

MAHC MESSENGER

Editor-in-Chief

Randall Pentiuik, Esq.

FHA Proposes Revisions to Regulations Governing Refinancing of Existing Cooperatives

Earlier this year, the Office of the Assistant Secretary for Housing proposed a new rule to revise existing regulations limiting FHA insurance to existing rental projects.

In summary, the rule addresses the continuing downturn in the multifamily housing market by increasing available refinancing sources for existing housing cooperatives. The goal is to provide FHA mortgage insurance as a basis to improve the availability of funds and provide a more favorable interest rate.

Such a rule, if approved, will enable existing multifamily cooperative owners to obtain FHA insurance for the refinancing of existing indebtedness. The public comment period is scheduled to close April 4, 2011. More news to follow.

LAST CHANCE TO REGISTER

For

**2011 MAHC Conference
See pages 5-7 for details**

Tips to Help Prevent Misappropriation of Cooperative Monies

As a housing cooperative, often many individuals forget that it is also a corporation subject to various legal fiduciary and accounting principles. Over time, human nature begins to take precedence over these principles creating too many opportunities for the less scrupulous to take advantage of the corporate accounts. The results of failures to properly govern and watch over those we entrust with the corporate accounts are devastating. Simple key undertakings however, will tighten the ship and make it less enticing for someone to take financial advantage over your cooperative. This article is not intended to be an exhaustive list of financial safeguards, rather, it is a guide to help you first, prevent misappropriation of funds and second, identify items that out of the ordinary.

The first place to review is your governing documents, particularly your bylaws. Your cooperative should have provisions in the bylaws which dictate accounting methods and persons responsible for issuing payments from the corporate accounts. In some situations, only one officer is required to sign a check on behalf of the corporation. This is a no-no. Always ensure that any checks written on behalf of the cooperative require no less than 2 signatures from your officers, unless, the board has chosen to delegate this task to a professional management company. In the latter instance, the management company will be required to obtain permission from the board to pay out certain expenses over a specified amount. Segregating the financial duties among several authorized persons makes misappropriation of cooperative funds far more difficult.

Ensure that individuals in charge of the accounts are trustworthy of such a responsibility. This means adequate criminal and credit background checks should be utilized when seeking to employ an individual that will have access to the accounts. Red flags will of course be any crime involving dishonesty or theft. Credit reports which show several outstanding credit balances and charge offs are also a good indication that temptation may be too much for someone in financial dire straits or that this person may be lazy and fail to pay the cooperative obligations. Even if the person has a wonderful personality and could not possibly become a thief, do not put aside your duties for

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Tips to Help Prevent Misappropriation of Cooperative Monies *Cont. from Pg. 1*

the cooperative corporation and look no further at his or her application.

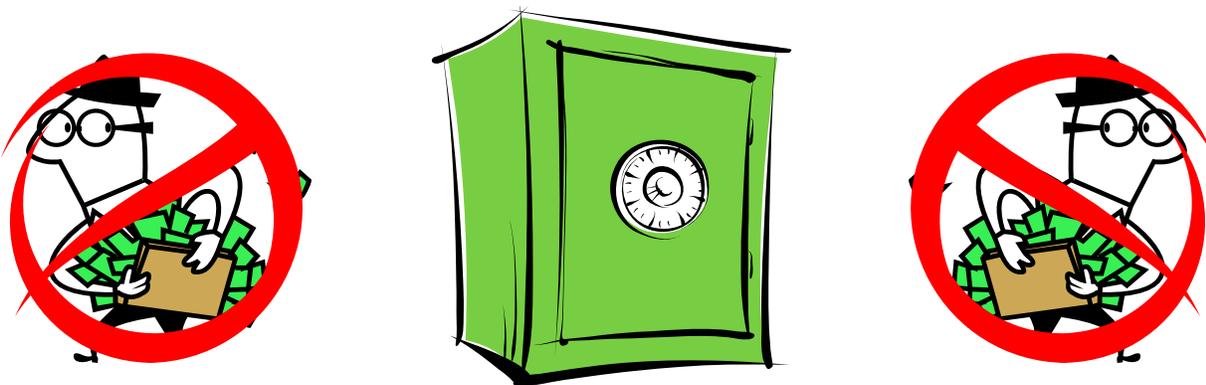
Whether you choose to employ a professional management company or not, this decision is one which should be heavily weighed. Although many cooperatives successfully perform “self-management,” it should always be considered in the best interests of the cooperative to at least employ a professional company for limited duties such as bookkeeping. A good management company will be able to organize all of the financial documents, ensure proper payment of all outstanding liabilities, handle payroll for your site employees and package it into a nice monthly report. Once the fiscal year is through, your management company will be able to work closely with your accountant in the preparation of the cooperative's yearly financial report.

