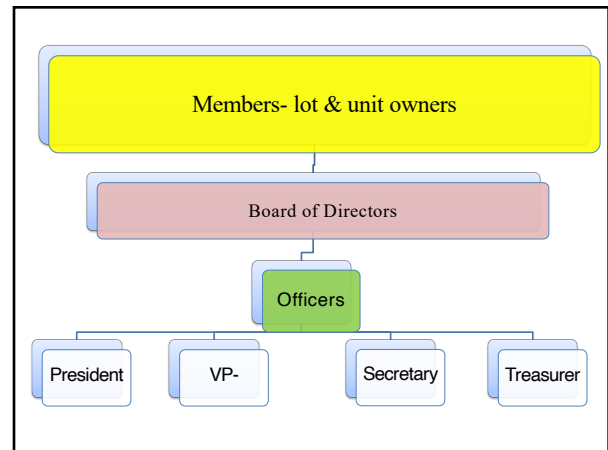


HOA Treasurer Training

- Taylor R. Jones
- (tjones@utahattorneys.com)

- 5732 S. 1475 E., South Ogden, Utah 84403
- 801-479-4777
- utahhoa.com

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Board of Directors

Elected by Members

Only removed by vote of members	Must be a member/owner (usually)	Need quorum to act
Schedule meetings; give notice	Board votes on all decisions	All board member votes are equal

3

Officers

Elected by Board

Elected by Board (removed by board)	Elected from Board (usually)	Accountable to the Board
Officers (Pres., VP, Sec., Treas.)		Have defined areas of responsibility with accompanying authority

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Treasurer

Oversees collection of HOA fees	Responds to lenders/buyers questions	Oversees reserve fund
Accounts payable	Interfaces with bookkeeper, accountant or prop. manager	Files annual HOA tax returns & 1099s
Financial records and reporting	Prepares budget (with board)	Verifies independent contractor, worker comp. & insurance

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Johannessen v. Canyon Road Towers HOA

332 UT App 2002

- 1993- J negotiated purchase of penthouse suite prior to sale, Board reduced HOA fees to \$416/mo
- 1996, new Board increased fees per CC&Rs
- J sued- promissory estoppel (reasonable reliance)
- Board: "cannot change assessment without 100% vote"
- Court: "HOA Board made an illegal contract"; it was not enforceable; J knew of covenants and could not reasonably rely on the agreement with the Board because J knew the Board acted contrary to CC&Rs.

6

RESERVE ANALYSIS

§ 57-8a-211 &
§ 57-8-7.5

- Purpose: to determine the funds needed to repair or replace those common areas that have a useful life of more than 3 years & less than 30 years, not annually funded
- Must conduct R.A. at least every 6 years
- Updated every 3 years, if needed
- Board may conduct study or engage reliable company
- May not use funds for other purposes w/o vote of owners
- Reserve funds must be held in separate account
- Board must present summary to owners annually

7

What is included in a reserve analysis?

- Roof / Paint / Stucco
- Pool / Clubhouse / Playground
- Brick work / Exterior signs / Entrance
- Asphalt / Concrete / Fences
- Exterior light fixtures / Mailboxes
- Sprinkler: pipes & control units
- Water main / Sewer system
- Landscaping (tree removal, stream cleaning)

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RESERVE ANALYSIS

§ 57-8a-211 &
§ 57-8-7.5

“In formulating the association's budget each year, an association shall include a reserve fund line item in: (a) an amount the board determines, based on the reserve analysis, to be prudent;”

• How does the board determine what is “prudent”?

9

REINVESTMENT FEES

§ 57-1-46

- Purpose:
 - a fee dedicated to benefitting the HOA (common expenses)
- Maximum amount: 0.5% of purchase price
- Must be defined in a recorded amendment to the Declaration
- Must record a separate **Notice of Reinvestment Fee Covenant** (or void)

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COLLECTING COMMON EXPENSES

The Process

Monthly Invoice

Delinquency letter(s)

