

# Enforcing CC&R's, Managing Budgets, Maintaining Property

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# Why these topics?

- CC&R's (i.e., Declarations) are the base authority for:
  - Assessments to establish funds for maintenance and other budget items
  - Jurisdiction to enforce requirements on both common property and member property
  - Obligations to Maintain, Repair, and Replace
- Maintaining Property is key role of Association AND Members
  - Who does what?
  - How do you approach the problem?
  - Who pays?
- Budget is essential immediate-term planning tool for the Association
  - Enables maintenance, repair, and replacement
  - Is based on assessment power afforded by CC&R's

# Overview

- Review Levels of Authority
- Enforcement of CC&R's
- Maintenance, Repair & Replacement
- Budgets and Finances
- Questions

# Levels of Authority

- Governing Law (Condo Act/Planned Community Act; Corporate Law; Common Law)
- Declaration
- Bylaws
- Rules & Regulations
- Committee Decisions
- Prior Actions





# Enforcement of CC&R's

- “Each owner and the declarant shall comply with the bylaws, and with the administrative rules and regulations adopted pursuant thereto, and with the covenants, conditions and restrictions in the declaration or in the deed to the lot. Failure to comply therewith shall be grounds for an action maintainable by the homeowners association or by an aggrieved owner.” ORS 94.777 (see also ORS 100.545 for condominiums)
  - Relief is usually equitable – injunction, specific performance, declaration of rights, etc.
  - Damage claim may be possible if damages can be proved
- Declarations & Bylaws *may* create intermediate steps before court enforcement
- Other tools include mediation, fines, peer pressure . . . ?
  - Association must provide for notice and opportunity to be heard if its rules will terminate access/use of common property or impose fines for violations
  - Must adopt and mail any fine schedule to each owner prior to imposing fines

# Maintenance, Repair & Replacement

## A Problem-Solving Workshop

- The Problem:
  - Mrs. DeLite has an electrical problem in her condominium unit – her breaker switches keep tripping off. She wants Association to arrange and pay for the electrician to come out, identify problem, and fix it.
- The CC&R's:
  - See Handout
  - Who is responsible for the problem? Why?
- An approach to problem solving
  - Identify the scope of the problem
  - Determine who has authority and responsibility to act
  - Consider different approaches to the problem
  - Form plan of action
  - Communicate plan
  - Monitor and evaluate
- Break into 2 groups and brainstorm using steps for 5-10 minutes



# Budget and Finances

## The 3 Phases of Fiscal Management:

### 1. Planning

- Budget

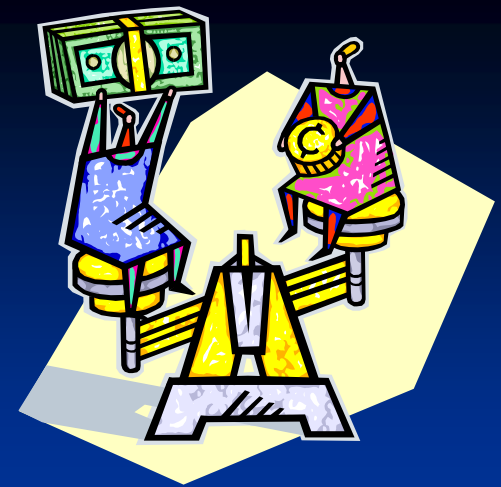
### 2. Operation

- Balance Sheet
- Income and Expense Statement (P&L)
- Budget Variance Report
- Accounts Receivable Report
- Accounts Payable Report
- Bank Reconciliation Report

### 3. Evaluation

- Compilation
- Review
- Audit

# Budgets



- Within 30 days after adopting proposed budget, the Board must:
  - Provide a summary of the budget to all unit owners;
  - Adoption process is required to be in bylaws
- If the board fails to adopt a budget, the budget for the previous year remains in effect

# Budgets & Financials

- Within 90 days after close of fiscal year prepare annual financial statements and distribute
- If assessments exceed \$75K annually, association's financials must be reviewed by CPA within 180 days of close of fiscal year.
- An association can dispense with reviews upon vote of 60% of non-declarant controlled voting interests

[ORS 94.670] [ORS 100.480]



# Annual Budget

A Budget is the Fiscal Plan for the Community adopted by an Association for a fiscal or calendar year.

