

QUORUM

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Community Associations as a Business

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Getting Down to Business

By Leslie S. Brown, Attorney at Law and Douglas S. Levy, Esq.

The common interest community associations in which we live and work help protect and preserve our properties and provide numerous, valuable services to the community and residents alike. But there is a side to the associations that often goes unnoticed by many residents: the business side. Often times, our communities are only focused on the more "visible" side of the association's affairs, such as the state of amenities and common facilities, collecting assessments, and covenants enforcement. We tend to forget that there are administrative and business matters that must be attended to on a periodic basis to ensure the community's good standing within the jurisdiction it is located. It is easy to forget that some of the most important functions of an association pertain to making sure that certain business-related requirements of the association are satisfied continuously.

One of the key obligations imposed upon common interest community associations is to ensure that the association is registered with the applicable state government agencies and departments. For example, if an association is incorporated as a non-stock corporation, the association must take steps to keep its corporate status current with the state corporation commission. This involves submitting an initial registration with the commission and subsequent annual updates. The community will need to pay the appropriate fees and provide the commission with requested information (a list of the current board members and officers, etc.). If the association's corporate status lapses due to a failure to re-register, the association must ensure that its status is reinstated within the permitted time frame or else be subject to a loss of corporate status.

But even if a community is not incorporated as a non stock corporation, it still has registration requirements with other state agencies. For example, in Virginia, all common interest communities, regardless of incorporation, are now required to be registered with the Virginia Common Interest Community Board through the filing of annual reports and the payment of an annual fee.

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In Maryland, the Montgomery County Commission on Common Ownership Communities requires that homeowner associations, residential condominiums, and cooperative housing projects in Montgomery County (and also the City of Rockville) be registered annually with the commission. The process includes completion of a registration form, submission of a complete and current copy of the recorded governing documents, and payment of annual registration fees. Once a community is registered, the licensing and registration unit automatically generates a renewal notice each year. Failure to maintain the licensing can result in civil fines as a penalty.

In the District of Columbia, communities incorporated as non-stock corporations must submit annual registrations to the Department of Consumer and Regulatory Affairs. Also, in some instances, a commu-

nity in the District may be required to obtain a business license (if the community controls or rents units directly or engages in other business-like enterprises)

As you can see, it is imperative that these reports be filed on a timely basis. Although fairly simple to prepare, these annual reports can easily go overlooked, and thus it is critical that the association's board of directors, managing agent, and registered agent make sure that the reports are prepared and filed on time each year. Failure to do so could result in a loss of good standing within the jurisdiction, subjecting the community to legal complications down the road and monetary penalties. ☐



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