don't pay, guess who gets to? (CLUE: You.) There is no government bail out for HOAs. Failure to pay assessments puts an unfair burden on those who do pay and impacts the ability to properly maintain the structures. Delinquencies are financial dryrot and must be arrested early to prevent extreme damage.

There are several elements to a good collection policy:

— **Accurate Bookkeeping.** Failing to track payments undermines the association's right and ability to collect delinquencies. It's extremely important that payments are accurately and promptly recorded.

— **Late Payment Policies.** Without a late payment policy, association fees sink down the stack of payment priorities. The trick is to make the penalty severe enough to keep it on the top of the bill pile. A strong collection policy encourages timely payment, discourages late payment and allows payment plans for financially distressed owners who legitimately need more time. Late charges must be high enough to promote payment and be uniformly imposed.

Timely Enforcement. Written delinquency notices should be sent according to schedule (regardless of what an owner may promise by phone) to maintain the association's legal rights. This means sending, for example, a Late Notice to all delinquents on the 10th and a Ten Day Notice to Pay after another 30 days have passed. The Ten Day Notice should clearly state that after 10 days, collection will be placed in the attorney's hands and additional attorney charges added. (Your governing documents may dictate different deadlines.)

The longer that the HOA waits, the more difficult collections get. Failure to process delinquencies promptly gives the impression that the policy is meaningless or that enforcement depends on "who you are". Also, if an owner is truly in financial trouble, the chances of mortgage foreclosure or bankruptcy increases daily and can seriously reduce the recovery of assessments.

Accurate Information. When a collection is turned over to the attorney, complete information is very important. The attorney needs the name of the owner of record (name on the title), owner's mailing address if different than the unit address, and a complete and accurate breakdown of all charges and credits from the last date that the account was paid in full to the present. Failure to provide complete and accurate information causes unnecessary delay, additional expense and may affect recovery.

Efficient Collection Services. Your attorney should immediately review the new file to ensure all necessary information is included and to check for inaccuracies. The title insurance company should be consulted to confirm the owner of record and to reveal any existing liens, taxes, mortgages, mortgage foreclosures, divorces, estate probate, bankruptcy or other matters that affect the title. After reviewing the title information, a "Notice and Demand" letter is sent to the owner of record and the delinquent owner has a statutory number of days from the date mailed (usually 30) to pay the balance in full. The charges include the title search and attorney fees.