

Veneruso, Curto, Schwartz & Curto, LLP

Co-op & Condo Newsletter

SPRING 2014

We are pleased to present to our valued clients and associated real estate professionals our Spring 2014 Newsletter. We welcome any comments or suggestions that you may have. We hope you find the information helpful. Thank you!

COMPULSIVE HOARDING

FEATURE ARTICLES:

- **COMPULSIVE HOARDING**

- **COMBATTING OWNERSHIP APATHY**
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Compulsive hoarding, also known as “Collyer’s Syndrome” is a specific type of behavior generally characterized by one’s acquiring and refusal to discard large numbers of items that would have no value to others combined with or causing severe cluttering of the person’s residence to the point where it can no longer serve as habitable living space. More specific symptoms include holding onto a large number of items like junk mail, old catalogues and newspapers, broken items, trash, etc. In addition, it typically results in living conditions involving beds that cannot be slept in; kitchens that cannot be used for food preparation; refrigerators filled with rotting food; tables that cannot be used for eating; chairs, etc. that cannot be sat on; filthy bathrooms with feces, and tubs, showers and sinks filled with items. These days it is increasingly common for cooperative and condominium boards to be faced with circumstances involving residents suffering from this condition and the resulting living conditions that threaten the health and safety of the occupants themselves and their neighbors. The most common

complaints received by boards involve foul and unreasonable odors, insect and vermin infestation and potential interference with emergency service provider and access in the event of an emergency situation.

To protect the health, safety and welfare of residents it is important for cooperative boards to take enforcement action pursuant to the proprietary lease. There are a number of generally established legal grounds that provide a basis for enforcement action under most proprietary leases, namely, objectionable conduct, violation against the prohibition against unreasonable odors and interference with the rights of other owners. The foregoing are generally accepted by courts as sufficient to find a nuisance if not remedied thereby warranting eviction. Condominium boards have also been successful in evictions involving hoarding conditions based upon nuisance and, given the absence of a landlord-tenant relationship, condominium boards may also seek equitable relief, such as an injunction, to compel an individual to remedy the conditions.

In response to hoarding conditions and the resulting formal legal action it is not unusual, however, for the courts to permit a reasonable time within which to cure the condition. Often at this point, family and friends become involved and assistance is offered to the individual, although attempts should be made to enlist the help of third parties before formal legal proceedings are commenced.

Given the nature of the condition it is important to note the role that the Fair Housing Act (“Act”) and analogous statutes can have on a board’s ability to deal with the issue. The Act prohibits discrimination against a disabled person, including refusal by landlord to make reasonable accommodations in rules, policies, etc., in order to afford a disabled person equal opportunity to use and enjoy a dwelling. Since hoarding may be accompanied by mental disorders, the Act can arguably protect an individual from eviction. The applicable case law on this issue is varied, and our review indicates that the decisions based upon a case by case analysis and seemingly largely dependent upon whether or not
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COMPULSIVE HOARDING

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the individual can or has improved with treatment and also whether they cooperated with efforts at remedying the condition of the residence.

Based upon the foregoing, when a board is faced with a hoarding situation it is advisable to first reach out to family, friends or other third-parties who may be able to offer assistance. Thereafter, due to the potentially hazardous nature of the associated conditions and the threat to the health, safety and welfare of the occupant, other residents and third-party emergency personnel, it is imperative that boards act promptly and aggressively in resolving the matter. ◀



REMINDER

FILING DATES FOR TAX CERTIORARI PROCEEDINGS

As a reminder from our Fall 2013 edition, below sets forth the remaining filing dates for tax certiorari proceedings commenced in the Ninth Judicial District (Westchester, Orange, Rockland, Putnam, and Dutchess Counties).

Please note, these dates represent the filing deadlines as of the date of this Newsletter. These dates remain subject to change and must therefore be verified prior to filing. All references to “Village” set forth below refer to all assessing villages located within the Judicial District.

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|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| June 1 | Tentative assessment rolls open in towns and cities in Westchester County (except Yonkers, White Plains). File protests by the <u>third</u> Tuesday in June. |
| July 1 | Final rolls filed in towns and cities outside of Westchester County (Orange, Rockland, Dutchess and Putnam). File petitions for protests filed in May within 30 days. |
| August 1 | Final rolls filed in cities of New Rochelle, Mount Vernon and Peekskill. File petitions for protests filed in June within 30 days. |
| September 15 | Final rolls filed in towns and City of Rye in Westchester County. File petitions for protests filed in June within 30 days. |
| November 1 | Tentative roll opens in Yonkers; file protests by November 15. |

APATHY IS A
MAJOR
PROBLEM FACED BY
MANY COOPERATIVES
AND
CONDOMINIUMS

PROMOTING COMMUNITY INVOLVEMENT IS THE KEY TO COMBATTING OWNERSHIP APATHY

Described as “a lack of interest or concern,” apathy is a major problem faced by many cooperatives and condominiums. In today’s increasingly busy world, triggered in part by the notion of “worry-free” living where maintenance and other matters typically associated with single-family home ownership are not required, the natural reaction for the ownership pool is to forget about the necessities associated with common interest ownership and leave all the work and responsibility to others and go on with their busy lives. The results? They are as follows:

- Lack of educated owners about common interest development living People who are uninformed about responsibilities
- Lack of awareness of, or interest in, the community’s health” and “well-being” Shortage of owners who would be better qualified to serve on the board
- Lack of interest in serving the community on committees or boards

The more serious results of the foregoing are:

- Strain on those willing to serve
- Strain on the ability to get important measures approved
- Strain on the budget
- Decrease in property values

Obviously, if people don’t care

about the first list of items, then they should certainly care about the second.

What to do? Boards must reach out to the ownership community to engender interest and promote community involvement. Examples of effective community outreach initiatives are as follows:

►**Newsletters.** When used properly, newsletters can generate community spirit and interest in what is going on and also be used to elicit feedback. They should not be bland, uninformative, gossipy or difficult to read; rather energetic, informative and positive and which highlight action items, issues and events.

►**Social Activities.** Communities that hold some form of social activities throughout the year tend to have better community spirit. Halloween parties, Easter egg hunts and barbeques are a few examples of popular activities that tend to generate significant interest. Others combine an event with the annual meeting itself to help draw people to the meeting.

►**Periodic Reporting.** Even if there is no newsletter, the distribution of necessary documents, (e.g. budget material, financials, policy reminders, etc.) can also help. The more often boards take advantage of the opportunity to distribute this type of information the better the chance of the ownership community noticing and taking interest.

Any other opportunity to reach out to the ownership community, whether in written or other form, as a way to connect with the ownership community and eliminate the oft-perceived divide between

management and ownership.

In essence, boards have to capture the community in order to avoid, or overturn, widespread apathy and this process is a continuing one. For cooperatives and condominiums that do not have an already existing apathy problem, prevention is key and this begins with outreach and communications that are geared toward soliciting feedback which can be funneled toward useful community and committee involvement and board service, as well as community goals. And for those communities that do not have an actual or threatened apathy problem, outreach efforts will nevertheless benefit the community by helping to bring the ownership community together. ◀

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