Lien the unit

File suit against owner, or

Foreclose the lien

Payment Agreement, or Confession of Judgment

Garnish wages and bank account

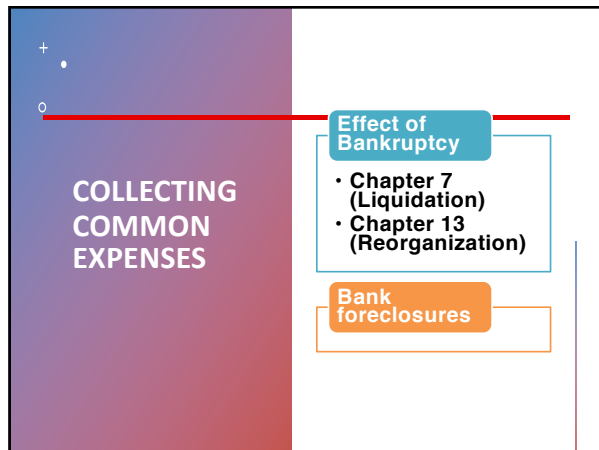
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COLLECTING COMMON EXPENSES

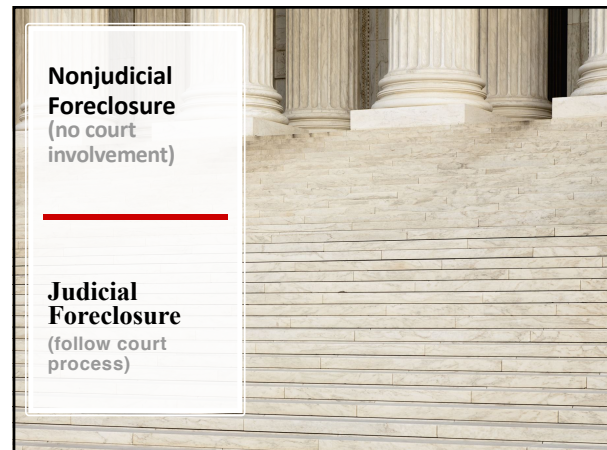
The most common mistake HOAs make in collections is waiting too long to start the collection process.

Adopt a Reasonable Collection Policy- follow it	Late fees (define/range)	Interest (compound?)
Collecting from tenants	Termination of utilities	No Fee Collection

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13



14

UCA 57-8a-215. Budget.

1. Annually the board shall prepare and adopt a budget.
2. Present the budget to members at a meeting.

3. 51% of owners may vote at a special meeting within 45 days to disapprove the board's budget.

4. If a budget is disapproved, the budget the board last adopted continues as the budget until the board presents another budget to members that is not disapproved.

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HOA BUDGET / PER UNIT EXPENSES / MONTHLY

The HOA Budget:
What are owners paying for?

Management Fee	\$10.50
Accounting - tax return / audit	2.50
Landscaping	35.00
Insurance	21.00
Water / sewer / garbage	40.00
Building maintenance	17.50
Electrical	4.30
Snow removal	6.50
Legal / Professional services	4.50
Website	.50
Asphalt	5.00
Pest Control	2.50
Reserves	25.00
Total	\$174.80

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UCA 57-8a-106/57-8-6.3 Fee for providing payoff at closing.

1. Unless authorized in the CC&Rs, bylaws, or rules, an HOA may not charge a fee for providing payoff info.
2. An HOA may not charge a fee more than \$50.
3. An HOA that fails to provide information within five business days may not enforce a lien at closing.
4. A request to the HOA is not effective unless the request is conveyed in writing to the primary contact person & contains the name, telephone number, and address of the person making the request; and the facsimile number or email address for delivery of the payoff information; and is accompanied by a written consent for the release of the payoff information identifying the person requesting the information; and is signed and dated by an owner of the lot.

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57-8a-206. Written statement of unpaid assessment.

- (1) (a) The manager or board of directors shall issue a written statement indicating any unpaid assessment with respect to a lot covered by the request, upon:
 - (i) the written request of any unit owner; and
 - (ii) payment of a reasonable fee not to exceed \$10.
- (b) The written statement described in Subsection (1)(a) is binding in favor of any person who relies in good faith on the written statement upon the:
 - (i) remaining owners;
 - (ii) manager; and
 - (iii) board of directors.
- (2) Unless the manager or board of directors complies with a request described in Subsection (1)(a) within 10 days, any unpaid assessment that became due prior to the date the request described in Subsection (1)(a) was made is subordinate to a lien held by the person requesting the statement pursuant to Subsection (1)(a).

