

**THE 100 MOST COMMONLY  
ASKED QUESTIONS ABOUT  
ILLINOIS CONDOMINIUMS  
. . . WITH ANSWERS**

PRESENTED BY

**JOHN H. BICKLEY III**

**ATTORNEY AT LAW**

**THE LAW FIRM OF  
KOVITZ SHIFRIN NESBIT  
750 Lake Cook Road, Ste. 350  
Buffalo Grove, Il 60089  
(847) 712-0560  
(847) 777-7301**

**E-MAIL: [JBICKLEY@KSNLAW.COM](mailto:JBICKLEY@KSNLAW.COM)**

**JOHN H. BICKLEY III**  
**ATTORNEY AT LAW**  
**BIOGRAPHICAL INFORMATION**

**John H. Bickley, III**, (Member) born Evanston, Illinois, November 7, 1952; admitted to Illinois Bar, 1978; Admitted to U.S. District Court, Northern District of Illinois including Trial Bar; Education: Colorado State University (B.A., 1975); Chicago-Kent College of Law, Illinois Institute of Technology (Doctor of Jurisprudence, with Honors, 1978).

**Rated "AV"** By Martindale-Hubble, (National Attorney Rating Organization): Very High to Preeminent Legal Ability and Ethical Standards.

**Author/Co-author:** "The Board Members Guide to Illinois Association Law", "A Board Members Guide to Rules and Regulations" "The 100 Most Commonly Asked Questions About Illinois Condominiums...With Answers" "A Board Members Guide To Insurance" "A Board Members Guide to Establishing Proper Capital Reserve Accounts" "Evictions Procedures In Illinois" "A Board Members Guide to Collection Of Assessments".

**Lecturer/Instructor**, Condominium and Association Law-Harper College, 1992-present; Joliet Junior College 2004 to present;

**Elected/Appointed Positions:** Trustee, Village of Hawthorn Woods, 1998. Chairman, Village of Hawthorn Woods Environmental Committee, 1994-present. Assistant Attorney General, State of Illinois, 1978-1979. Hearing Officer, Illinois State Board Of Elections 1985-1990; Chief Defense Counsel, United States Marine Corps, 3rd Marine Division, Okinawa, Japan, 1980-1981. Chief Trial Counsel, United States Marine Corps, 1st Force Service Support Group, 1982-1983. Promoted to rank of MAJOR United States Marine Corps.

**Member:** DuPage County (Sub-Committee on Real Estate Law), Lake County Bar Association (Committee on Real Estate Law), Illinois State and Federal Bar Associations; Illinois Trial Lawyers Association; The Association of Trial Lawyers of America. Phi Alpha Delta.

**Practice Areas:** Condominium Law; Condominium Development; Civil/Commercial Litigation; Insurance Litigation; Personal Injury.

## **AUTHOR**

**JOHN H. BICKLEY, III** is a partner with the law firm of KOVITZ SHIFRIN NESBIT, Mr. Bickley, based in the law firm's Buffalo Grove office, has extensive condominium, townhouse and homeowner litigation experience.

## **FOREWORD**

On a daily basis, the members of KOVITZ SHIFRIN NESBIT are constantly asked general questions regarding association law. Many of these questions are frequently repeated. As a result, the firm has collected one hundred questions and answered them for you. It is hoped that this will be helpful to your association and perhaps keep attorneys' fees down. Obviously, certain association documents may change some answers and you should consult an attorney when a legal question arises.

Q-1. Our condominium association is experiencing problems with renters. Can we prohibit people from renting units in our association?

A-1. A Declaration Amendment which is properly adopted can restrict renters within an association. The Board may also restrict renters by the passage of a rule but such a rule is more susceptible to being overturned by the courts.

Q-2. How much insurance should our condominium carry?

A-2. The association should have insurance to protect the property against loss or damage by fire and other hazards. The amount required under statutory law is the full insurable replacement cost of the Common Elements and units. In addition, the association should have enough liability insurance to reasonably keep it from sustaining a loss. Directors' and Officers' Liability insurance coverage should also be obtained, but a fidelity bond is required for condominiums with over 30 units. Other types of insurance are optional, such as workman's compensation, boiler, automobile insurance, etc.

Q-3. Can the association prohibit people from having dogs and cats in the association?

