



March 2018 - The Sharper Focus - HOA Board Edition

Thank you for reading our newsletter. The goal of this newsletter is to touch on general industry news and helpful topics that may help you in your role as an HOA board member.

Every Association is different in their type, size, scope, and how things are organized and established via the Governing Documents. There are, however, a number of universal topics common to all Associations. We hope you will find this newsletter a valuable source of information!

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Legislative Changes Require Preventative Maintenance Plan

For community associations that fall under Minnesota State Statute 515B (known as "Minnesota Common Interest Ownership Act" - or "MCIOA" for short) there is a significant amendment that will go in to effect next year requiring associations to create and adopt a "written preventative maintenance plan" for all common elements. So, what does this mean and does it apply to your association?



What is a Preventative Maintenance Plan? Under this new law, associations, through its Board of Directors, will need to do the following for all recognized common elements:

- 1.) Create and approve a written preventative maintenance plan identifying all common elements; a maintenance schedule for servicing those common elements; and a maintenance budget for those common elements.
- 2.) The association then must provide owners with a copy (paper, electronic or simply access to it) of this maintenance schedule, plan and budget. The Board should review and amend this maintenance plan "from time to time" and provide owners with a copy of any changes.
- 3.) The association must then follow the Board's approved preventative maintenance plan and schedule.

The purpose of this preventative maintenance plan is to ensure that associations are keeping the common elements in a good state of repair, helping to meet the anticipated life expectancy. An example of this might be to plan an annual inspection and routine maintenance of the roofing structure.

What this required "plan" actually looks like is quite ambiguous and undefined. Common, and especially Limited Common, Elements vary greatly from association to association. The first step may be to connect with an attorney to identify and solidify these elements. Attorneys and contractors will also have recommended tools to create a "plan" - such as a spreadsheet or inspection form.

What Associations Must Comply with This New Requirement? - All association that are subject to MCIOA. That means ALL associations, regardless of type, incorporated after June 1, 1994. ALL condominiums and cooperatives, regardless of when it was incorporated. Note: Be careful of the term "condominium." Just because it looks like a townhome structure, does not mean it is incorporated with the State of Minnesota as a "townhome." It may well be listed in the Articles of Incorporation as a "_____ Condominium Association." Finally, any townhome or planned community built prior to June 1, 1994 that has amended their governing documents and "opted in" to MCIOA.

There will be a number of resources, publications and probably further legal refinement of this new Preventative Maintenance Plan requirement throughout the year. Sharper will work to keep you all informed as definitions and tools become available. Here are suggested further readings on the subject from law firms that Sharper often utilizes.

<https://www.bensonpc.com/blog/post/impact-of-2017-mcior-modifications-on-existing-common-interest-communities>

<http://www.hjlawfirm.com/blog/353-new-requirements-under-mcior-preventative>

Finally, Sharper has worked with the law firm of Roeder, Smith, Jaden, PLLC to help identify common elements and provide a schedule template that will satisfy these new statutory requirements for a flat fee of \$500. Talk to your Community Manager if you are interested in this offering.

Board Tips: Open Meetings

What constitutes a Board "meeting" and Board "business" can become a very slippery slope. So much so that in 1994 when the Minnesota state legislature passed the Minnesota Common Interest Ownership Act ("MCIOA" or 515B), they sought to define and solidify requirements for how associations should operate with regards to Board meetings. Note that MCIOA applies to ALL condominium associations, regardless of when incorporated - and planned communities (example "townhomes") incorporated after June 1, 1994.



While it might feel natural to meet informally as a Board, even if decisions are not being made, under MCIOA this is recognized as a Board meeting and therefore the Board must comply with Notice and Open Meeting requirements.

Notice - "To the extent practicable, the board shall give reasonable notice to the unit owners of the date, time and place of a board meeting." Unless Bylaws or Declarations state otherwise in more specify, this "notice" requirement is fairly vague. Mailing and/or emailing notice to all members, as required for an Annual or Special Meeting, is not implied. The announcement of the next meeting date and/or inclusion in the Minutes from the previous meeting is satisfactory "notice." Posting on bulletin boards, email notifications, newsletters, etc are also example practices, but not necessary.

Open Meetings - "Meetings of the board of directors must be open to the unit owners." It really doesn't get any clearer. Boards need to take heed in their practices of meetings. Informal meetings, "work shops," "executive sessions," whatever they may be called - if there is a quorum of Board members and they are discussing association business, it is a meeting. If it's a meeting, Notice and Open Meeting requirements apply, and minutes should be kept.

