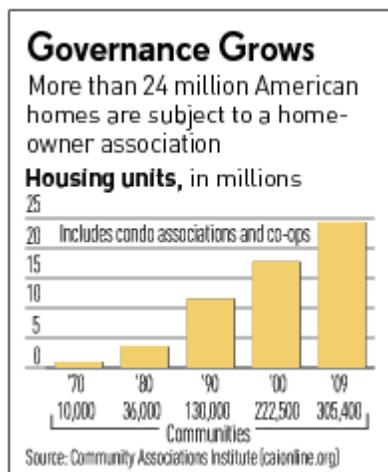


Business

Homeowners, Beware Association Costs

By KATHLEEN DOLER, FOR INVESTOR'S BUSINESS DAILY
Posted 09/09/2010 05:15 PM ET



[View Enlarged Image](#)

House and condo owners may face extra costs as their homeowner associations struggle with unpaid assessments, the legacy of neighbors hit by job losses and foreclosures.

Communities that don't plan properly, or incur unexpected expenses, can saddle homeowners with a tab for special assessments, higher dues or deferred maintenance. It behooves the 60 million people who live in associations nationwide, and those considering buying in one, to learn what these communities must tell them and when.

Dig For Details

Homeowner associations "rarely" provide a complete or updated set of disclosure documentation, says Jacquie Berry, whose company Community Association DataSource

reviews these documents and association finances for prospective buyers. Worse, she said, "most of the ones I'm reviewing now are underfunded."

Berry's firm, based in San Jose, Calif., sells a 12-page association financial health report for \$375, roughly the cost of a home inspection.

Homeowners and prospective buyers should review state laws plus documents that associations are required to provide, and ask questions. But dig even deeper, advises Patrick Hohman, author of the new book "Condos, Townhomes and Home Owner Associations: How to make your investment safer."

"If you can't get a straight story about the condition of the property, ask to see the minutes" from the past year's board meetings, said Hohman, a longtime condo association board member.

Many states don't require associations to provide these to prospective buyers. But prospective buyers can ask the seller for this information. Board meeting minutes are likely to provide clues to association issues and problems.

The top association issues today are unpaid and delinquent dues, and inadequate reserves. But how do reserves work?

Requirements Vary

Each state has its own rules. In California, associations must physically inspect common-interest facilities and infrastructure and determine maintenance needs every three years. They must do a reserves budget every year. But they're not required to actually fund that reserves budget. And associations are often loath to fund reserves if it means higher dues.

Florida condo associations must do a reserves study every three years and a budget annually, which must be funded according to a formula that looks at needed maintenance, the size of the complex and other factors, said Roberto Blanch, an attorney with Siegfried, Rivera, Lerner, De La Torre & Sobel, in Coral Gables, Fla.

However, unlike condo associations, Florida HOAs aren't required by the state to do these reserve studies and budgets, Blanch says. And some other states have no association reserves requirements.



A plumber digs by a Charlotte, N.C., condo in '06 after the owners association decided to cut off the water supply to force payment of homeowner dues... [View Enlarged Image](#)

Kentucky has a new condominium act, signed into law in April. It requires condo associations to do annual budgets and monthly balance sheets, Hohman says. And condo associations must disclose reserves funds (if any), and any anticipated capital expenditures for the current year and the following two years, he says. But homeowner associations are currently exempt from this Kentucky law.

Governance Gone Wrong

Bad things happen when associations mismanage their finances. Homes in an HOA or condo association that has too many delinquent assessments or inadequate reserves won't qualify for government-backed mortgages. That puts more downward pressure on the community's property prices.

Plus, if an association has a budget shortfall, needed maintenance may get put off, further eroding property prices.

And reserves aren't meant to cover shortfalls in operating budgets due to unpaid or delinquent assessments, though they can be tapped temporarily. In California, every association must do an annual operating budget and reserves budget, says Adrian Adams, founder of Adams Kessler, a Los Angeles-based law firm specializing in association laws.

Associations should reflect delinquencies in the operating budget and estimate for it, Adams says.

"If a shortfall is unexpected, the board can impose a special assessment of up to 5% of the budget to cover the expense," he said.

Or California associations can borrow from their reserves, if they've funded them, to cover the shortfall, but Adams says that borrowing must be repaid in one year. California association

boards also can put a line item in the reserves to account for unexpected expenses, like dues shortfalls.

Also a new law in Florida, effective July 1, allows a condo association to collect a tenant's rent if the tenant's landlord is behind on association dues, Blanch says.

Policies And Conflicts

Homeowners and prospective buyers should understand more than an association's financial health.

- What are the policies on pets, parking, noise, rental and dues-collections? What are the architectural guidelines?
- Are there any signs of a coming special assessment?
- Is the association self-managed or is there outside management? Is there an on-site property manager?
- What does the assessment fee cover and what doesn't it cover?

If a community is well-managed, this information will be readily available in updated disclosure documents. But sadly, poor management is more common than one might think.

Once again, how association disputes are handled varies from state to state. But some states require various measures of alternative dispute resolution to keep the matters from going directly to the courts.

In California, an owner can demand a "meet and confer" meeting with his or her association to discuss a dispute. The association must participate if a member requests it (but not vice versa), says Sandra Bonato, a partner with Berding & Weil, in Alamo, Calif.

If that meeting doesn't solve the issue, an owner can request alternative dispute resolution, either binding or nonbinding arbitration or mediation, she says.

Still no resolution? Then the owner can sue, or even attempt a recall of the board. In California, it takes a petition of just 5% of the association members to demand a board recall election.

An association must make a members list available to an owner who requests it for a mailing the owner wants to do for an association matter, like a petition.

What gets association boards into trouble?

"Many times boards meet in secret about things that could have big ramifications," said Beth Grimm, an attorney specializing in condo and HOA law in Pleasant Hill, Calif. This ticks off the membership. Whereas if a board is open and communicative it diffuses anger, she says.

© 2010 Investor's Business Daily, Inc. All rights reserved. Investor's Business Daily, IBD and CAN SLIM and their corresponding logos are registered trademarks of Data Analysis Inc.
[Copyright and Trademark Notice](#) | [Privacy Statement Terms](#) | [Conditions of Use](#)

0 notes

--