A-3. Yes. However, in order to prohibit dogs and cats, it may be accomplished through an amendment to the association's Declaration, or by the passage of a rule. However, a rule is more susceptible to being overturned by the courts. You may want to consider a "grandfather clause" in order to save the association problems in the initial stages of enforcement of the provision and to limit liability.

Q-4. Unfortunately, our budget for this year turned out to be inadequate. Our condominium association needs to pass a special assessment in order to have enough money to operate. How much of a special assessment can the Board pass without unit owner approval?

A-4. If the repair is required because it is mandated by law or it is an emergency situation, then the association does not need any unit owner approval. Emergency is defined as an immediate danger to the structural integrity of the Common Elements or to the life, health, safety or property of the unit owners. A special assessment for additions or alterations to be the common elements or association owned property, requires the approval of two-thirds of the total votes of all unit owners.

Q-5. We are having problems collecting assessments in our association. How should we go about assessment collection?

A-5. The Board must be aggressive in the collection of assessments in order to protect the financial integrity of the association. After a delinquency of sixty days past due, the delinquent account should immediately be turned over to the association's

attorney. There are various means for collecting assessments, including evicting the unit owner, which are relatively swift and inexpensive for the association.

Q-6. Can we publish a list of those units owners who are delinquent in paying assessments?

A-6. Probably, however, it is not recommended. The publication of a delinquency list is highly risky from a legal standpoint and usually is not effective. It is better for the association to turn the delinquencies over to the association's attorney and let him/her collect the assessments for you.

Q-7. Our Village just informed us that it is considering allowing condominium associations to dedicate streets to the Village. Should we do it?

A-7. Whether or not the streets should be dedicated to the Village is a decision the Board should consider very carefully. While some rights with respect to traffic control and parking are given up in a street dedication, the association relieves itself of the burden of maintaining the streets. Both long-term maintenance and snow removal are expensive.

Q-8. A cable television company wants to lay cable in our association. Do we have to let them lay it?

A-8. Yes. The cable company has a legal right to lay cable, even without the association's approval. However, the cable company may have to compensate the association for paying the cable and the association would have the right to control where the lines are placed.

Q-9. Can our association place age limitations on residents that live in the association?

A-9. Age limits are only permitted if they are established in accordance with the Fair Housing Amendments to the Civil Rights Act. An over 55 community must meet strict HUD guidelines first.

Q-10. Should our condominium association have a "reasonable reserve account" to cover emergencies and major expenditures and may we use it to pay for deficits and operating expenses.

A-10. Yes. As a condominium association, you are required under the law to maintain a "reasonable reserve account." Items to look for to determine whether your reserves are appropriate are as follows: the repair and replacement costs and useful life of the property which the association is obligated to maintain; the current and anticipated return on investment of association funds; any independent professional reserve study which the association obtained; the financial impact on unit owners; the market value of the condominium, if an assessment increase is needed; and the ability of the association to obtain financing or refinancing.

Q-11. Our association's insurance policy has "employee theft" coverage. Is this the same as fidelity coverage?

A-11. Probably not. For associations with 6 or more units, the Condominium Property Act requires fidelity coverage for persons who control or disburse association funds. This includes managers. However, managers are typically not "employees" of the association. Upon a theft of funds by a manager, the insurance company will likely decline coverage. This can be prevented if the manager is explicitly included in the policy's definition of "employee."

Q-12. How do I know whether or not our association is a condominium association or some other type of association?

A-12. If your association is a condominium association, the Declaration (Covenant) of the association will state that, by recordation of the Declaration, the Declarant intends to submit it to the Illinois Condominium Property Act. Further, if it is a fairly new association, the word "condominium" is required to be included in the title of the association.

Q-13. What is a "Limited Common Element" in the condominium?

A-13. A "Limited Common Element" is a portion of the Common Elements that is designed to serve one or more, but not less than all the units. The definition can be found within your association's Declaration or Section 4.1 of the Illinois Condominium Property Act.

Q-14. The percentage interest in the Common Elements in our association does not seem to be proper. How can we change it?