Even if you do not employ a professional management company to handle your bookkeeping, you must still ensure that policies are implemented which require the responsible individuals to report to the board regularly. Scrutinize the monthly reports and statements. Your checks are numbered for various reasons but first and foremost remember they are sequential. If checks are cashed out of sequence you will see it in your monthly report. Immediately contact the bank and begin an investigation internally to determine why the checks are cashed out of sequence and where the missing check(s) is(are).

As a board member you are duly elected by your membership to ensure the corporation is run properly and in the best interests of every member. Any failure to properly scrutinize the financial documents could not only cripple the corporation financially but it could expose the board to liability in failing to carry out its corporate fiduciary obligations. Keeping a careful eye on the finances is imperative therefore, regularly check the cooperative's credit report to ensure creditors are properly paid. This also helps maintain accurate financial reports by addressing inconsistencies early on and before they become a problem.

Another safeguard is to set up a positive pay arrangement with your bank where available. This is an arrangement which allows you to submit to the bank an electronic list of checks written on a daily basis. In the event a check is altered or drawn without your permission, the bank will not honor it. This type of safeguard cuts off the bolder individuals that come to the board with a bona fide check payment, obtain the required signatures and then “wash” the check so the payment is directed for personal use.

It is all too often that funds are misappropriated by individuals thought to have been trustworthy. In the end it is the board that determines the course of the cooperative and as such it is the board that must take the steps necessary to maintain and protect the corporation through implementation of strict policies and reporting requirements. Review your governing documents and pay close attention to the accounting practices utilized. Ask questions about cooperative financial transactions regularly and if you are not satisfied with the answers provided to you press the issue further until you are satisfied. You owe it to your members.



Cynthia Phillips

Oakdale Residents Cooperative

Cynthia Phillips moved into a Cooperative over 38 years ago and immediately started getting involved. She initially wanted to over turn the existing local board, but after petitioning for change, she decided, "If you can't beat them, join them", and was elected in 1980.

She was drawn in by the fact that she wouldn't have to worry about cutting the grass or fixing the roof because the Co-op would take care of it. "Unless I go and punch a hole in the wall for no reason, the co-op will take care of what breaks and this means no unexpected expenses for me", says Cynthia. This made her feel very taken care of and she didn't mind the fact that she would never solely own her entire unit because she feels people never solely own their entire home. "Even if is paid off, which it probably isn't, you still have to pay property taxes", she said.

Cynthia has been involved with MAHC for 32 years and on the MAHC Board for 15 years. She describes her relationship with the association as "truly involved", and thinks MAHC is doing very well right now. "The national and other associations are trying to copy off us!" she says. Cynthia feels that the 13-18 youth are the future and would like to see more classes added for this age group. She would like to focus on teaching the youth how to be Board Members so they are well prepared when they take the current positions over. She says her Co-op has a strong youth group that set up a pen pal program with seniors, who they call everyday and try to help out by performing chores such as taking the garbage out or putting extra salt down when it snows.

Cynthia resides in one of the 31 ranch homes that circle the rest of her cooperative and says she would never move out unless she won the lottery, "for at least 30 million". This Board Member believes that people get out of life what they put in, so Cynthia, along with her husband of 40 years, seem to be enjoying their return.

United States Senate

WASHINGTON, DC 20510

February 18, 2011

Dear Colleague:

Cooperative businesses are a vital and integral part of the American economy. Cooperatives operate in every industry sector and improve the quality of lives of Americans, regardless of party affiliation, geography, or demographics. According to a recent study produced by the University of Wisconsin Center for Cooperatives:

- More than 29,000 U.S. cooperatives operate at 73,000 places of business throughout the United States. These cooperatives:
 - Generate over \$650 billion in revenue annually
 - Employ around 2 million people
 - Pay \$75 billion in wages and benefits each year
- Americans hold 350 million memberships in cooperatives
- Most of these are in consumer cooperatives, such as credit unions, electric or telephone cooperatives and food co-ops

The United Nations General Assembly has declared 2012 as “The International Year of Cooperatives.” The official resolution, entitled Cooperatives in Social Development, calls upon governments to recognize the important role cooperatives play in providing economic opportunity for millions of people in the United States and around the world.

