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Illinois Department of
Financial and Professional Regulation

Division of Real Estate

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How does the Board of a condominium association adopt a special assessment?

There is a hierarchy of authority between the association's governing documents and the Illinois Condominium Property Act ("Act"). Pursuant to Section 2.1 of the Act, in any situation where the governing documents and the Act conflict (for instance, where the governing documents limit the Board's ability to pass special assessments or make certain expenditures), the Act will control and prevail over any inconsistent provision within the governing documents.

Pursuant to Section 18(a)(8) of the Act, unless a special assessment is for an addition or alteration to the common elements or to association-owned property not included in the adopted annual budget, which requires 2/3 unit owner approval, a condominium a board of directors – without unit owner approval – may adopt a special assessment. However, in the event the special assessment adopted by the board, without unit owner approval, exceeds 115% of the sum of all regular or special assessments from the preceding year, the unit owners may commence a series of procedures to reject a special assessment.

Generally, the board votes during open session of a properly called board meeting to adopt a special assessment, after which point the unit owners have the option of initiating time-sensitive procedures to attempt to reject the special assessment via following steps:

1. Twenty percent (20%) of the unit owners (by unit percentage as stated in the Association's governing documents) must sign a petition that is submitted to the board to reject the special assessment within fourteen (14) days of the date the board adopts the special assessment;
2. Provided the requisite twenty percent (20%) of unit owners have properly petitioned the board, the board must call a meeting of the unit owners within thirty (30) days of the date of delivery of the petition; and
3. Unless a majority of the total votes of the unit owners are cast at the meeting to reject the special assessments, the special assessment is ratified.