A-14. The percentage ownership in the Common Elements was required to be determined by the Developer according to the unit's value in comparison to the entire association. Once the percentage is established by the Developer, it cannot be changed without one hundred percent approval of all unit owners and mortgagees. The one exception arises if the percentage interest does not add up to one hundred percent or if there is an error or omission in regard to the values. If a correction is necessary, two-thirds (2/3rds) of the Board of a majority of unit owners can amend the percentage ownership pursuant to the Illinois Condominium Property Act.

Q-15. We own a garage unit in our association and would like to put a dividing wall in it. The Board is agreeable, but the Board says the Illinois Condominium Property Act prohibits partitioning the condominium association. Is this true?

A-15. The Illinois Condominium Property Act prohibits partitions in the condominium association, but this a legal term having to do with dividing ownership among tenants in common. It does not prohibit putting up a partition wall in a portion of a unit. Thus, the

Illinois Condominium Property Act does not prohibit what you are attempting. However, modification of the Common Elements typically requires at least Board approval in most associations.

Q-16. I pay two times as much monthly assessments to our association as my neighbor. What is the proper way to compute assessments in the association?

A-16. Assessments are determined according to the percentage of ownership in the Common Elements set forth in the association's Declaration. If you have twice the percentage ownership of your neighbor, you will pay twice the monthly assessment.

Q-17. A contractor got into a dispute with our association Board and filed a lien against the property. Does this stop me from closing on the sale of my unit?

A-17. No. If there is a lien against all of the units, you need only pay your portion of the share to have the lien released. In the alternative, you may deposit money with the title company to cover your proportionate share of the lien (usually plus another fifty percent) in order to be able to close on the sale of your unit. If the association settles with the contractor, you should get your money back. Sometimes, associations make arrangements with the title company insure over "disputed" claims." You should contact your Board.

Q-18. I am going to purchase a condominium unit. How do I know that assessments are all paid?

A-18. You can obtain from the association's Board a statement telling you the amount of any unpaid balances on the unit. However, there may be a cost associated with obtaining this instrument.

Q-19. If I do not pay my association assessments, can the Board take the title to my unit?

A-19. Yes. If you do not pay the assessments, the arrearage immediately becomes a lien upon your unit. The association may record the lien and foreclose in much the same way a mortgage company would foreclose on your unit.

Q-20. Our association is in dispute with another party. The other party says that the association cannot sue him and that all the other unit owners must be in the lawsuit. Is this true?

A-20. The Board of the association has the standing to file suit on behalf of all of the unit owners where the Common Elements are involved or where more than one unit is involved.

Q-21. How are real estate taxes calculated on condominium units?



- A-21. The proper way for calculating taxes on condominium units is to take the total tax bill for all of the property located at the association and multiply it by the percentage interest of each unit to determine the proper tax bill for each unit.
- Q-22. If I believe that my real estate tax bill is too high, can I get it reduced?
- A-22. Yes. However, if one unit owner's real estate tax bill is high, chances are that all the rest of the tax bills are also high. The Condominium Property Act authorizes the Board of the association to retain an attorney on behalf of all unit owners to seek a tax reduction.
- Q-23. My condominium association owns a pool and a clubhouse. The condominium is being taxed and so is the clubhouse. Is this double taxation?
- A-23. Yes, it is double taxation. However, the Illinois Revenue Act requires the County Tax Assessor's Office to eliminate the taxes on the association's property under these circumstances. You should see an attorney in order to accomplish this.
- Q-24. As a condominium owner, am I required to purchase insurance for my unit?
- A-24. The condominium association purchases the insurance to cover the units in case of fire or other casualties. However, you should purchase insurance to cover the improvements, internal fixtures and your own personal belongings. In addition, you should purchase insurance to cover yourself against liability, if, for example, someone was injured in your unit.
- Q-25. May the association enter into a contract with a board member?
- A-25. Yes, but only if the provisions set forth in Section 18(a)(16) of the Condominium Property Act regarding "full disclosure" are followed. They pertain to notification to the unit owners and procedure whereby the units owners can "veto" the contract.
- Q-26. What if our condominium is destroyed by fire and we do not have enough insurance?
- A-26. If the condominium building burns and the unit owners do not voluntarily make up any shortage in the insurance proceeds to enable the Board to reconstruct the property, the proceeds may be distributed according to percentage interest ownership. The mortgagees and lien holders are first paid out of each unit owner's proportionate share. The real estate is then held by all of the unit owners as tenants in common according to their percentage interest. Alternatively, there are provisions for removing the destroyed units from the association.
- Q-27. I bought a unit in a twelve flat condominium association. The developer still retains title to eleven units and says he is going to sell the building, including my unit. Can he do this?