Closed Meetings - there are only three categories of business that qualify a Board for closing a meeting to owners. 1.) if the association has employees and there are personnel matters; 2.) pending or potential litigation or arbitration issues; and 3.) criminal activity arising within the community and privacy of a victim would jeopardize an investigation.

And once again, these Board meeting requirements only apply to associations that fall under MCIOA. Nevertheless, they are state statutes for good reason and would be good practice for all associations to follow.

Construction Chat: The Spring Freeze Thaw Cycle

Soon the spring freeze/thaw cycle in Minnesota will mean things are on the move. Things you don't want to move! Concrete heaves, asphalt buckles, retaining walls shift and bricks crack. The expansion/contraction process caused by ice/snow melting during the day, and then re-freezing at night, can put a tremendous amount of pressure on surfaces and structures.



There are a number of factors that contribute to the freeze/thaw cycle. Many are uncontrollable. Temperatures and melting are out of our hands. Soil conditions play a part; however, it is hard to change the natural soil content of the development. Grading/soil prep at construction are a factor; but again, it's hard to do anything after the fact.

What you can review and correct, however, is drainage patterns that bring the water to these areas and surfaces. This is the ideal time of the year to assess some common contributing scenarios:

- Do rooflines drop water directly onto front stoops and sidewalks?
- Do downspouts push water into retaining walls or landscape beds?
- Do downspout extensions go out far enough from the building?
- Are there grading issues allowing water to pool on patios or sidewalks?
- Is curbing along the streets level, allowing water to flow to catch basins?
- Are there significant cracks and holes in asphalt allowing water to pool inside?

You are never going to solve all drainage problems. Nor can you eliminate the freeze/thaw cycle. But being proactive by reviewing drainage, and sometimes getting a little creative to redirect it, can save money on asphalt, concrete and other construction repairs. Now is the time to spring into action!

Audit & Tax Season

Did you know that community associations, as a registered non-profit corporations in the eye of the State of Minnesota, are required to file Federal and State taxes? It is also important to be aware of any requirements of your governing documents for an annual financial review or audit. If you are governed under MCIOA (Minnesota Common Interest Ownership Act), you are required to have, at minimum, an annual financial review. These two components - audits/review and taxes - are done simultaneously.



Financial reviews and audits do differ; however, they achieve the same goal. That is to have an independent, licensed CPA review the Association's financials and the accounting practices of its management company.

Your property manager and staff at Sharper are working hard behind the scenes to provide the engaged CPA firm with all of the materials required. Bank statements, reports, invoices, etc. all must be provided. Be ready for your manager to ask for the Treasurer's signature on tax docs. And lastly, know that it is very common for the CPA to file tax extensions, as reviews/audits are an involved process and can take time.

MARK YOUR CALENDARS Sharper Golf Tournament

Mark your calendars for the annual Sharper Scramble Golf Tournament, set for Friday, July 20th at Boulder Pointe Golf Club in Elko. This **FREE** afternoon of fun, food and golf is Sharper's way of showing our appreciation to you - our valued client, to our Sharper staff and to our trusted vendors.



Our inaugural event last year was a tremendous success with over sixty golfers, twenty Sharper staff members, two dozen vendors providing over thirty prizes and games, an entertaining DJ providing a great soundtrack, a filling dinner and even a bagpiper roaming the course for ambiance. We hope you'll join us this year for a wonderful event!

Contact Matt Fröhlich if you are interested in securing your spot for the Sharper Scramble.
matt@sharpermanagement.com

Need Help Renting and Managing a Townhome or Condo?

Think Advantage Home



A sister company to Sharper Management, Advantage Home helps homeowners and investors manage their single-family residences.

Since your Association is already affiliated with Sharper Management, renting your home through Advantage would have extra benefits you wouldn't find in another property management company. Those benefits include:

- A thorough understanding of Associations
- Information sharing regarding governing documents, rules, and regulations is efficient between Sharper and Advantage Home - Advantage is literally right down the hall
- The Sharper Management maintenance staff is already familiar with your Association's property
- Our emergency response team is fast and effective

If you or someone you know is interested in renting their townhome or condominium, have them contact jeff@advantagehomemn.com.

Learn more at advantagehomemn.com
