

Home associations should get out ahead of complaints



Residential associations should try to resolve disputes within their communities before they escalate, experts advise. (Getty Images)

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Whether or not Illinois ever establishes a functioning agency to settle the complaints of community association homeowners remains to be seen. The Condominium and Common Interest Community Ombudsman Act was passed in 2015 and amended, and its deadlines are stretching further into the future. The latest version, which awaits the signature of Gov. [Bruce Rauner](#), enables aggrieved owners to begin seeking third-party dispute resolution assistance four years from now.

It's a long time to wait.

Until then, savvy association boards can and should try to resolve complaints within their communities before they escalate, said association attorney Kristofer Kasten of Michael C. Kim & Associates in Chicago.

"Associations that can find some less costly ways to address disputes and issues between owners and boards will save the association money because attorneys don't get involved," he said. "They also are more amicable and friendlier communities in which to live."

One step in that direction is developing a formal policy and procedure for reporting, hearing and resolving complaints. Such a policy will guide management and boards to act in a businesslike manner, said Lou Lutz, chief executive officer at First Community Management in Chicago.

"To have something in place in advance is helpful in treating everyone the same," he said, adding that with a policy, management and boards "are not emotionally reacting to events or handling a complaint on the fly."

"With a written dispute resolution policy in place, all parties know their responsibilities," said community association manager Carol

Marcou of Associa in Schaumburg.

Owners know they have a pathway to be heard and seek recourse, and boards know they must respond, she said.

What goes into a complaint policy?

Language in the ombudsman legislation, which mandates such policies and spells out minimum requirements, is a starting point.

Among its provisions: Policies must be written and made available to owners on request. They must include a blank complaint form for owners to submit their complaints as well as instructions for delivering completed forms to the association. A policy also must include the board's timeline for making its final determination. Associations must respond in writing within a "reasonable time" after receiving the complaint. (The not-yet-signed amended legislation says 180 days.)

To cut down on opinionated grumblings, Lutz suggests adding to the list a requirement that complainants cite which rule or law is being broken.

"Sometimes you will hear complaints that are not in violation of anything, just behavior that someone else doesn't care for," he said. "A complaint might be about construction noise on a Saturday, but the rules allow that."

Kasten said, "From a procedural standpoint, a policy creates a more formal and uniform process for associations to deal with unit owner complaints. It also can manage the expectations of unit owners as to what will happen if they make a complaint. Whether they like the association's response or not, they know they will get it within a certain time frame."

The ombudsman act also requires disputes to have occurred or been initiated within the two years preceding the date of assistance request.

The time limit assures boards that owners can't bring up matters from years ago, Marcou said.

If and when the ombudsman program becomes functional, owners will have to show they have gone through their association complaint process before they qualify for further dispute resolution assistance. Their complaints will be limited to violations of the Illinois Condominium Property Act or Common Interest Community Property Act.

The current Condominium and Common Interest Community Ombudsman Act went into effect July 1. The deadline for associations to have a complaint policy in place is Dec. 27. Requests for dispute resolution assistance will be taken starting July 1, 2019.

The amended legislation, H.B. 4658, delays the deadline for complaint policies until Jan. 1, 2019. The earliest date to request dispute resolution assistance would be July 1, 2020.

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