- A-27. Yes. When the association has four or more units, seventy-five percent of the unit owners may elect to sell the property. If they do so, each unit owner must sign such documents as are necessary to sell his unit. The unit owner then obtains his percentage interest in the total sales price. If the owner does not consent to the sale, he/she may secure an appraisal and obtain the amount of the appraisal from his/her proceeds. However, it may be difficult to prove that the unit has a higher value than the percentage ownership times the value of the building. This is especially true since the developer owns so many units.
- Q-28. Our condominium association does not have By-Laws. How would we adopt them?
- A-28. Your association does have By-Laws. They probably are part of the Declaration. Unfortunately, the Illinois Condominium Property Act provides that By-Laws either may be incorporated in the Declaration or attached to it as an exhibit. Where the By-Laws are incorporated into the Declaration, it frequently causes confusion as to which provisions constitute the By-Laws. A good clue is the covenants governing operation of the association itself, the election of the Board, and powers and duties of officers on "By-Laws."
- Q-29. We have made several amendments to our condominium By Laws. Should we record them?
- A-29. No modification or amendment to the Declaration or By Laws of the condominium association is effective until it is recorded. If you have not recorded the amendments, they are not effective.
- Q-30. We have a multi-building condominium association. Can we elect a Board member from each of the buildings?
- A-30. No, the Condominium Act regards Board Members to be elected at large.
- Q-31. Is it permissible for Board Members to be elected for three (3) year terms?
- A-31. No. The maximum term for a Board Member in a condominium association is two years, but Board members may succeed themselves by running for another term.
- Q-32. Can we amend our condominium association's By-Laws to provide that only residents can sit on the Board?
- A-32. No. Among other things, a residency requirement for Board members would be construed as establishing resident owners as a separate class of membership from non-resident owners. The Illinois Condominium Property Act prohibits classes of membership. In addition, Courts in other states have struck down discrimination against non-resident owners.

- Q-33. Can a husband and wife own one condominium unit as joint tenants and both sit on the Board of our condominium association?
- A-33. No. The law is clear that when a husband and wife own only one unit, they are both not entitled to sit on the Board at the same time. However, if the individuals own two units, then they are both entitled to sit on the Board at the same time.
- Q-34. Can Board members be compensated for their Board services?
- A-34. Unless the association's Declaration or By-Laws states otherwise, the Illinois Condominium Property Act does not prohibit paying Board members for their services. The Illinois Condominium Property Act provides that any compensation paid to Board members must be stated in the By-Laws and it usually requires owner approval.
- Q-35. We want to remove one of the Board members in our condominium association. How do we accomplish this?
- A-35. The Illinois Condominium Property Act specifies that the By-Laws of the association must contain provisions for removal of members of the Board. If the By-Laws are silent, you can refer to the Illinois General Not-For-Profit Corporation Act.
- Q-36. Our condominium Board never provides us with a copy of the annual budget or tells us when it has been passed. Is this proper?
- A-36. Your Board is acting improperly. The Illinois Condominium Property Act requires that the unit owners be given a copy of the proposed budget thirty days prior to the meeting for adoption of the budget. Also, the unit owners are entitled to notice of the meeting wherein the budget is adopted.
- Q-37. Is there any limit on the Board's ability to increase the annual budget of the association?
- A-37. Yes. If the budget increases by more than fifteen percent in any year, a majority of all of the unit owners may veto the budget, providing they follow the procedures set forth in the Illinois Condominium Property Act.
- Q-38. Must we have our association's financial records audited each year?
- A-38. The Illinois Condominium Property Act provides only that there be an accounting each year. However, it is in the association's best interests not to let the association's records be closed out for a year without some type of audit or review of the records by an independent public accountant.
- Q-39. We keep a simple checking account in our association with everything on a cash basis. What if a unit owner said this is improper? Is it?

