

Association of Condominium,
Townhouse, and
Homeowners Associations



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FEBRUARY 2013

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2013 Efficiency Requirements for Gas Furnaces

By: John Hershey of J. Hershey Architecture

The U.S. Department of Energy (DOE) published a direct final rule to establish amended energy conservation standards for residential furnaces and residential central air conditioners and heat pumps in the Federal Register on June 27, 2011. Compliance with the standards in the direct final rule will be required on May 1, 2013 for non-weatherized furnaces.

How does this affect you as a homeowner? If you have an 80% efficient unit and need to replace it after May 1, 2013 then it will need to be replaced with a minimum 90% efficient furnace. Gas-fired furnaces with efficiency rating of less than 90% will not be allowed to be sold or installed in Illinois.

During the DOE's analysis leading up to its final decision, The American Gas Association (AGA) argued against this new regulation and stated that:

- replacing a non-condensing gas furnace with a condensing gas furnace may be infeasible for some homes where side-wall venting is not an option (*e.g.*, in row houses, historic homes, or multi-story housing complexes),
- may be cost-prohibitive in other homes,
- may lead to orphaned water heaters,
- would increase installation costs and require trained installers to ensure proper venting of all combustion appliances
- DOE's analysis significantly underestimates the costs associated with installation of condensing gas furnaces that consumers would actually incur, both as a result of underestimating specific cost items and of failing to include specific cost items.

In response to AGA's claims the DOE acknowledged that there may be increased technical complexity associated with replacing a non-condensing gas furnace with a condensing gas furnace, but

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ACTHA's Certification Program for
Owners begins Feb. 28

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ACTHA's Spring Conference and
Trade Show—March 16

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TIP OF THE MONTH

5 Tips for an Association from an Accountant

1. Generally using the Form 1120-H versus Form 1120 is a much less complex and safer way for a Condominium, Townhome or Homeowner's Association to file.
2. If your Association is considering accepting the buy-out of your cell phone tower lease income with the owner of the cell phone tower, please seek the advice of your Association tax expert before you complete the deal. There are ways to structure the buy-out so that it is non-taxable to the Association.
3. The State of Illinois has limited loss carry forwards on the Form IL-1120, (the normal tax filing for community associations in Illinois). We are recommending to all our Cooperative clients to begin budgeting for Reserves instead of including the capital expenses within the same budget as your operating assessments. If you follow the normal procedure, and your capital project is postponed for a year, your Cooperative could end up owing substantial taxes.
4. It appears that there is becoming two tiers of audits. Ones that include the audit procedures for all the detailed revenue and expense items and those that disclaim from it. You can tell by looking at the audit opinion pertaining to the Supplemental information. Ask your auditor before they do the audit if they will include the audit procedures for all the detailed revenue and expenses. If you ask ahead of time, they will make sure that they do the proper audit procedures for those very important budget to actual comparisons. Of course they cannot audit the budget since it was a projection at the beginning of the year. You will see them not audit the budget but that is very normal.
5. FHA Certification can benefit an Association that is trying to reduce the number of renters in the community. All FHA mortgages require the owner to reside in the unit. So it is a more innovative way to limit renters. It can help you avoid limiting renters in situations where the owner can no longer afford to pay the assessments without renting out their unit.

Brad Schneider

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such as a bed and breakfast or a short-term "hotel." Not only would this type of business violate an association's prohibition on the running of a business in a unit, but the association may also seek to regulate this specific use of a unit or home by including a provision in the Declaration which prohibits the use of a unit for transient purposes. Many associations have elected to include such a provision as the use of a unit as a short-term rental is viewed as a significant security concern.

Regardless of whether an owner has obtained a license by the State to operate a business, if the running of the business is expressly prohibited by the condominium documents, the owner may not run the business out of his or her unit or home.

LEGISLATIVE CORNER

The Illinois General Assembly is back in session. As we go to press, no legislation has yet been introduced affecting community associations. Since legislation can move rapidly, we recommend you stay up to date on pending legislation and its progress by logging on regularly to www.actha.org

ACTHA will be introducing two pieces of legislation. One is a bill to amend the Common Interest Community Act and the other to clarify a recent court ruling. Once the bills have been introduced, details will be available on ACTHA's website.

