

# apm NEWS

NEWS, ISSUES & INFORMATION FOR COMMUNITY ASSOCIATIONS - SPRING 1999

## CONSISTENT COLLECTIONS ARE A MUST FOR COMMUNITY ASSOCIATIONS

At some point in time, every association will have a problem with an owner(s) who are past due with their maintenance assessments. This problem may be caused due to an owner's sickness, loss of income or even death. But in most cases, collections can be handled consistently and on a basis that is fair to all concerned.

Maintenance assessments are required to operate and maintain the association's assets. The need for these assessments is established every year in the association's budget. The assessments then fund the expense accounts established in the budget. The failure to collect the assessments to fund the budget can have a serious impact on the operations of the association. The Board of Directors needs to deal with the problem and collect these past due funds as quickly as possible.

Prior to the association collecting owner's assessments, the

Board of Directors needs to establish the rules governing the payments of assessments and the procedures for collecting same. In most cases, the association's bylaws will provide the Board of Directors with the collection process procedure. It will spell out when the assessments should be billed (monthly, quarterly or annually), when the assessments are due and when the assessments are late. In some instances, the documents will even indicate when the owner should be sent to the attorney for collections and when they should begin foreclosure proceedings on the owner. If these procedures are not spelled out in the association's documents, then the Board of Directors, through the unit owners should consider amending the documents to reflect a reasonable collection procedure.

If the association's documents are silent on this and amending the documents is out of the question, then the Board of Directors can make reasonable

rules regarding the collection process for the association. This would be spelled out in a Board Resolution adopted at a duly called meeting of the Board of Directors. In either case before anything is done, the Board of Directors should seek the advice of the association's attorney to help guide you in this process.

If, you are fortunate to have these procedures spelled out, then at every instance the owners should be told about these procedures at the time of billing and also with reminder notices and in newsletters. This is necessary due to new owners coming into the association. Never assume that everyone reads their documents or every piece of mail that comes to their home!

Now the hard part. **FOLLOW THROUGH ON THE PROCEDURES!** Be consistent. If late fees are to be assessed. Then do it. If by a certain date delinquent owners are to be sent to the

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attorney for demand letters or liens, then do it. But be consistent.

If your association is experiencing collection problems or would like to avoid those potential problems before they arise, then do the following:

- Consult your documents and review the procedures. If they seem reasonable, then make sure you begin following them. If they seem inadequate or are out of date, consult with your association attorney for further review.
- Whatever the procedure is or if the Board has passed a Resolution concerning collections, then supply the unit owners with a copy of the procedure prior to implementation.
- Continue to let the owners know what the procedure is at every instance.

**Associated Property Management of the Palm Beaches, Inc. is a twelve year old full service association management firm. APM serves more than 90 associations in Palm Beach County. If you have any questions or comments you may contact us at 400 South Dixie Highway, Suite 10, Lake Worth, Florida 33460 or you may call us at 561-588-7210 [assocpropmgt@bellsouth.net](mailto:assocpropmgt@bellsouth.net)**

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## Ask The Attorney

**Lou Caplan, Esquire**

**Q.** *Are screenings of prospective buyers and tenants for occupancy open to all unit owners?*

**A.** No. Screening of tenants and/or purchasers is not normally open to all unit owners. In the Homeowners' Association context, meetings which are open to the owners include Board Meetings, Architectural Control Committee Meetings, where a final decision will be made, or committees where a final decision will be made regarding the expenditure of Association funds. Therefore, as long as the Screening Committee does not include a quorum of the Board, this would not be considered a meeting requiring prior notice and that it be open to the owners. In the condominium context, if this committee is going to make a final determination of approval or disapproval on behalf of the Board, then arguably that is a meeting that would require to be noticed and open to the members. If the Committee only takes on an advisory role, then said requirements are not in place. Please note that, pursuant to the Condominium Act, information obtained by an association in connection with the approval of a lease, sale or other transfer, shall not be accessible to unit owners.

**Q.** *The manager of our homeowners association has told us that we are allowed to vote for directors by proxy at our annual meeting. Is this correct?*

**A.** Yes. If your Homeowners Association Documents provide the authority to use proxies for the election of directors, then that is acceptable. The Homeowners Association Act provides that election of directors are to be conducted in accordance with the procedures set forth in the governing Documents.

**Q.** *At our last Board of Directors Meeting, our condominium Treasurer announced that he was going to begin charging a \$25.00 late fee and interest penalty. Our documents do not mention any late fees or penalties. Can the Board do this?*

**A.** In the condominium context, the Board cannot charge a late fee unless the authority is provided for in the Declaration

or the By-Laws. As it relates to interest, interest may be charged at the rate provided in the Declaration, and if no rate is provided in the Declaration, interest shall accrue at a rate of \$18% per year.

**Q.** *We have a Director on our Board who is always absent. Is there any law that allows us to remove this person for excessive absences?*

**A.** I am not aware of any provision in either the Condominium Act or Homeowners Association Act which would allow you to remove a board member for excessive absences. On the other hand, your documents may provide for this authority. We would suggest that you speak to this board member and ask for his/her resignation for the good of the community.

Mr. Caplan is a partner in the law firm of Dicker, Krivok & Stoloff. The firm represents several hundred community associations (including Country Clubs) in South Florida.

They can be reached at 561-615-0123.

## **REMINDERS !**

1. Be sure to update your files to include a new Question & Answer Sheet as of January 1, 1999.

2. Fees to the Division are coming due and are late if not paid by March 1, 1999. The amount is \$4.00 per unit, for all condominiums and cooperatives.

3. Corporate Annual Reports will soon be mailed and must be filled out and received by the Secretary of State by May 1, 1999. The Fee is \$61.25 for Not-For-Profit Corporations.