- A-39. Maybe not for your checking account, but the Illinois Condominium Property Act now requires that the association's annual accounting show all expenses incurred or paid. In other words, the annual accounting must be done on an accrual basis.
- Q-40. Our condominium Board never lets us attend Board meetings. We never know when they are. Is this proper?
- A-40. No. All meetings of a condominium Board must be an open meeting, subject to certain exceptions. If the Board is meeting to consider employee matters, legal action, including litigation and administration actions, or the taking of action against a unit owner, either for unpaid assessments or infractions of the Rules and Regulations of the association, the Board may hold a closed meeting for these discussions. However, the vote on such matters must be accomplished at an open meeting. If a Board gets together, the crucial question, is, are they conducting association business?
- Q-41. One of the unit owners wants to bring a tape recorder and record all of our Board meetings. Does the Board have to let him do this?
- A-41. The Illinois Condominium Property Act provides that any unit owner may record any open Board meeting, subject to reasonable Rules adopted by the Board designed to prevent interference with or disruption of the meeting.
- Q-42. What types of notice must a Board give to unit owners for Board meetings?
- A-42. Unless a longer time period or another procedure is specified in the Declaration or By-Laws, a notice of a meeting must be posted in a conspicuous place in the condominium at least forty-eight hours prior to the meeting.
- Q-43. Two of our Board members have resigned. Must the association call a special meeting of the owners in order to fill the vacancies on the Board?
- A-43. No. Vacancies on the Board may be filled by a vote of two-thirds of the remaining members of the Board. However, if unit owners feel they would like to have an election, they may petition the Board to call for such an election. If the unit owners do not petition for such an election, the Board may fill the vacancy.
- Q-44. How many members the unit owners constitute a quorum at the membership meeting?
- A-44. For condominiums with 20 or more units, twenty percent (20%) constitutes a quorum.
- Q-45. It has only been one month since our annual association meeting. Several unit owners would like to call a special meeting. How would they do this?

- A-45. In addition to the provisions set forth in the association's By-Laws, the Illinois Condominium Property Act provides that special meetings of the members can be called by the President, the Board members, or twenty percent of the unit owners.
- Q-46. How much notice should our unit owners be given in order to call a membership meeting?
- A-46. The Illinois Condominium Property Act requires that written notice of any membership meeting be mailed or delivered to members giving no less than ten days, nor more than thirty days, notice of the time, place and purpose of the meeting.
- Q-47. How is voting determined in the condominium association? Is it by percentage vote or by each unit having one vote?
- A-47. The Illinois Condominium Property Act maintains that voting shall be on a percentage basis provided, however, that the By-Laws may provide for approval of the unit owners on a one vote per unit basis where the Illinois Condominium Property Act does not specifically allow for a percentage vote.
- Q-48. If several people own one unit in a condominium association, how do each of them vote with respect to that unit?
- A-48. The Illinois Condominium Property Act provides that if only one of the unit owners is present, he is entitled to vote for that unit. If more than one owner is present, the votes allocated to that unit may be cast only in accordance with agreement of a majority in interest. If none of the joint owners object to the vote at the meeting, the association is legally allowed to assume that the one joint owner that is present is authorized to vote.
- Q-49. I am not going to be present at my association's Annual Meeting. Can I vote by proxy?
- A-49. Yes. Unless the Articles of Incorporation or By-Laws otherwise provide, unit owners may vote by proxy. For a proxy to be valid, it must be signed and dated. No proxy is valid for more than eleven months unless the proxy states otherwise.
- Q-50. Can I be present at the counting of ballots?
- A-50. Yes. Any candidate for election to the Board or the candidate's representative has the right, under the Illinois Condominium Property Act, to be present at the counting of ballots of the election.
- Q-51. Our association has a large number of contract purchasers. Can they vote at the annual meeting?