DOE disagreed with AGA's contention that replacing a non-condensing gas furnace with a condensing gas furnace may be infeasible for some homes where side-wall venting is not an option.

Therefore, on May 1, 2013 the minimum efficiency requirement for furnaces in Illinois and surrounding states in the northern region of the U.S. will be 90% AFUE. The annual fuel utilization efficiency (AFUE) is a thermal efficiency measure of combustion equipment like furnaces, boilers, and water heaters. 90%+ furnaces are condensing units, meaning they emit water vapor along with carbon dioxide in the flue gases which will rust the sheet metal piping that 80% furnaces are exhausted with. Due to the corrosion 90%+ furnaces require a new PVC flue to be installed. High efficiency gas furnaces convert most of the energy they require directly into heat. These furnaces create efficiency by going back through their exhaust and drawing out any leftover heat to use again. High efficiency furnaces must be properly vented which may mean modifications to your home if you currently have an 80% efficient, gas-fired furnace with a metal vent that routes up through the roof.

Some systems have the furnace vented using a two-pipe system that goes directly from the furnace to the outside air. One pipe brings in air necessary for combustion, while the other pipe carries away the exhaust safely, with corrosion protection and the other features necessary to deal with the furnace gas. Other systems have single pipe venting whereby both exhaust and supply air are taken care of with a single pipe. This type of pipe vent is actually made from an outer pipe and an inner pipe so that exhaust and supply air can both be channeled separately.

This leads to issues especially for those living in a multi-family condominium or townhome, some of which were indicated by The American Gas Association. We have outlined potential issues with recommendations as follows:

- *80% efficient furnaces are vented through the roof. A 90% efficient furnace cannot use the same vent. A new PVC vent will be required and will need to be vented horizontally through an exterior wall. The PVC vent is routed horizontally with a slight downward pitch to drain the water vapor.*
- *Homeowners should be pro-active in working with their Association Boards and Community Managers to determine the best course of action in advance of the need for a furnace replacement. If the mechanical room is located near the center of your building then the routing of the PVC vents will typically need to travel along the ceiling of a living area, bedroom, or similar space which will be*

unsightly if left exposed. Routing the vent through existing interior walls will most likely not be an option and would be cost prohibitive. A gypsum board soffit may be considered to enclose the exposed length of PVC vent within the home. The aesthetics of this decision may include the location of the soffit, the size, and whether other false soffits should be added for room symmetry.

- *Associations and their Community Managers should be pro-active to create an Association construction guideline that includes the specific location, detailing and appearance that a side-wall vent may have. Whether a two pipe or single pipe vent system is used for a new furnace this condition will be another maintenance issue that is prone to water infiltration. Imagine the side of your brick clad building with 100 vents randomly projecting out the side in various configurations. Also, what implication does cutting holes through the exterior wall of your building have on the structural integrity of the wall construction? These are questions best coordinated with an architectural/engineering consultant.*
- *Whether mechanical vents are routed through the roof or exterior wall there are minimum required clearances from certain other elements such as air intake devices and windows. Proper venting of a condensing furnace, which is guided by the National Fuel Gas Code and, in many cases, by local building codes, is designed to alleviate health and safety risks. A minimum distance of 4'-0" from window openings is typically required although this should be confirmed with the local municipality. Associations and their Community Managers should be pro-active about this issue. What will you do if your building is entirely clad in a glass storefront system?*

80% efficient furnaces are often vented together with gas-fired water heaters. The metal vent will need to be modified for the remaining water heater when a 90% efficient furnace is installed with its PVC venting. As with any modifications this work should be performed by a qualified, licensed contractor. Note: Although not required, it is possible to replace the water heater with a high efficiency unit also. High efficiency water heaters have blowers and PVC piping that is routed horizontally.

In most cases the size of the 90% efficient furnace should work in the existing space; however, this is not guaranteed. Spatial constraints may require modifications to surrounding elements to install the new mechanical unit.