# SPRING INTO SUMMER

BY Z TEAM, INC.

You've heard of the expression "spring cleaning?" This not only applies to your home, but your landscape as well. Every season there should be a set program for your landscape. As Spring approaches bringing warmer temperatures, there are several items that need to be addressed. We recommend a four step approach that should be reviewed every spring and monitored throughout the year. Proper pruning, watering, fertilizing and planting will encourage a healthy and beautiful landscape.

Pruning is very important to all trees and shrubs, and should be monitored based on the plant. Plants such as Hibiscus & Oleander need to have a hard cut at least once a year, and the time to do it is just as the colder temperatures are leaving us. Small plants, including perennials, and larger trees such as Scheffulars also need hard cuts to encourage new growth. By regulating the severity of the cut and the timing, you can encourage growth to the bottom portion of the plant and thicken it at the same time. If height is what you are after, severe pruning of only the sides will encourage top growth while filling in the sides with less emphasis on the bottom. Either way you choose to prune your plants, the root system will benefit from the encouraged new growth. New growth and a stronger root system are the first steps to a healthier landscape.

Now that spring is here, the summer months are soon to follow, bringing with it the heat and rain and the problems that occur from too much or too little water falling on the landscape. During the spring and summer months, Florida frequently has heavy amounts of rainfall, as well as weeks of drought and temperatures holding steady in the 90 degree range.

Under-watering of the landscape will cause stress and weaken turf. This can lead to the invasion of insects and weeds. On the other hand, over-watering can lead to turf disease, weed invasion and the leaching of any recently applied fertilizer. Extremes in watering can also be harmful to plant growth. Over-watering can saturate the root system to the point of causing root rot, while light, frequent watering will cause a short and shallow root system to develop.

Shrubs, trees and palms are frequently the victims of over watering and can cause of premature attrition to the material. All newly planted or transplanted landscape needs to be meticulously watered during the first two months. The watering procedures followed during this critical time will determine the heartiness of the plants in the following months.. However, most well established material require less water, and risk being damaged by over watering. Once

established, plants such as palms, citrus, hibiscus and pittisporum require little water from nature or your irrigation systems.

Florida turf often suffers many problems resulting from over-watering. Generally, St. Augustine, the more popular turf, only requires about three quarters to one inch of water per watering, with two to three waterings per week needed during this period. The watering can come from the rain or your irrigation system. Ideally, you want your property to utilize both sources of water without over watering. The use of a rain sensor on your system is an ideal way of eliminating the potential for over watering of your lawn. If your lawn is to be watered by your irrigation system, the best time to water is during the early morning hours. If you don't know how much water your system is applying per cycle, it is time to check.

Your system in general should be inspected frequently to insure proper coverage, accurate monitoring of conditions and as a preventive measure for the integrity of all system parts.

If your irrigation system should need work, it is advisable to always use a reputable company that is licensed for doing irrigation work.

Ideally, your turf should be watered just as it begins to show a bluish-gray color, indicating signs of stress, and before the leaves are folded and rolled over, indicating signs of drought.

The proper watering of your landscape is only the second piece of the puzzle to maintaining a healthy landscape. Now that your landscape has been properly pruned and all watering checked, its time to engage your fertilizer program. Plants and grass need food just like people, especially during the growing season. Without proper nutrition you are asking a lot of your landscape, especially when you have the ability to dramatically help it with routine fertilizer applications.

A good time to fertilize is after pruning (fertilizing just before pruning should be avoided) your shrubs, palms and trees. Soil samples should be taken of your soil once or twice per year, depending on the results from your last fertilization. If any soil deficiencies are found, change your fertilizer specifications to accommodate them and be aggressive. If the formulation is not available on the shelf, custom blends are available and can be obtained from your landscaper.

Turf fertilization is what people notice the most and usually understand the least. Sure it is important to have green turf and yes nitrogen is a way to get

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"green grass," but moderation is important. More is not always better and sometimes too much nitrogen can damage your turf. In some cases too much nitrogen can increase the already active chinch bugs. Surprised to see that bright, tall green turf can encourage chinch bugs? Chinch bugs are almost always active, however, you usually only notice the damage in weak turf and in areas with too much nitrogen present. Heavy amounts of nitrogen released quickly by your fertilizer due to heavy rains or over watering will cause turf damage equal to that due to drought.

Enough about the bugs. The point is that proper fertilization, accompanied by proper watering and pruning is the ticket to a healthy landscape. A healthy landscape is less likely to be attacked by bugs and is the best, not to mention the cheapest, form of pest control.

What's next? The addition of color and filling in or replacing of hedges. This is the time to monitor your annuals planted last November and start to plan their replacement. Most of the impatiences, geraniums, and petunias will need to be replaced as the signs of drought stress and "die-off" occur with the arrival of warmer temperatures.

Common choices for Spring/Summer color have been caladium's, marigolds and begonias. Choosing your colors is a personal choice and depends on your preference and maintenance options. For optimum growth, your plants should be purchased early and small. To insure the optimum health of your annuals, allow the roots to develop as much as possible in your landscape beds. Soil conditions play a larger roll in the growth of small material, like annuals, so you may need to replenish or even add nutrients directly to the soil. If a fertilizer is to be added at the time of planting, it is best if it is a slow release type. The nutrient ratio of the fertilizer is determined by the plant and it can be added directly to the hole at the time of planting and topically afterwards.

Now that you have planned and implemented your spring cleaning, it's time to sit back and enjoy your landscape

Z Team, Inc. is an eight year old full service landscape maintenance company owned solely by Chad Tendrich. The West Palm Beach based firm maintains association, residential and commercial properties from Deerfield Beach to Jupiter. They can be reached at 561-848-3311