- A-51. Yes. A contract purchaser may vote and run for the Board of the association, but only if he resides in the unit and his contract does not prohibit it.
- Q-52. The developer of our association gave a unit for the janitor to reside in. Since then, we have hired a maintenance company and no longer have a janitor. What vote is required to sell the janitor's unit?
- A-52. The Illinois Condominium Property Act provides that in order to sell a substantial portion of the property of the association, a two-thirds vote of the membership is required. Thus, if the only real estate that the association owns is this unit, it would be wise to have two-thirds vote of the membership to approve the sale.
- Q-53. How many Vice Presidents should a Board have?
- A-53. The Illinois Condominium Property Act does not require that the Board have a Vice President. The only officers required are a President, Secretary and Treasurer.
- Q-54. We have heard that our Board must carry a fidelity bond for both the Board and the Manager. Is this true?
- A-54. Yes. The Illinois Condominium Property Act now provides that for associations with six (6) or more units, those persons who handle or are responsible for the money of the association must be bonded in the full amount of money that they handle.
- Q-55. We have been trying to require our landlord owners to have their tenants follow the rules of the association. How do we do this?
- A-55. The Illinois Condominium Property Act states that the tenants are bound by the Rules and Regulations, Declaration and By-Laws of the association, regardless of whether or not the provisions are within the lease. Because of this, both the landlord and tenant can be held responsible for violations and a possible eviction action can be taken by the Board.
- Q-56. Can our Board give a discount for unit owners who pay their assessments early?
- A-56. No. The Illinois Condominium Property Act specifies that the Board shall have no authority to forebear the collection of assessments.
- Q-57. Should our condominium association be incorporated?.
- A-57. Yes, although even if you are not, the Illinois Condominium Property Act states that all condominiums shall be treated like one.
- Q-58. How soon after a condominium association is built must the developer hold the first meeting of the unit owners?

- A-58. The Illinois Condominium Property Act specifies that the initial meeting of the membership shall be held no later than three years after the recording of the Declaration or within sixty days after seventy-five percent of the units are sold, whichever occurs first.
- Q-59. I want to run for the Board of my association. Can I obtain a list of unit owners so that I may solicit their votes?
- A-59. Before the initial meeting of the association, upon the request of any unit owner, the unit owner must be provided with the names and addresses and percentage ownership of each unit owner entitled to vote at a meeting of the association within three working days. At any subsequent meeting, any unit owner is entitled to the same information within thirty days.
- Q-60. Our developer turned over the association to the unit owners and we have no records to enable us to operate the association. What should have been provided?
- A-60. Section 18.2 (d) of the Illinois Condominium Property Act provides a very extensive list of documents that must be turned over to the developer of the association. Check the Illinois Condominium Property Act for these items.
- Q-61. How long after the developer turns the association over to the unit owners do the unit owners have to sue the developer over its management of the association?
- A-61. The statute of limitations for various actions which the Board may bring to sue the developer are quite different. There are two, four, five and ten year statute of limitations, depending upon the type of action. However, the statute of limitations does not begin to run until after the turnover of the association.
- Q-62. Is our condominium Board required to repair the Common Elements of our condominium association?
- A-62. Yes. The Board of the condominium association has a duty to repair and maintain the Common Elements.
- Q-63. Who establishes the Rules and Regulations for the condominium association?
- A-63. The Board has the exclusive right to adopt the Rules and Regulations of a condominium association. However, each Board is required to give written notice of the proposed Rules to each owner and a meeting of the owners must be called to allow their input, prior to the Board adopting them.
- Q-64. Can the Board of our association force us to let them in our unit to make plumbing repairs for a major plumbing line in the association?

- A-64. Yes. The Board of the Association has the right under the Illinois Condominium Property Act to have access to the units to make repairs to the Common Elements, or to make emergency repairs to protect the common elements or other units.
- Q-65. How can our condominium Board enforce its Rules and Regulations?
- A-65. The best way to enforce Rules and Regulations is to establish a policy to fine the unit owner for rule violations and then proceed with normal collection procedures when the fine is not paid.
- Q-66. Can our condominium association charge unit owners interest on assessments.
- A-66. Yes, if the association's governing documents provide for this charge.
- Q-67. Can our condominium Board charge late charges for late payment of assessments?
- A-67. Yes. The Illinois Condominium Property Act provides that the Board may charge late charges for payment of assessments. However, these late charges must be reasonable.
- Q-68. Can our condominium Board borrow money to make repairs in the association?
- A-68. Yes. The Illinois Condominium Property Act now provides that the Board may borrow money and pledge the future assessments of the unit owners as collateral for the loan.
- Q-69. As a Board member, what duty do I have in managing the association?
- A-69. In Illinois, members of the Board have a fiduciary duty to the membership. This is the higher standard that can be imposed by the law. If you are on the Board, this means, at a minimum, you must ensure that the association is properly managed and that the Declaration, By-Laws, and Rules and Regulations are followed.
- Q-70. One of our unit owners wants to see our condominium bank records. Do we have to let him see the records?
- A-70. Yes. An owner in a condominium association has the right to see essentially all of the records of the condominium association, including expenditures, vouchers and the like. The only items that the association may be able to prohibit a unit owner from seeing are confidential opinions between the association's attorney, personnel records, delinquent assessments and similar sensitive information.
- Q-71. We have had a number of unit owners in our association request copies of the records of the association. How do we control this?



