

## How to Fine a Rule-Breaker

A unit owner flagrantly violates your condo rules, angering other residents and essentially thumbing his nose at the board and association. What can be done? One option available in many situations is to impose a monetary fine against the person to coerce present and future compliance.

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the complaint(s) received or apparent

violation observed

the relevant provision(s) of the declaration, bylaws and/or rules

the maximum fine which the board is considering

the date, time and place of the board meeting to discuss the fine

that the resident is encouraged to present any explanation, witnesses or evidence he or she feels appropriate to challenge the fine

The hearing should be open to the entire condominium, especially anyone who originally complained to the board about the situation. The board should conduct the hearing itself; authority to issue fines should never be delegated to a management company or single officer or subcommittee. If the resident does not show up, the hearing can proceed anyway. A majority vote of the board to impose the fine makes it final. The outcome should be promptly reported to the unit owner in writing, even if he or she was present at the vote.

The amount of the fine must be "reasonable." The exact figure should be motivated by nothing but the good-faith goal of bringing the resident into compliance. Avoid fines which are exorbitant or purely punitive, but otherwise feel free to be creative. For example, consider giving a 10-day grace period before the fine takes effect to give a well-meaning resident the chance to undo the violation; or, for ongoing violations, impose a daily accumulating fine until the violation ceases. Note that the bylaws of many condominiums set a maximum allowable fine, often between \$25 and

\$100 per day, and may require additional procedures for notifying the resident before the fine can be imposed.

If (or more likely, when) the resident refuses to pay a fine, the board can take the resident to court to collect. In fact, the fine automatically constitutes a lien against the resident's unit and can be foreclosed exactly like an unpaid common expense. Unpaid fines should therefore be listed in resale certificates before units are sold and promptly referred to an attorney for enforcement.

## Condo Education Law

Remember that Connecticut law now requires the leadership of condominiums to "encourage" all residents, board members and managing agents "to attend, when available, a basic education program concerning the purpose and operation of common interest communities and associations, and the rights and responsibilities of unit owners, associations and executive board officers and members." The price of the program can be designated as a common expense. If you are interested in a program for your community, contact Adam J. Cohen at 203-330-2230.

## Handling "Bounced" Checks

What should you do if a check from a resident is returned by the bank for insufficient funds or because the account has been closed? Connecticut law protects the condo in a number of ways.

First, a service fee of up to \$20 can be added to the resident's account for processing the "bounced" check. Obviously the check does not count as a

payment, and interest and liens should continue to accrue as though no check had been received at all.

Second, you should promptly notify the resident in writing about the returned check and service fee, and insist that the resident make good on the payment within eight days after your letter is received. Be sure to send it by return-receipt mail and keep copies of the letter, receipt and envelope (showing the address and stamp).

Finally, bouncing a check is a crime. As long as you had tried to deposit the original check within 30 days after it was given, you can call the police if the resident does not comply with your demand for a new check by the eight-day deadline. Usually an officer will threaten the resident with arrest unless the debt is paid immediately. Don't wait too long to pursue this option, because after a week or two, the police may not bother to get involved. A person convicted of bouncing a check can be sentenced to prison depending on the amount at issue – anywhere from three months for a check under \$250 to five years for a check over \$1,000.

**For more information** about enforcement fines, education programs, handling bounced checks, or any other condominium issue, please contact **Adam J. Cohen** in our Bridgeport office at 203-330-2230 or by email at [ajcohen@pullcom.com](mailto:ajcohen@pullcom.com).

**Adam J. Cohen** is a member of the firm's Litigation Department and chair of the firm's Community Law Section. Adam represents communities and businesses. He regularly lectures to, writes about and represents condominiums and other residential associations in matters ranging from revenue collection to commercial disputes.