Please join us in cosponsoring a bipartisan Senate Resolution which seeks to officially declare 2012 as the International Year of Cooperatives in the United States. This measure works to raise the profile of cooperatives and to demonstrate how cooperatives build local wealth, generate employment and provide competition in the marketplace. The measure also highlights the impact of cooperatives and encourages the development of programs for domestic and international cooperative development.

Please join us in supporting the millions of people who own, patronize, or are employed by cooperative businesses in the United States. It is critical to have the full support of the United States Congress for the International Year of Cooperatives, to provide adequate recognition of the role cooperatives play in the United States and around the world. To cosponsor the legislation or ask questions, please contact Cynthia Bartel in Senator Tim Johnson’s office at 224-5842 or Carlisle Clarke in Senator Cochran’s office at 224-5054.

Sincerely,


Tim Johnson
United States Senator


Thad Cochran
United States Senator

MAHC 2011
Annual Conference
May 15-18 2011
Hyatt Regency Riverfront
225 East Coast LineDr.
Jacksonville, FL 32202
904-588-1234



Reservations:800-233-1234
Room Rate \$139.00

LAST CHANCE to Register

Schedule:

2011
Annual MAHC Conference

Workshops:

Saturday May 14

- CCM Program 8 AM–5 PM

Sunday May 15

- CCM Program continued 8 AM–1 PM
- New Board Training 1 PM–5 PM
- Registration 3 PM–7 PM
- Welcome Reception 7 PM–9 PM

Monday May 16

- Registration
- Opening Session
- Morning Workshops
- Awards Luncheon
- Afternoon Workshops
- Chewing with the President
(by Presidents Invite only)

Tuesday May 17

- CCD class starts at 8 AM
- Morning Workshops
- State Caucus

Wednesday May 18

- CCD class continued 8 AM
- Morning Workshops
- Annual Luncheon
- Annual Meeting

Aging Population

Bed Bugs

Certified Cooperative Director

Committee Charges

Co-op Law

Crime Prevention

Curb Appeal

Decision Making

Decoding your Co-op's budget

Does Your Marketing Measure Up

Effective Board Meetings

Ethics

Fair Housing

Getting Volunteers

Insurance

Learning Your Documents

Long Range Planning

Management with a Mission

Newsletter 101

President/Vice President

REAC Inspection

Refinance

Secretary/Assistant Secretary

Selection Critique

Social Networking

The Doctor's are In

Classes are subject to change

A Few Things to Do

Jacksonville Zoo

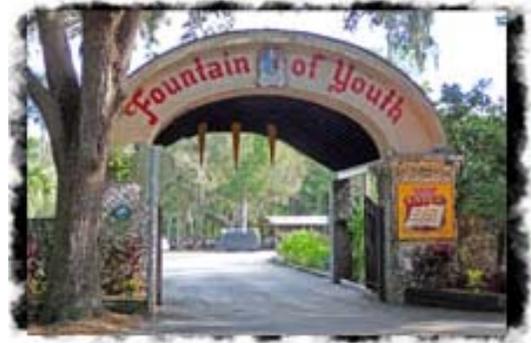
Escape to the Jacksonville Zoo and Gardens for the only walking safari in Northeast Florida. Discover the earth's wildlife through interactive and educational experiences. The Zoo has something for everyone with over 1,500 rare and exotic animals and 1,000 varieties of plants.



Fountain of Youth

The Fountain of Youth Archeological Park is a 15 acre, Historical attraction in St. Augustine, Florida. Open daily from 9:00 a.m. to 5:00 p.m.

While there, you can also explore the Timucuan Native Indian Village, See Stars in the Planetarium and enjoy 15 acres of Old Florida waterfront history.



The Lightner Museum

Relics of America's Gilded Age are elegantly exhibited on the museum's three floors. Costumes, furnishings, mechanical musical instruments and other artifacts give you a glimpse into 19th century daily life. The Lightner collection includes beautiful examples of cut glass, Victorian art glass and the stained glass work of Louis Comfort Tiffany.