Depending on the age of your air conditioner (a/c) it may also need to be replaced to be compatible with the new furnace. Since January of 2006, the Federal Government required air conditioners to have a SEER

rating of 13 or higher. The Seasonal Energy Efficiency Ratio (SEER rating) measures the efficiency of air conditioners. Additionally, in 2010, Freon 22, began being phased out due to the laws and regulations set forth by the EPA and the Federal Government. All manufacturers of air conditioning and heating equipment are now required by law, to only produce HVAC equipment that uses, environmentally friendly, R-10A Freon. Freon Manufacturers will continue producing R-22 for servicing and repairs until 2020, when R-22 will become obsolete.

In conclusion, if your household has an 80% efficient furnace that is at or near the end of its useful life consider having it replaced with a similar furnace before May 1st, 2013. Otherwise be prepared to replace your furnace with a 90% efficient unit and be aware in advance of the other modifications that may be necessary.

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Interested in running for ACTHA's Board?

The election of Directors will take place at the Spring Conference and Trade Show on March 16. If you are interested in running, complete this application* and return to: ACTHA, 11 E. Adams, #1107, Chicago 60603. All candidates must be an owner of a property which is their primary residence and is in an association which is a member of ACTHA.

NAME: _____
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* Once application is initially verified, you will be asked to complete a slightly more detailed application.



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ACTHA's Spring Conference Program

For more detailed information as well as who will be exhibiting, visit

ACTHA's website: www.actha.org & click on "Spring Conference & Trade Show"

Your choice! Pick one program from each of the time slots offered!

8:30 a.m.—9:30 a.m.

1) New to Owning? New to the Board? This session highlights legal and fiduciary responsibilities for someone serving on the board and also delineates responsibilities and rights for owners. Associations can greatly benefit from owners who now understand what they bought into and how to appreciate the benefits of community living. *Presenter: David Bendoff of Kovitz Shifrin Nesbit*

2) Budgeting – Your

Business Plan This session covers all aspects of a budget including the function, preparation and application. Every business (and yes, this is a business) needs a budget for guidance. Whether you are a seasoned veteran or newly elected to your Board, this is a critical responsibility. *Presenters: Mark Cantey, CPA of Cantey Associates and Rich Hiles of Lieberman Management Services*

3) Rapid Fire! Tips of the

Trades Experts will take turns sharing their top tips and secrets. After round one, all panelists surviving this quick draw, will offer their next and best tips and continue until the hour is up or they drop from exhaustion! *Panelists: Marcia Caruso of Caruso Management Group, George Darling of Total Roofing & Construction, Dick Fink of Coder Taylor, Steve Silberman, Frost Ruttenberg Rothblott, Peter Santangelo of Community Advantage*

11:30 a.m.— 12:30 a.m.

1) Insurance 101 - Things You Need to Know When most hear the word "insurance," eyes glaze over, but you won't regret paying close attention during this session. You will be amazed at the things "you didn't know that you should know." Insurance covers unexpected losses which means you never know when you need it and what must be covered. *Presenters: Lara Anderson of Fullett Rosenlund Anderson, PC, Joel Davis of CAU Insurance, Carrie Surratt of Care Property Management Services*

2) Fraud – Protecting

Precious Dollars Listen to your Banker and CPA when they give you the benefit of their experience. Learn the importance of segregation of duties, how to set up internal controls, best procedures to authorize bills, issue checks, and a policy for check signing. Can electronic payment of bills, receipts of payments via lockbox, and use of credit cards help or hinder your financial safety? *Presenters: Tom Engblom of Community Association Bank-ing and Brad Schneider of Condo CPA*

3) First Impressions: The Property (Part 1) Take a look at your community and property to see what projects should be undertaken. Consider if they are necessary and if they will give a fresh look and add to the property's appeal. Landscaping and the weather we've endured can have as big an effect as the structural elements. *Presenters: Sherm Fields of Acres Group, John Hershey of J. Hershey Architecture, Kate Susmilch of Winston Management Group*

1:30 p.m.— 2:30 p.m.

