

E K M A R K & E K M A R K, L.L.C.

ATTORNEYS AT LAW

HOMEOWNERS ASSOCIATION TIP OF THE WEEK

It's budget time again! Many associations will be putting together their 2009 budgets within the next few months. The following are some issues to consider when compiling the association budget for the upcoming year.

Should the annual assessment be raised?

In this market, with escalating costs and increased homeowner delinquencies, the answer may likely be "yes." The association should conduct a careful review of budgeted costs for the upcoming year to make sure that there will be sufficient funds to operate, including funds to cover unexpected costs and emergencies, as well as bad debt. Keep in mind also that inflation is on the rise, so it may be necessary to raise the annual assessment more than in past years to cover rising costs.

What does it take to raise the annual assessment?

The governing documents may provide the Board with the authority to raise the annual assessment, or the documents may require a membership vote to raise the annual assessment. Some documents will tie the allowable assessment increase to the rise in the Consumer Price Index (CPI). If the documents require a CPI calculation, be sure to calculate the increase by using the formula in the documents, since clauses requiring a CPI calculation vary. Often such formulas give the association larger increases than it would otherwise expect. If unsure how to calculate the increase, an association may wish to contact its attorney or CPA to help with such calculation.

Remember that, regardless of the provisions in the governing documents, a planned community association cannot raise the *actual* annual assessment charged by more than 20% over the prior years' assessment without the approval of a majority of all of the association members.

Does the budget need to be ratified by the membership?

In a planned community, the budget only needs to be ratified by the members if ratification is specifically required by the governing documents.

Condominium associations are required by the Condominium Act to provide a summary of the proposed budget to all of the unit owners within thirty (30) days of adoption of the budget, unless the association's declaration provides otherwise. Furthermore, unless the declaration grants the *board* the authority to adopt and amend budgets, the budget, or any amendment