

Now on to reader mail.

QUESTION: Is it possible for our condominium association to post the names of those who are delinquent in the payment of maintenance fees? I realize that we cannot cut off their right to use amenities. Do you have any other suggestions how to deal with delinquent members? B.W. (via e-mail)

ANSWER: While it is certainly “possible” to publish a “dunning list,” I very strongly recommend against it. Your association could be subject to potentially significant liability under fair debt/fair credit reporting laws, on the basis of defamation, or perhaps invasion of privacy. In my opinion, it is clearly not worth the risk.

Any unit owner who wishes to review the association’s official records may do so, and that would include a ledger card for each unit that would show assessment payment status. If an owner requests access to this information, you must provide it to them, but do not go out of your way to embarrass those who are delinquent.

You are correct that a condominium association cannot suspend the right to use common facilities due to delinquency. As unfair as that may seem, that is the law. Conversely, a homeowner’s association can suspend certain rights (including voting rights) for non-payment, provided that certain procedures are followed.

The best thing that an association can do to protect itself is to ensure that it has a good set of governing documents. The documents should provide a short “grace” period for delinquencies (I recommend no more than 10 or 15 days) and then provide for the assessment of interest at the maximum legal rate (eighteen percent) and also permit the charging of late fees. If so provided in the documents, a late fee for condominium assessments may be charged up to \$25.00 per installment, or five percent of the installment due, whichever is greater.

If the association has good “teeth” in its documents, and takes timely action to enforce payment obligations, owners will learn that their obligations to the association must be taken seriously. Good luck. ⚖️

Mr. Adams concentrates his practice on the law of community association law, primarily representing condominium, co-operative, and homeowners’ associations and country clubs. Mr. Adams has represented more than 600 community associations and serves as managing shareholder of the Firm’s Naples and Ft. Myers offices.

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