- A-71. You must let the unit owners have access to certain records. However, you can charge them for the cost involved in retrieving and reproducing the records and request that the funds be provided beforehand.
- Q-72. Must we retain our association election results and ballots for any set time period?
- A-72. You must hold the ballots of the election for one year after each election.
- Q-73. How long must we retain the Minutes of our association Board meetings?
- A-73. You must keep the association's minutes for a minimum of seven years. However, good corporate policy would dictate that you keep them forever.
- Q-74. My apartment building is being converted to a condominium. Must I be given the right to purchase it?
- A-74. Yes. Upon the conversion of an apartment building to a condominium, the tenant has the right, within a certain time period, to purchase the unit on the same terms as is being offered to the public.
- Q-75. We bought a condominium unit fifteen years ago. Our neighbor says that the building has shifted slightly and he owns part of our unit. Is this true?
- A-75. If a condominium building settles and changes the physical location of the units, an easement is created to prevent any illegal encroachment on your neighbor's property. The boundary does not change. The use is changed by the easement to maintain the status quo.
- Q-76. My neighbor upstairs had water overflow and it ran into my unit below damaging the ceiling. Who is responsible for the damage?
- A-76. The neighbor upstairs may be legally responsible for some of the repairs, at least to the extent that such damage is not covered by insurance. You should check your association's Declaration and By-Laws to see how the responsibility is allocated.
- Q-77. We have two parking spaces that are called "Limited Common Elements" and are assigned to us. Our neighbor wants to buy one of the spaces. Can we sell it to him?
- A-77. Unless otherwise prohibited in the Declaration, owners may transfer Limited Common Elements or portions of units amongst themselves at their own risk. In order to do this, you must notify the Board and record an instrument against the property.

- Q-78. Our condominium association By-Laws has major mistakes. For example, the percentage ownership does not add up to one hundred percent. Is there anything we can do to correct this?
- A-78. Yes. For certain types of errors and omissions, the Illinois Condominium Property Act provides that the Board, by two-thirds vote, may amend the Declaration and By-Laws of the association. The unit owners may then override the Board's action if they feel the Board has exceeded its authority.
- Q-79. With all the changes in the Illinois Condominium Property Act, can the Association amend its Declaration and By Laws to conform to these amendments?
- A-79. Yes. The Illinois Condominium Property Act provides that the Board of Managers may amend the association's condominium instruments to bring them into compliance with the law. Again, the unit owners may override the Board's vote if they feel the Board has exceeded its authority.
- Q-80. We want to purchase two condominium units side by side and put a door between them. Can we do so?
- A-80. Yes. As long as you do not weaken, impair or endanger any Common Elements or units.
- Q-81. Our Declaration states that we cannot conduct "business" in our unit. What does this mean?
- A-81. The Courts have never fully defined what is meant by "business" in a unit. However, if the business has an adverse impact upon the Common Elements, such as increased traffic going to and from the unit, it is probably prohibited. If, however, receiving business calls, correspondence and maintaining records may not be prohibited. However, the Association should check the municipality's laws for zoning and business restrictions.
- Q-82. Can I divide my condominium unit and make two units out of it?
- A-82. Unless the condominium document expressly prohibits it, you may subdivide your unit. You must write to the Board requesting an amendment according to the procedures set forth in the Illinois Condominium Property Act to be recorded. However, you may be prohibited from dividing your unit by local zoning or building codes.
- Q-83. Can our Board prohibit a unit owner from making too much noise in the association?
- A-83. Most Declarations provide the Board authority to prohibit loud noise or any noxious activity. However, the association may have difficulty proving the level of noise, without the servicing of a sound expert, in order to obtain a judge's order. Documenting

the level of noise by the use of a tape recorder and keeping records of the dates and times the noise takes place will be important, should legal action be necessary.