1) Leasing—Association or Owner as Landlord Is there a difference between who is doing the leasing? Why would an association want to lease? What restrictions apply? Is this a natural follow-up to evictions? This issue is a large part of discussions and decision-making in many associations which want to be proactive in dealing with distressed owners and an impacted bottom line. *Presenters: James Erwin of Erwin & Associates and Dan Haumann of Advocate Property Management*

2) Delinquencies, Short Sales and Foreclosures -

These are all common issues due to the economic realities facing every association. How do each of these impact your bottom line? Learn the steps to reduce the negative effect caused by owners in financial distress and when and how to negotiate settlements. Is "some money better than no money"? *Presenters: Charles Vander Vennet, Attorney & Sal Sciacca of Chicago Property Services*

3) First Impressions: The Community (Part 2) Sometimes it seems like boards and owners are adversaries. They shouldn't be. This session will focus on the positive and possibly provide answers with the use of newsletters, neighborhood watch programs, social events and other tools to overcome apathy and create a community of caring neighbors. *Presenters: Sima Kirsch of Law Offices of Sima L. Kirsch and Kate Susmilch of Winston Management Group*

ASK AN ATTORNEY

Concludes the Day

Moderator: Chuck Vander Vennet,

Panelists: Gabriella Comstock of Keough & Moody and Jim Slowikowski of Dickler Kahn Slowikowski and Zavell

Registration Form

YES!! I want to register for the Conference and Trade Show on Saturday, March 16, 2013 at the Drury Lane in Oakbrook Terrace. **Registration fee includes:** seminars, continental breakfast, lunch, Trade Show, and materials.

There is no charge to attend the Trade Show. The fee to attend any of the educational programs is: ACTHA Member Rate: \$45 or \$40 if sending 3 or more from the same association; Non-Member rate: \$120 per person

Attending the Trade Show only Attending the Trade Show, Educational Seminars & Lunch
 Amount Enclosed; Make check payable to "ACTHA" and remit to 11 E. Adams, Ste. 1107, Chicago, IL 60603 or register online at www.actha.org: 2013 Spring Conference

Name of Association: _____

of units: _____ Name of Community Manager (if applicable): _____

PLEASE PRINT: Name _____ Address: _____ Email: _____

NOTE: Confirmations are not sent except upon request. No refunds are given after March 10 and there will be an additional charge of \$20 per person for anyone registering after April 17 or at the door. All cancellations are subject to a 25% handling fee.

ACTHA's Certification Program LEARN & LEAD

Learn and Lead was especially designed for anyone actively involved in their association whether serving on the board or a committee, someone aspiring to a board position, or someone who just wants to know. It is a six week course that focuses on: Governance, Administration, Meetings/Elections, Finance, Physical Aspects and Insurance/Risk Management. Individuals may register for certification or attend only those modules you are interested in. One can learn more about Learn and Lead as well as registering online by visiting www.actha.org.

I am interested in registering for Learn and Lead. I am interested in:

Certification: \$100/ACTHA member; \$150/Non-member

Individual seminars: Free/ACTHA member; \$20 per session for non-members. I will be attending:

Governance (Feb. 28) Administration (Mar. 7) Meetings/Elections (Mar. 14)

Finance (Mar. 21) Physical Aspects) (Mar. 21) Insurance (Apr. 4)*

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Question of the Month

By: Kelly Elmore ^ Kovitz Shifrin Nesbit ^ 750 W. Lake Cook Rd., Buffalo Grove 60089
312-880-1217 ^ kelmor@ksnlaw.com ^ www.ksnlaw.com

Q. We are interested in the nature of a home business restriction in an association's bylaws. Specifically, has a court overruled or held a home business restriction too restrictive or invalid? Moreover, can a homeowners association restrict a business licensed by the state from operating within the neighborhood if they have a restriction already in place?

A. An association, whether a condominium or homeowner association, can prevent an owner from running a business in his or her unit by including a provision in the Declaration which prohibits the operation or running of a business in the unit. If the association has such a provision in place and the board discovers an owner is running a business out of the unit or home, the Board may choose to enforce the violation against the owner pursuant to the terms set forth in the Declaration and rules and regulations. It is important to note that some businesses that are conducted solely within a unit or home, such as an accounting business or web-based business, may not be easy to identify and may not have any effect on the running of the Association. Whereas other types of businesses, such as a baby-sitting business, may be highly visible due to the traffic of constant visitors coming to the unit or home.

In recent years, there has been an increase in the number of unit owners and homeowners in community associations attempting to rent their units and homes in the short-term housing market, for businesses

Continued on page 3