

October 15, 2014

Dear Condominium Association Clients:

Please note that the Michigan Condominium Act has been modified (Public Act 134 of 2013, Michigan Compiled Law 559.157). This change is effective this year. This section previously said that all condo associations had to do the following:

Sec. 57.

"The books, records, contracts, and financial statements concerning the administration and operation of the condominium project shall be available for examination by any of the co-owners and their mortgagees at convenient times and all books and records shall be audited or reviewed by independent accountants annually. Such audits need not be certified."

The new law states:

Sec. 57.

"(1) The books, records, contracts, and financial statements concerning the administration and operation of the condominium project shall be available for examination by any of the co-owners and their mortgagees at convenient times.

(2) Except as provided in subsection (3), an association of co-owners with annual revenues greater than \$20,000.00 shall on an annual basis have its books, records, and financial statements independently audited or reviewed by a certified public accountant, as defined in section 720 of the occupational code, 1980 PA 299, MCL 339.720. The audit or review shall be performed in accordance with the statements on auditing standards or the statements on standards for accounting and review services, respectively, of the American institute of certified public accountants.

(3) An association of co-owners may opt out of the requirements of subsection (2) on an annual basis by an affirmative vote of a majority

of its members by any means permitted under the association's bylaws."

In short, this means the new change in the law creates two classes of associations as it pertains to auditing. Specifically, for the **first class** of condominium associations that receive \$20,000 or more in annual revenues, they must now get a certified public accountant to review their financials annually. Certified audits had not been required previously. For the **second class** of condominium associations that receive less than \$20,000 in annual revenues, no such certified annual review is necessary unless their bylaws state otherwise.

Accordingly, if your association falls within the first class above, you should either:

- 1) Have an outside CPA perform a formal independent audit or formal independent review of the condominium association's year-end financial statements; or,
- 2) Hold a meeting of association members (not just board members) in order to gain a majority vote, every year, which opts the association out of the CPA requirement in (1).

My law firm always encourages transparency among its condominium association clients and their respective co-owners. In light of this new law revision, the best practice would be to have a certified public accountant review and provide an opinion of the condominium financials every year, regardless of whether you are in either class of condominium associations listed above.

Please note that the federal law hasn't changed – all condominium and homeowner associations are still required to file an annual federal tax return.

It is always a pleasure to serve my fellow condo friends,

FOLEY & ROBINETTE, P.C.

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