- Q-84. Must we have a hearing when a unit owner is accused of violating the Rules and Regulations and must the person that accuses the unit owner be present at the hearing?
- A-84. If you are planning on enforcing the Rules and Regulations, the association must have a "due process" hearing after sending proper notice and before taking action on the violation. It is not absolutely necessary that the "accuser" be present but his/her absence will impact whether the Board's finding was "reasonable."
- Q-85. How many times a year is the Board of Managers required to hold a meeting?
- A-85. The Condominium Property Act only requires that the Board meet at least four times annually, but your governing documents may require more frequent meetings.
- Q-86. What kind of warranty do we obtain from a Developer when we purchase condominium units?
- A-86. The nature of written warranties are set forth in the contract. Many Developers now have you sign a waiver of any implied warranties. Therefore, check your contract and closing documents very carefully to be sure what you are signing.
- Q-87. What is the worst problem that most condominium associations face?
- A-87. I don't think there is "one." The worst problems of condominium associations are probably delinquent assessments, unruly owners, deteriorating common elements and lack of participation.
- Q-88. Can the Board distribute biographical information on a candidate for the Board?
- A-88. Yes. However, the Board must identify all known candidates, allow all candidates to distribute such information and must not express a preference for any of the candidates.
- Q-89. Should our election be by secret ballot?
- A-89. The Illinois Condominium Property Act provides that the Board may adopt Rules to conduct an election by secret ballot. The Rules must provide that the ballot will be marked only with the percentage of ownership for that unit and show the vote cast. However, the Board must carefully adopt a method to verify the status of the unit owner issuing the proxy or casting a vote.
- Q-90. Does the Board of Managers have the authority to excuse the payment of assessments by a unit owner?

- A-90. No. The Condominium Property Act specifically states that the association shall have no authority to forbear the payment of assessments by any unit owner.
- Q-91. Do we have the right to know who is living in a unit?
- A-91. Yes. You have the right, provided the Board adopts disclosure requirements in its Rules and Regulations. This should be made clear to the unit owners that this information is provided, not to violate their privacy, but to protect them in an emergency situation.
- Q-92. If someone slips and falls on the association's property, what do you do?
- A-92. You need to immediately contact the insurance carrier for the association. Failure to timely notify the insurance carrier could jeopardize your coverage.
- Q-93. Do we have to hold Board meetings during the year?
- A-93. The Illinois Condominium Property Act requires that Board hold a minimum of four meetings a year.
- Q-94. One unit is in foreclosure and no monies have been paid on assessments. When can the association expect to be receiving funds?
- A-94. Under the Illinois Condominium Property Act, the purchaser becomes responsible for assessments the month following the Sheriff's Sale. The mortgage lender who is foreclosing is not responsible for the owner's share.
- Q-95. Is a unit owner personally liable for assessments if the bank has foreclosed on his unit?
- A-95. Yes. The association can still initiate a personal lawsuit against the unit owner.
- Q-96. What limitations may the association enact relative to the right of an owner to install a satellite dish?
- A-96. Satellite dishes may be prohibited on common elements, but not limited common elements. That is, property over which owners have exclusive possession and control.
- Q-97. Can we evict a tenant for violation of the association's governing instruments?
- A-97. The Illinois Code of Civil Procedure and Condominium Property Act allows the association to send a ten (10) Day Notice to a defaulting tenant informing him/her that a violation has occurred. If the violation is not corrected, the association can institute a lawsuit to evict the tenant and charge the costs and attorney's fees to the unit owner.

- Q-98. May the association impose late charges for tardy payments of assessment?
- A-98. Yes. However, the amount of the late charge must bear a reasonable relationship to the cost to the association of the late payment.
- Q-99. Can we charge an owner for excess usage of utilities paid by the association?
- A-99. If the association has a way of calculating an owner's usage, then the answer is yes. However, most associations have only one meter for its utilities and without proper proof, you cannot.
- Q-100. Are owners entitled to speak at Board meetings?
- A-100. No. The Board determines whether owners will be entitled to speak. However, most associations provide a certain time during the meeting for homeowner participation. This can be at the beginning or the end of a Board meeting and it allows the Board to efficiently conduct its business. By providing a specific time to talk, the owners are usually agreeable to withholding their comments until that period of time.