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Legislation and regulations bring change to condominiums

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Several new laws and regulations will mandate changes to the way condominium associations and managers do business. From personal data retrieval and storage to tax returns and storm water management, board members and managers will need to understand how they will be affected and at what cost.

Changes in Condominium

Tax Filing Status

As a result of changes to the Mass. Tax Code, beginning with tax years ending on and after December 31st, 2009, condominium associations will now be taxed as corporations on their interest and other taxable sources of income as well as on their net worth, rather than at the lower personal tax rate. While the change was not specifically designed to attack condominiums it has unfortunately had that unintended consequence. The tax law creating this requirement was actually designed to require tax filing conformity - simply put, entities must file the tax return for state purposes that mirrors the tax return filed for federal purposes. Since condominiums, with extremely rare exception, file corporate tax returns with the Internal Revenue Service (IRS), they will now have to file corporate tax returns with Mass. The change will require all associations, regardless of size, to file annual corporate tax returns and pay at least the minimum corporate tax of \$456.

The CAI New England Chapter Mass. Legislative Action Committee (MALAC) and the Real Estate Bar Association (REBA) are working with the Mass. Department of Revenue in addressing the administrative aspects of the new tax law.

Massachusetts Data

Privacy Act

This new law adopted by the Mass. Office of Consumer Affairs & Business Regulations (OCABR) details standards that must be met by companies who store or maintain in paper or electronic records, a Mass. resident's name in combination with one of the following:

- a) Social security number or
- b) Driver's license number or
- c) Financial account number, credit card or debit card number.

All condominium associations and management companies storing this information for any reason including, but not limited to payment of condominium assessments, rental agreements or employment records will be affected by this new regulation and will be required to develop, implement, maintain and monitor a comprehensive, written information security program (WISP). OCABR established March 1st, 2010 as the new deadline by which businesses must fully comply with the new regulations.

Stormwater Management

Regulations

Sewage used to be the primary cause of water pollution problems, but today stormwater is the single largest factor, estimated to represent 60% of the pollutants that damage water quality. The Mass. Department of Environmental Protection (DEP) is proposing a new, comprehensive approach to stormwater management that will require private owners (including condominiums) of large impervious surfaces such as roadways, parking lots and roofs to manage stormwater and mitigate the causes of stormwater pollution. The program will require owners of impervious surfaces of five acres or greater to implement so-called "good housekeeping" measures and new developments and redevelopments with impervious surfaces of five acres or greater will also have to meet new stormwater standards that will require the utilization of "best management practices" to achieve compliance with the new regulation. Best management practices may include the installation of rain gardens and infiltration basins that capture runoff, or the use of rain barrels to reuse or recycle rainwater. Within the Charles River watershed area, these requirements will extend to private property owners of impervious surfaces two acres or greater and in addition to implementing "good housekeeping" measures and utilizing "best management practices," owners within the Charles River watershed will also be required to install stormwater control systems within 10 years. The cost to comply with these regulations could cost associations across the state hundreds of thousands of dollars.

Jared McNabb, CMCA, PCAM, is the 2009 president of CAI N.E. and director of acquisitions at Crowninshield Management, Peabody, Mass.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540