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Minnesota Management and Budget  
Working Group on HOAs  
Friday, December 6, 2024

Karly A. Kauf

Pronounced Kar-lee Cow-f

Pronouns are She/Them

Attorney representing common interest communities, owners, business owners, and other interested parties in HOA matters in Minnesota.

I. Protecting Minnesotans

A. Nearly all new residential housing in Minnesota are HOAs

B. Consumer Protection

1. Associations are comprised of consumers, all deserving protection
2. We cannot protect the individual owner at the expense of the rest of the group
3. Many concerns we receive from owners regard HOAs generally, not unfair or unlawful actions
4. Often, owners who don't want to comply or don't agree with the covenants themselves are the loudest, even though they are not the most typical

C. Without Ability to Enforce, Association Cannot Function

1. Associations are already notoriously tight with funds, careful not to harm neighbors
2. Without ability to foreclose, owners will not pay
3. If owners do not pay, other owners in the association are forced to absorb that cost, increasing fees and assessments
4. Compliant owners should not be forced to absorb increased costs due to bad actors

5. Costs of goods, services, insurance, and maintenance has significantly increased, making collection from all increasingly important
6. Number of past-due units and assessments in arrears are a basis for credit-worthiness and financial stability of the property

## II. Current Protections

### A. Laws and Covenants

1. Minnesota Common Interest Ownership Act, Minn. Stat. § 515B et seq.
2. Minnesota Nonprofit Corporations Act, Minn. Stat. § 317A et seq.
3. Contractual obligations pursuant to governing documents

### B. Reasonable Enforcement is Already Required

1. Board elections serve to limit power
2. Professional managers, attorneys, accountants, and other professionals assist to make things easier and more fair for consumers
  - a) Associations tend to be very careful not to engage counsel or other professionals unless necessary
  - b) Boards do not want to “waste” money, even when they plan to assess it against the individual unit
3. Must balance the need for enforcement against the risk of unfair practices and unnecessary costs
4. Talk about examples of when associations engage counsel and charge back fees

## III. Additional Protections Moving Forward

### A. Training and Education – The most important piece

### B. Ombudsperson

1. Must be a neutral third party with expertise in the area
2. Important to weigh costs against actual use and need

### C. Foreclosure Protections

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1. Could add a minimum time requirement prior to collection action  
– Typically see at least 60 days
  2. Could require associations to adopt a clear collections policy, similar to PMPs
  3. Important to highlight facts here:
    - a) Very few owners lost their homes to HOA lien foreclosure, and the vast majority of associations work with debtors to come current.
    - b) Most professionally-managed associations follow clear direction from attorneys to ensure FDCPA compliance and adherence to other protections already in place
    - c) It is far more common to see associations going out of their way to work with people than the other way around
- D. Additional resale disclosure requirements
- E. Extension of open meeting and records requirements to non-MCIOA associations
- F. Additional Board training opportunities and/or requirements