

THE COMMUNITY BUILDER

Collection Agencies for Assessment Debt ... Can We Use Them?

Board members, community members and managers alike are all equally frustrated with ongoing delinquencies that are affecting your community's ability to continue to operate at an acceptable level to provide insurance, lawn care, building maintenance, road maintenance, lake or pond maintenance, the pool, the clubhouse and other components required by the documents to be maintained. No maintenance or lesser maintenance will eventually adversely affect a current owner's ability to sell or a prospective purchaser's willingness to buy into your community.

There is no doubt that the collection of delinquent assessments is an important and yet frustrating process. First and most important is the adoption by the Board of a Collection Policy. Your documents will only tell you when the assessments are due, when they are late (authority for that determination maybe at the discretion of the Board), if late fees can be assessed and how much interest can be charged on late payments. The Collection Policy will complete the picture by setting the time frame for mailing the late letters, when an Intent to Lien Notice given to the owner, when a Lien is filed and when other action is to be taken, including foreclosure or obtaining personal judgments against the owner. Once the policy is adopted, it is then applied by the criteria demonstrated by the account and is not personal nor is it discriminatory by being selective.

All of the above take time and cost money. Many Board members and managers alike have asked why delinquent accounts cannot be reported to one or more of the three major credit reporting agencies such as Experian, TransUnion and Equifax. One of the main reasons is that the debt of an owner to an association is not linked to a consumer related purchase transaction, such as the purchase of a car or a home (mortgage). The debt of an owner to the association is based on a contract, the Covenants that bind the land and title of the home that is owned.

Sentry has researched this concept several times with the three credit bureaus named above. We have been advised that all three will require social security numbers and birth dates of each person being reported... personal information



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that is rarely available to board members or management. Additionally, the "owner of the debt" (The Association) must be the contracted reporting entity, not the management company. There is a minimum number of accounts required for referral (TransUnion has a 100 account minimum), an upfront fee plus a monthly reporting fee.

Some collection agencies and other management companies are, supposedly indicating they can cause these delinquent accounts to be reported to one of these entities thereby affecting an individual owner's creditworthiness. At this time, we have not found a legal way to arrange this service for our clients, either within our own structure or as a pass-through service, due to the restrictions listed above. We will continue to monitor and research the options under the laws that are available to our clients to ensure we are providing the best service and information available.