

What should unit owners expect during the tax appeal process?

Question:

How do condominium association appeals work?

Answer:

The Condominium Property Act allows condo boards to appeal tax assessments “on behalf of all unit owners”.

This requires a two-thirds vote of the board or a majority of the unit owners. Most associations obtain authority from their boards.

The Act provides as follows:

(c) Upon authorization by a two-thirds vote of the members of the board of managers or by the affirmative vote of not less than a majority of unit owners at a meeting duly called for such purpose, or upon such greater vote as may be required by the declaration or bylaws, the board of managers acting on behalf of all unit owners shall have the power to seek relief from or in connection with the assessment or levy of any such taxes, special assessments or charges, and to charge and collect all expenses incurred in connection therewith as a common expense.

Tax appeals can only be filed by a licensed attorney and not by the association, its officers or property managers. The act of filing a tax appeal by a non-lawyer on behalf of a condominium association and/or its unit owners is considered the practice of law.

The attorney will file one appeal on behalf of all unit owners in the development. These appeals are called collective appeals.

The assessing officials prefer collective appeals for a few reasons:

- Collective appeals are less work for the assessing officials.
- The assessing officials generally prefer to negotiate with one knowledgeable attorney rather than numerous property owners or their attorneys.
- Collective appeals result in uniform assessment results.

Legal fees and costs incurred in connection with collective appeals may be charged to the unit owners as “common expenses”.

Some associations choose to pay appeal costs from the association’s budget.

Others choose to bill the unit owner for their pro-rata share of these costs.