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The budget is tied to the power to Assess in the CC&R's – Don't budget for things you don't have jurisdiction over!

# Budget & Finances

- Method used to develop a Budget
  - Look to Governing documents and State Law

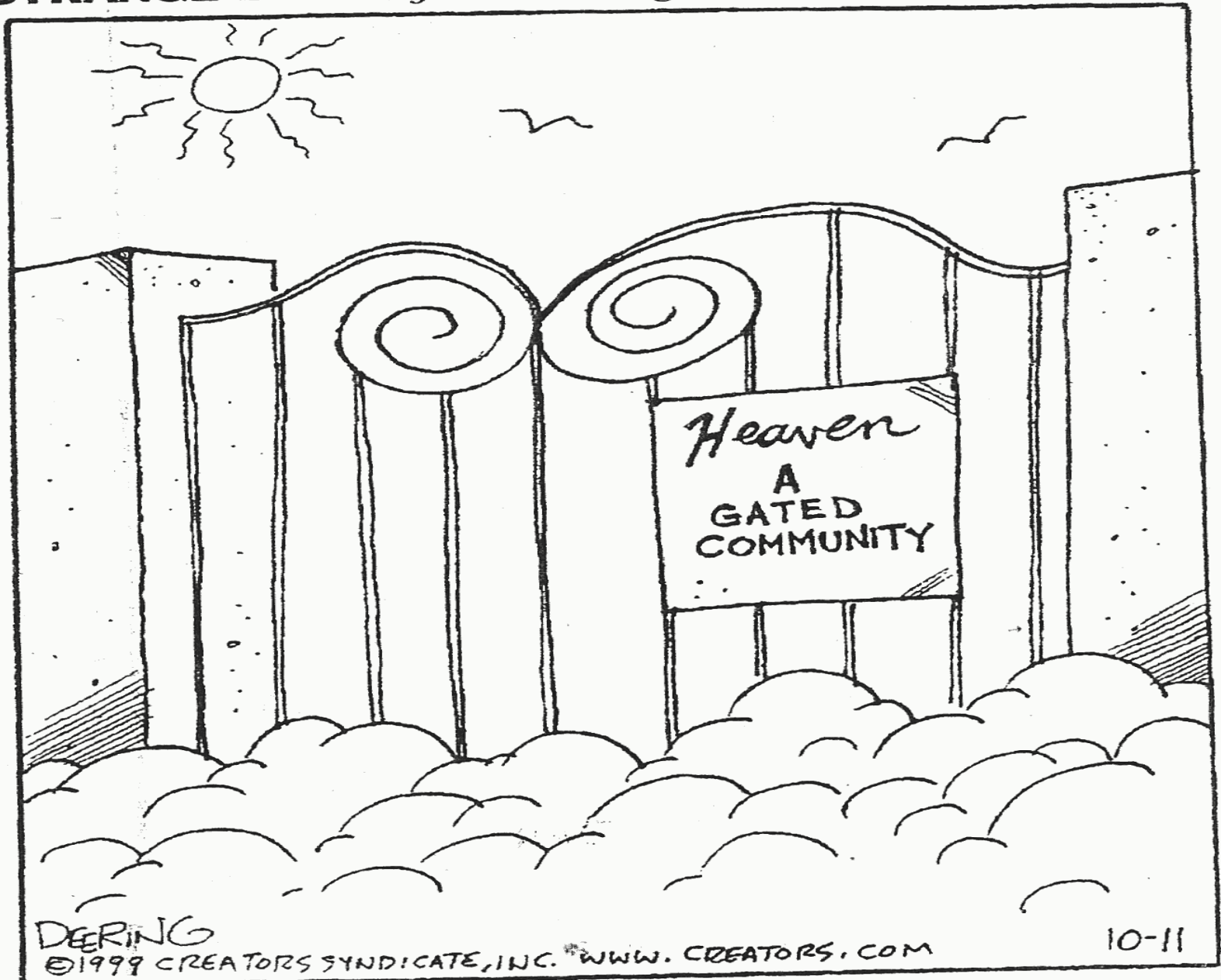
Expenses + Reserves = Assessment Income

Expenses + Contingencies + Reserves = Assessment  
Income

A Budget must be balanced:

**TOTAL REVENUE = TOTAL EXPENSES**

**STRANGE BREW** / John Deering



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# Questions?



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