WINZENBURG
LEFF
PURVIS &
PAYNE LLP

Budgeting & Reserves: Setting the Foundation for Your HOA's Fiscal Health

Molly A. Foley-Healy
Attorney at Law
mfoley-healy@wlpplaw.com
1660 Lincoln Street, Suite 1550
Denver, CO 80264
303.863.1870 Telephone
303.863.1872 Fax
www.cohoalaw.com

Focused on Communities

Special Thanks To:
APCHA & Housing Frontiers Group

Please Introduce Yourself

- Your Name
- HOA
- What you want to get out of these workshops
- Something that nobody knows about you!

Overview of Key Provisions in Your Condominium Declaration

- Definitions
  - Unit
  - Common Elements/General Common Elements/Limited Common Elements
- Insurance Responsibilities of HOA *and* Unit Owners
- Maintenance Responsibilities of HOA *and* Unit Owners
- Assessment Obligations
- Use Restrictions

Reserves

- Funds used for major repairs and replacement of components your HOA is responsible for.
- This *does not include* routine maintenance.
- Ideally HOAs should make routine contributions to the reserve fund.
- The reserve fund should be set up as a segregated account.
- Don't rob Peter to pay Paul.

Reserve Study – Important Budgeting Tool that Includes:

- Summary of the Association
- Physical Analysis of Components:
  - Life expectancy of each component – e.g. 20 years
  - Remaining life of each component – e.g. 3 years
- Financial Analysis
  - Current Financial Condition of Reserves
  - Recommended Contributions to Reserves
  - Recommendation is usually based upon “fully funded” reserves

Options for Funding Reserves

- Contributions from Regular Assessments
- Special Assessments
- Loans
- Transfer Fees

Contributions from Regular Assessments

- Incremental increases sometimes easier to swallow
- Include reserve contributions as a line item in budget
- Protect your reserve contributions
- Collect delinquent assessments!!

Special Assessments

- Can be a political hot potato!
- Sometimes there is no choice
- Check out Condominium Declaration for Applicable Provisions
  - Is approval of unit owners required?
  - Is there a cap on the amount of the Special Assessment?
  - Is there a limitation on what the Special Assessment can be utilized for?
  - Are there any 3rd party approval requirements for a Special Assessment?
- Ability of Homeowners to Pay
  - Installments
  - One Time Payment
- Commitment to Pursue Collection of Unpaid Assessments

Loans

- Check with local lenders to determine loan qualification standards
- Lenders Specialize in HOA Loans
- Assessment income is collateral for loans
- To qualify for a loan – specialized lenders examine:
  - Assessment Delinquency Rates
  - If Delinquency is a Problem – Sometimes Willing to Secure with Cash
  - Sometimes Special Assessment is Required to Qualify
- Rule of Thumb - Don't use a loan as only method to cover major repairs and replacements
- PLAN AHEAD TO ENSURE QUALIFICATION!!

Transfer Fee

- Should only be used as one option for funding reserves
- Should not be your main option
- It's difficult to project income from transfer fees
- Permitted by Colorado Law – Work with Your Legal Counsel
  - Check Condominium Declaration for Provision Permitting Transfer Fee
  - Colorado Revised Nonprofit Corporation Act
  - Adopt Resolution
  - Record Resolution

We haven't reserved sufficiently: What do we do??

- Breathe!
- Transparency is the name of the game!
- DO NOT defer routine maintenance
- Triage projects and plan funding strategy accordingly
- Spell out options (pros/cons) for unit owners and prepare them for assessment increases or special assessments
- Determine whether a loan is an option
- Bite the bullet and move forward

Reserve Study Policy Must Include:

- When your HOA has a reserve study prepared;
- Whether your HOA has created a funding plan;
- If there is a funding plan – the projected sources of funding;
- Whether the reserve study is based upon a physical and financial analysis

Your HOA Board Should Review and Complete the Reserve Study Policy Worksheet and Return to Molly Foley-Healy

Investment of Reserves Policy

- Fiduciary Duty to Be Informed and Handle Funds Wisely
- Investment Objectives
  - Safety of Funds
  - Liquidity
  - Types of Investments
  - Yields
- Delegation of Authority
- Ineligible Investments & Transactions
- Utilization of Banks – Insured Accounts
- Annual Report on Investments

Molly Foley-Healy, Esq.
Winzenburg, Leff, Purvis & Payne, LLP
1660 Lincoln Street, Suite 1550
Denver, Colorado 80264
Telephone: 303-863-1870
FAX: 303-863-1870
mfoley-healy@wlpplaw.com

Budgeting

Denise Jurgens, CPA
Reese Henry & Company, Inc.
400 E. Main, Suite 2
Aspen, CO 81611
Phone: 970-429-2493
FAX: 970-925-3979
daj@reesehenry.com