Scheduled Tours & Entertainment

St. Augustine Historical Tour

- Mission of Nombre de Dios – birthplace of Christianity on this continent
- Castillo de San Marcos – this fort is one of our oldest national monuments
- St. George Street – a shopping “mecca” with over 240 gift shops, ice cream parlors & restaurants



Note: 20 person minimum / 90 person maximum

\$90 per person

Monday May 16, 2011

Jennifer Rhodes
MAHC
(Co-State Vice President
Indiana, Kentucky)

Jennifer Rhodes may be relatively new to her position on the MAHC Board in Indianapolis, but is a seasoned pro at co-op living. Jennifer moved into her first co-op in 1979 completely unaware that she would later refer fondly to cooperative living as "America's best kept secret". Her desire to constantly educate herself, drove the new tenant to attend a couple of Board meetings where she linked up with like-minded ladies and made her first contribution to associated living. The small group of women formed the Membership Committee, which, among other things, took the application screening process into local hands. Today, Jennifer says the most important thing she does is simply take the information that she gains from the MAHC conferences back home and not only share it, but implement it. It's Jennifer's rule that each member who attends a conference has to come back and give a presentation on what they gained. She remembers the San Diego conference as one of her favorites, as they launched multiple new classes.

Jennifer doesn't seem to plan on slowing down any time soon. The last week of February she moved forward with a new committee that she is very excited about, called "Wisdom Warriors". This is a group in her co-op for members 40 years and older to meet bi-weekly in an effort to stay active and informed. While the weather is struggling to stay above freezing, the group will stay warm with a fun pizza party for the first event. Jennifer says the group wants to incorporate activities such as morning and evening walking groups, a sewing club and already in the works is a puzzle contest.

When asked to give advice to the MAHC Board, Jennifer wanted to express her gratitude to their excellent job at education. She salutes the Board and says that without their constant effort and dedication, the continuing education about Co-ops may just fizzle out. She feels blessed to get a chance to see how they pull it all together behind the scenes.

Jennifer enjoys her position and mostly that she is able to educate and spread the word about Co-op living. Sharing with present as well as incoming members contributes towards her greatest hope, to make the Cooperative understand their sense of involvement and feel a sense of pride. She would like to share the advice she already impresses on her own Co-op, "You don't have to be the President to make things happen! Being a member of a Co-op is enough to implement action, so start today."

Basement Flooding

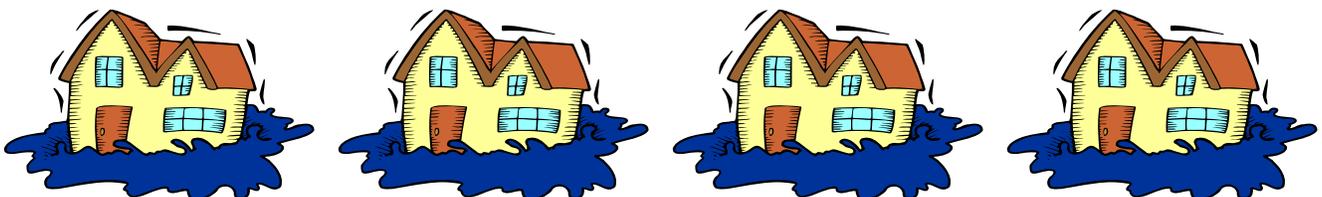
Spring is upon us and with that comes the spring thaw and plenty of April showers. This translates to a most frustrating period of time for many cooperatives, especially those buildings which are built with basements. Members are often strongly encouraged to maintain adequate insurance coverage for their unit interiors and the contents, however, some individuals continue to ignore the advice of the cooperative, assuming such a risk is the cooperative's problem. This, however, is an incorrect and risky assumption.

The best defense to basement flooding claims is of course an offense outlined through duly adopted rules, regulations and policies that unequivocally place that risk back to the member. In other words, ensure your governing documents are not only clear about the prohibited uses of a dwelling unit basement, but that any items they choose to store in the basement are the responsibility of the member in the event damage occurs due to basement flooding.

Many housing cooperatives were originally built as early as the 1950's. This means that unless extensive overhauls have been made to the plumbing systems servicing the buildings, the pipes may be working overtime resulting in extra wear and tear. This does not mean you need to replace your plumbing, but it does mean that your members must understand that flushing certain items down the toilet or pouring grease, oil or egg shells down the kitchen sink can and often will combine into a mixture similar to concrete. This type of condition not only slows the flow of water down the drain, it can clog the main sewer lines servicing the buildings and end nastily in a basement.

