

Association of Condominium,
Townhouse, and
Homeowners Associations



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MANAGER LICENSING:

WHAT DOES IT MEAN FOR YOUR ASSOCIATION

Manager licensing is in effect and all individuals providing defined services under the law had to be licensed as of October 1. As you might imagine our office has been getting many questions about the new law. Hopefully the Q & A below will be of use to our readers.

Q. Who needs to be licensed?

A "Community association manager" means an individual who engages in the following services: (A) collecting, controlling or disbursing funds of the community association or having the authority to do so; (B) preparing budgets or other financial documents for the community association; (C) assisting in the conduct of community association meetings; (D) maintaining association records; and (E) administrating association contracts, as stated in the declaration, bylaws, proprietary lease, declaration of covenants, or other governing document of the community association. "Community association manager" does not mean support staff, including, but not limited to bookkeepers, administrative assistants, secretaries, property inspectors, or customer service representatives."

Q. What is the difference between acting as a manager vs. acting as an administrator?

If one is doing any of the activities outlined above, they need to be licensed.

Q. If you are not paid/compensated, does one still need to be licensed?

No.



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TIP OF THE MONTH

Top 10 Insurance Mistakes

1. Not reviewing your Association's Loss Runs annually for inaccuracies.
2. Neglecting to inform owners as to what their personal insurance responsibilities are.
3. Not knowing what your association's insurance policy covers.
4. Not having the correct named insured on your insurance policies.
5. Not making sure that your Association's insurance program is compliant with the Illinois Condominium Property Act or the Common Interest Community Association Act.
6. Dropping certain insurance coverages to save money, such as flood or lowering your umbrella limit.
7. Selecting an insurance program based on price alone.
8. Assuming that all insurance policies and companies are created equal.
9. Failing to timely notify your insurance carrier of a claim.
10. Allowing a friend or relative (who is not an expert in Association insurance programs) to handle your Association's insurance program in order to help them make money during their first few years as an insurance agent.

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Question of the Month continued from page 6

Also remember, although non-resident owners may not live within the building, they still have an interest in maintaining and protecting the value of their property and have the potential to be just as involved and committed to their elected board position as resident owners.

SHOW YOUR SUPPORT!!!

Beginning January 1, your association renewal invoice will provide you with the option of supporting ACTHA's State legislative efforts with a contribution (suggested amount \$10 per association). As our members know, ACTHA has been successful in:

- Exempting self-managed and master associations from the annual Community Association Manager Licensing fee
- Capping the fee for associations with 950+ units to \$1,000/yr from the above mentioned fee
- Halting legislation which would have allowed day care centers on non-condo properties regardless of how the community as a whole felt
- Strengthening the Common Interest Community Association Act

The Illinois General Assembly will convene in January. ACTHA will brief our readership on our legislative initiatives in the December/January issue.

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Q. Does a real estate broker who manages property need to be licensed under the Community Association Manager Licensing Act?

Yes, **if the broker is managing one or more community associations**. Below is a differentiation of the two:

A “Community Association Manager (CAM)” REPORTS TO an Association Board and they are **REQUIRED** to have a “Community Association Manager License”.

A CAM’s scope of work: Managers may work for a management company or directly for one or more community associations. They may work for condominium, townhome, homeowner, recreational, marina, equestrian or other community associations. They may **do some or all of the following:** maintain financial records including receiving funds and making deposits, paying bills, obtaining proposals for projects, issuing work orders for routine items, responding to owner questions and complaints, maintaining records, communicating with board members, assisting with budget preparation, etc.

A Real Estate Broker/Property Manager REPORTS TO **an** individual **property** owner or general manager **of a corporation that owns and operates residential investment property** and is **REQUIRED** to have a Real Estate Broker License.

A Broker/Property Manager’s scope of work may include some or all of the following: list properties for sale or rent in order to procure buyers or tenants for clients. They also assist buyers and tenants in finding properties. Types of properties include, but are not limited to, residential, vacant land, multi-unit/apartment residential, industrial, office, retail, institutional, mobile homes, deeded parking, mixed use, businesses with real estate, etc. and they may manage properties, **but not community associations unless they also have a CAM - Community Association Manager License**. A Broker will work under the direction of the Managing Broker.

Q. What happens if someone missed the deadline for applying for the

“grandfather” provision? Can they still offer management services if demonstrating “good faith” to become licensed?

No. Anyone who is compensated and provides the services as outlined above, must be licensed. The Department may impose stiff penalties on those practicing community association management without a license.

Q. How does one find out if a manager is licensed?

Go to the Dept. of Finance and Professional Regulation’s website: <https://www.idfpr.com/LicenseLookUp/LicenseLookup.asp>

One may also order a roster of licensees by calling 217-785-7222 or emailing fpr.roster@illinois.gov Note: There is a cost to order a report.

Q. What happens if someone is practicing without a license?

Under Sec. 92 (Unlicensed practice; violation; civil penalty) a person *shall* pay a civil penalty to the State of \$10,000. Note the operative word is “shall,” not “may,” although the discretion for the Department to investigate unlicensed activity is permissive. A civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. In addition the court could impose an additional penalty provided by law.

Q. How do you report an unlicensed manager?

One will need to file a complaint with the Department. To file a written complaint, go to: <http://www.idfpr.com/Admin/Complaints.asp>

To file a complaint online, go to: <https://www.idfpr.com/Admin/Filing/DPR/Complaint.asp>

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Question of the Month

By: Andrew Girard ^ Girard Law Group
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Q. Our declaration states that only resident owners may serve on the board.
Is this legal?

A. While it may initially seem like a good idea for a condominium association to limit eligibility to run for a position on the board of managers to resident owners, a residency requirement for Board members establishes a dual class of membership, which is not allowed by the Illinois Condominium Property Act; the statute that applies to all condominium associations in Illinois.

Under Section 18(b)(2) of the Act, an association's By-Laws must provide for only one class of membership. The provision in your Declaration restricting board eligibility to only resident owners is, in fact, creating two classes of membership in the association: resident owners and non-resident or investor owners. Section 18 of the Act goes on to read that the portion of the Declaration that states that eligibility to run for board positions is limited to resident owners is deemed void as against public policy. Even if the provision providing for only one class of membership is absent from your Declaration, it is automatically incorporated by operation of law.