HOA VIEW

Mitigating the looming financial crisis for community associations

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Community associations should be prepared to pare back their expenses and take a hard look at their budgets for the coming year for any expenditures that may be eliminated, deferred or reduced.

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The forced business closures and layoffs caused by the coronavirus pandemic have taken a massive toll. With the unemployment rate now predicted to surpass 20%, community associations are bracing for severe financial strains from unit owners who become unable to pay their monthly dues. For association boards of directors, all options will be on the table, but they should seek the guidance of qualified professionals to avoid any actions that may cause more harm than good.

As they begin to consider their options, some associations are now giving thought to relaxing their collections by waiving late fees and interest on delinquencies, and perhaps also foregoing entire monthly payments for those who become unable to pay due to the economic standstill. While this may appear to be a reasonable response, association directors must not lose sight of the fact that they are fiduciarily obligated to pursue the uniform collection of all payments and delinquencies, so they may be limited in their ability to offer any special considerations or concessions for those experiencing financial difficulties.

Payment waivers for the economic casualties of the COVID-19 pandemic could also open the door to future requests by unit owners for similar concessions related to other financial setbacks.

Instead, associations could borrow a page from the playbook of previous economic downturns and consider sanctioning a uniform payment plan to assist owners who become delinquent. With the help of qualified legal counsel and financial professionals, they could create a payment plan that is uniformly available to assist all the unit owners who suddenly become unemployed.

Associations should also be prepared to pare back their expenses and take a hard look at their budgets for the coming year for any expenditures that may be eliminated, deferred or reduced. Renovation projects that are not urgent or were planned solely to improve on existing amenities and common areas, such as a fitness center or landscaping makeovers, could be postponed. Also, some vendors may be willing to work with their association clients to modify existing agreements during the slowdown and recovery.

Some associations may find that they are able to tap their existing financial reserves to continue paying all their necessary expenses. For those that are not able to do so or do not wish to deplete their reserves beyond a certain level, the Small Business Administration's Economic Injury Disaster Loan program initially began offering loans of up to $2 million for 30-year payment terms capped at a low 2.75 percent for nonprofits such as community associations. Once the initial round of emergency funding was extinguished, the SBA temporarily limited the program only to agricultural businesses. Associations should monitor its status at www.sba.gov or contact the agency for any updates if they wish to apply.

In addition, association loans and lines of credit from major banks and credit unions may also provide financial lifelines to struggling communities at highly competitive rates and terms. Associations seeking financing will need to consider their options with the guidance of experienced legal counsel to ensure compliance with applicable statutes and associations' own governing documents.

As with the unfolding spread of the COVID-19 outbreak, the extent of the financial damage that associations will experience remains unknown. Some may be forced to contemplate imposing special assessments to temporarily increase the funds they receive from the owners who remain able to pay. This should be considered only as a last resort once all other tactics have proven insufficient.

Eventually, associations may also be left with no choice other than filing foreclosures or joining foreclosure actions filed by mortgage lenders against unit owners who become unable to pay. This too should be considered only as a final option, and there is likely going to be some sort of governmental financial relief for individuals who fall into foreclosure as well as for their largest creditors such as mortgage lenders and associations.

While it has always remained extremely rare, any associations that are forced to file for bankruptcy could also see some federal legislative relief.

For community associations, recovering from the collections deficits and financial repercussions of the pandemic will require a proactive approach by boards of directors working in close consultation with qualified attorneys and financial professionals. Just as with the recovery from the housing and foreclosure crisis, associations will need to tap all the available professional and governmental resources to navigate through the difficult financial straits that lie ahead.

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