Establish rules for your members which describe first the responsibility for property damage and clean up in the event there is basement flooding or a sewer backup in the building. Make it painfully clear that loss of personal property stored or used in a basement due to flooding is under no circumstance the responsibility of the cooperative. Next, set up a fine system for misuse of the plumbing lines and explain that should damage result from improperly disposing of items through either the toilet or the sink drains, costs to repair damages traced back to a member will be borne by offending member.

Clarity is key and education will decrease the headaches associated with the responsibilities of both cooperative and member, in the event basement flooding becomes an issue. If you find your documents a little less than clear about the above issues, we strongly encourage you to contact your legal counsel to discuss revisions to your governing documents.



Violence Against Women Act Subject to Fair Housing Review

Recent guidelines published by HUD make it clear that individuals evicted from housing as a result of domestic violence may have a basis to file a discrimination complaint under the Fair Housing Act. The Violence Against Women Act establishes protections to victims of abuse and who are subsequently evicted or denied housing. As a result of its application in relation to the Fair Housing Act, HUD would be able to take complaints filed by victims of domestic violence and determine whether adverse housing action violates Fair Housing dictates based on gender or another federally-protected basis.

Although such protections have been afforded residents of federally regulated housing for some time, the ability for a domestically abused individual to file a Fair Housing complaint is only a recent development. HUD makes its guidelines available for review on its website, specifically HUD form 91006. The guidance provides examples of recent housing discrimination cases and explains how domestic violence victims are protected from denial, eviction and termination from specified housing programs.

Denial of a Parking Policy Accommodation Request Stirs Up Trouble

HUD has charged the owner and manager of a New York apartment complex with violation of the Fair Housing Act. According to the charge, repeated denial for a reasonable accommodation in the form of an assigned accessible parking space constitutes a failure to provide equal access to housing for persons with disabilities. The resident initially requesting the accommodation, suffers from a neurological disease that makes it impossible to walk long distances and maintain balance.

The Fair Housing Act requires landlords to make reasonable accommodations in their rules, policies, practices, or services when needed to provide persons with disabilities an equal opportunity to use or enjoy a dwelling. The factual allegations state that the resident was then forced to compete for an accessible space with other residents or park further away from the apartment. The stated defense by the owner and the manager is that they are in full compliance with local codes for providing accessible parking for all residents.

Although the case remains pending in the federal district court, the HUD Assistant Secretary for Fair Housing and Equal Opportunity released a statement which indicates that easy access parking spaces for persons with certain forms of disabilities can make a difference in that individual's daily life. There is no word on when a decision will be made on this case.

Keli Management

How many times have you wished the people you work for, or with, knew what it was like to perform your job? If you work for Lisa Gamble, President of Keli Management, this wish would come true. Lisa began her climb through the ranks in 1986 as a receptionist for a commercial real estate company. She rose steadily taking on roles including secretary, administrative assistant, bookkeeper, controller, human resources coordinator, office manager, property manager and finally, corporate vice president, before opening Keli Management with her husband, Kenny Gamble, in November 2010.

Keli Management is a full service company specializing in Cooperative living. While Lisa has been involved with MAHC for several years and has recently been asked to present at the annual conference (2011) for the third year in a row, her connection to Cooperative living roots much farther back.

Before MAHC was created, Lisa was personally involved with the National Association of Housing Cooperatives. She was delighted when the Midwest Association developed because it offered more personal support. Lisa appreciates the high quality of training MAHC offers and is constantly impressed with the Board's genuine concern and care for the industry. Lisa is proud of her membership with MAHC and appreciates the repetitive classes provided for people who cannot make the conference each year, but encourages new, fresh classes as well, based on the latest issues.

Lisa strongly encourages renters to look into the Co-op movement because each of her tenants insists the advantages for the value simply cannot be beat. Lisa says, "Once you're in a Co-op, you really start to understand what a jewel you have and most people stay forever. I've had members decide it was their time to move out, they were getting married or going through a change, and within a few years, most came back".

It's clear that Keli Management is about understanding communication, character and reputation. Lisa says one line sums up the Company's management style, "We are in the people business. If we ever forget that, we are out of business".

MAHC

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REGISTER

FOR THE

2011 MAHC CONFERENCE!!!

CHECK PAGES 5-7 FOR DETAILS

We Want to Hear from YOU!

**Whether it's specific troubles facing your Cooperative or a topic
that may be forthcoming for all Cooperatives . .**

What do you want to know??

Compliments? Criticism?

Please share your thoughts and ideas.

rpentiuk@pck-law.com



MAHC

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