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Who has a Right to Look at HOA Financial Records?



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- o UCA 57-8a-227 and 57-8-17

Records

Availability for examination.

(a) Subject to Subsection (1)(b), an association of unit owners shall keep and make documents available to unit owners in accordance with Sections 16-6a-1601 through 1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610 [Utah Revised Nonprofit Corporation Act]: . . . (ii) including keeping and making available to unit owners a copy of the association of unit owners':
 (A) declaration and bylaws;
 (B) most recent approved minutes; and
 (C) most recent budget and financial statement.

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Nonprofit Corporations Act: 16-6a-1601

Must keep these records at the HOAs principal office:

Articles of Incorporation

Bylaws (& CC&Rs)

Resolutions

Minutes of all member meetings

All written communication with members

All financial statements

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Nonprofit Corporations Act: 16-6a-1601

Must keep as permanent records: Minutes, records of all actions taken without a meeting, waiver of notices.

Must maintain appropriate accounting records and an alphabetical record of its members, including addresses, in written form.

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Financial Record Keeping at a Minimum

Accounts Receivable
 Accounts payable
 General Ledger
 Budget
 Revenues, Expenses, Assets, Liabilities,



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Tax & Fiduciary Compliance Responsibilities

- Payroll
- Record Keeping (GAAP)
- Income Tax Return
- Annual corporate report

Division of Corporations and Commercial Code

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Requirements if you have Independent Contractors

Form	Ensure	Issue	File	Ask
Collect Form W-9	Ensure contractor is covered under Workers Comp.	Issue 1099 MISC at year end if received more than \$600	File Form 1096 with copy on 1099 MISC	Ask for copy of liability insurance

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Worker Compensation laws and HOAs

Roofers, landscapers, repairmen, contractors, plumbers

- Obtain contractor's license number (where required)
- Verify license with the State of Utah

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Websites to Verify State Registration, Licenses & W.C. Insurance

State Registration: <https://secure.utah.gov/bes/action/index>

Homeowner Registry: <https://secure.utah.gov/hoa/index.html>

Licensing: <https://secure.utah.gov/liv/search/index.html>



Workers Compensation:
<http://laborcommission.utah.gov/divisions/IndustrialAccidents/x-poc.html>

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Arkansas Commission on Labor
101 N. 200th St., 3rd Floor, Suite 300, Little Rock, AR 72205
(501) 251-4500 or (800) 451-1515
HOURS: Mon-Fri 8am-5pm

Employers' Workers' Compensation Insurance Coverage Verification

Select Search Criteria

Employer Name ☐ Contains ☐ Starts With

Coverage/Injury/Illness Date (mm/dd/yyyy) (Default = Today's Date)

OR

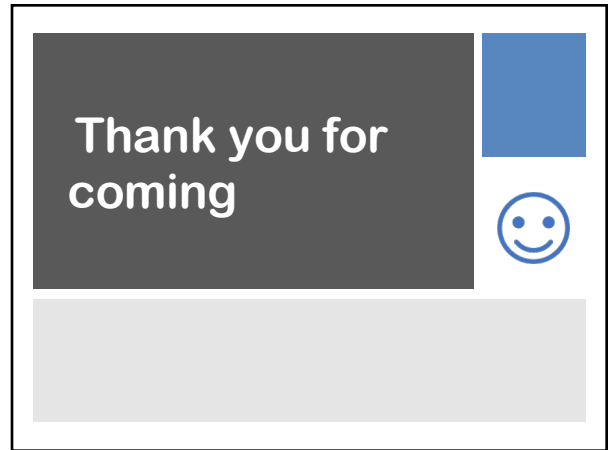
Federal Employer Identification Number

Coverage/Injury/Illness Date (mm/dd/yyyy) (Default = Today's Date)

Limitation of Information

This search provides public access to portions of the information reported by workers' compensation insurance carriers for use by the Division of Industrial Accidents. Any delays, errors or omissions in reporting such data cannot be controlled by the Division of Industrial Accidents and may affect the validity and accuracy of the information provided.

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