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Bill gives common interest communities more rights, protections

By Pamela Dittmer McKuen, Special to the Tribune

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A new piece of legislation, the Common Interest Community Associations Act, will give advertisement additional rights and protections to owners in some Illinois community associations.

Among them are: access to books and records, the opportunity to speak at board meetings and due process for large assessment increases.

"We believe this is a very important piece of legislation," said Sen. A.J. Wilhelmi (D-Joliet), one of the bill's sponsors. "Currently, there are protections for unit owners in condominium associations, which are spelled out in the Illinois Condominium Property Act. In this bill, we are affording the same protections to owners of property in common interest community associations."

Common interest communities, which usually are town house or single-family home associations, have been governed primarily by their declarations and Sections 18.5, 18.6 and 18.7 of the Condo Act. Some declarations are more comprehensive and owner-friendly than others.

The new legislation, also known as SB-3180, outlines procedures and requirements for association governance and operations. It passed both chambers of the General Assembly last month and awaits the signature of Gov. Pat Quinn. It becomes effective upon signing.

"The bill is condo-like," said association attorney Michael C. Kim of Chicago. "It's a slimmed-down version of the Condo Act, but it's not the same."

Among the highlights:

-- Access to books and records. Boards must maintain detailed, accurate records and make them available during convenient, weekday hours. Owners may examine and copy the association's governing documents as well as contracts, leases and receipts that pertain to the maintenance and repair of common areas. They may examine and copy election ballots and proxies after submitting a written statement of proper purpose. Non-compliant boards will pay a prevailing owner's legal fees in any resulting court action.

-- Leasing restrictions won't apply to nonprofit organizations. Owners of 501(c)(3) corporations may lease their units until they voluntarily decide to sell. No extra fees or fines will apply.

-- Boards must hold four meetings per year.

-- Mandatory forum for owners' comments at meetings. The board determines the length and time of the forum. Condo associations are not required to have open forums.

-- Due process for budget increases. If a proposed budget or special assessment results in greater than a 15 percent increase over total assessments the previous year, 20 percent of the owners may petition the board to call a meeting of all owners to reconsider the increase. Emergency expenditures don't count.

-- Small associations are excluded. Associations with 10 units or fewer or that have annual budgets of \$100,000 or less are exempt from the bill unless they choose otherwise.

Wilhelmi said the legislation was prompted by homeowners in his district who felt they were bullied by their association boards.

"We needed to strike a balance between giving protections to unit owners and not burdening board members unreasonably, and I think we did that," he said.

"In principal, I don't have a problem treating town homes similarly to condos, but I don't think this will necessarily cure some fundamentally dysfunctional associations out there," said Kim. "Even the Condo Act won't save you if the board is acting badly."

Michael D. Baum, president of Baum Property Services in Aurora, said the bill is a step in the right direction. He'd like to see additional provisions, particularly the ability to collect up to six months of back assessments in a judicial foreclosure sale. Condo associations can do that.

The Association of Condominium, Townhouse and Homeowners Associations was a fan until the final version came out. Said the group's president Beth Lloyd, "We were disappointed to learn that the bill included one item we strongly opposed and excluded one we strongly supported."

The group disagrees with exempting nonprofit organizations from leasing restrictions because associations should decide rental issues for themselves. It also wants all associations to collect assessments on foreclosed properties.

"From my perspective, it doesn't hurt to have some standardized rules for common interest communities that mirror some of the better provisions in the Condo Act," said Kara Cermak, president of Rowell management company in Elgin. "But then, more legislation is, well, more legislation."

Read the full text, enrolled version, of SB-3180 at ilga.gov.

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