

HOAMCO



HOMEOWNERS ASSOCIATION MANAGEMENT COMPANY

The Holiday Season is Upon Us: Displaying Holiday Decorations

The traditional holiday season is upon us. That means many of you that live in a HOA will be displaying holiday decorations. Before you do so, it may be a good idea to review your HOA's CC&Rs or Rules and Regulations. Some HOAs have specific rules regarding when holiday decorations may be displayed and when they must be taken down. Some HOAs also have rules or restrictions concerning the brightness of holiday lights and placement of holiday displays. If you have any question concerning the display of holiday decorations, you should contact your HOAMCO manager prior to displaying your decorations. It's better to ask for permission than for forgiveness.

Excerpted from "Ask the HOA Guy: Holiday season is upon us: displaying holiday decorations," Augustus H. Shaw, IV, Esq., Tribune, November 27, 2004.

THE COSTS OF ARIZONA'S NEW "OPEN RECORDS" LAW

There is a quite a bit of confusion regarding the costs that can be charged to owners who want to review association records. The first question is whether the owner must pay for copies. The next question is whether the owner must pay an hourly rate for a manager to sit in the room and make sure none of the records are taken or altered.

Unfortunately, the new bill (HB 2177) does not mention or authorize any type of charge to the owner. The Non-Profit Corporation Act (A.R.S. 10-11603) allows the association to "impose a reasonable charge covering the costs of labor and material for copies of any documents provided to the member."

Thus, the association may charge an owner for both the actual cost of copies requested and the labor costs associated with gathering the documents to be copied. There is no authority, however, to charge an owner who simply wants to come in the office and review the records.

Personally, I don't think this is fair and I believe this is something we should try to address in the next legislative session. In

the meantime, the association has two choices. It can pay the manager to sit in on the review process or it could have a board member volunteer to do it.

The information contained in this Homeowners Association Tip of the Week© is for informational purposes only and is not specific legal advice or a substitute for specific legal counsel. Readers should not act upon this information without seeking professional counsel.

- Curtis Ekmark, Esq., Ekmark & Ekmark, L.L.C.



Collection Options Following a Notice of Trustee's Sale

Many associations give up on the collection of delinquent assessments when they receive a Notice of Trustee's Sale. However, you should first check to make sure it is the holder of the first mortgage that is foreclosing since only the holder of the first mortgage trumps the association's assessment lien. Second, the owner may file for bankruptcy in order to avoid the sale and the association may get paid through the bankruptcy process. Third, the owner may refinance and the association could

get paid. Fourth, the association may get paid if there are excess proceeds.

Did you know...

- If an association carries a SCF of Arizona work comp policy, it does not cover a contractor if the contractor's work comp policy is in some way deficient, UNLESS the association shows payments to the contractor as payroll and has paid the premium on that payroll?
- SCF of Arizona waivers (for sole proprietors, etc.) are worthless if the association does not have a State Fund policy?
- SCF of Arizona will accept a certificate from a contractor if the contractor's policy has terminated for some reason and the association has not been notified. Of course, the association MUST be able to provide a certificate?
- SCF of Arizona suggests never hiring a sole proprietor or anyone else who does not have work comp as the association has no coverage?

(SCF of Arizona is the largest provider of workers' compensation insurance in Arizona.)

Even if the sale goes through and the holder of the first mortgage wipes out the association's lien for past assessments, the new owner will owe assessments from the date they took title.

If you have any questions about this or any other collection issue, please do not hesitate to contact Penny Koepke at Ekmark & Ekmark (480.922.9292).

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