

BOARD OPERATIONS



How Co-op & Condo Boards Can Recognize "The Fraud Triangle"

By Donna DiMaggio Berger

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Feb. 17, 2010 — With the apparent resurgence of co-op / condo fraud in New York City, *Habitat* has presented two recent features on how boards can protect themselves: the jauntily titled "[Co-op / Condo Fraud Is Back, Baby! Here's How to Spot It — And Stop It](#)" and "[Co-op / Condo Bank Accounts Victims of Low-Tech Scam.](#)"

But before you can recover from fraud, before you can even prepare for fraud, board members need to open their eyes and understand what creates fraud in people with whom we work personally — people we know and are friendly with and who know us. How can people we know and trust betray us? The answer is, they don't necessarily mean to. Not at first. It's a gradual process. *Donna DiMaggio Berger*, an attorney and a veteran blogger on issues related to co-ops, condos and homeowners associations, explains step by step how what seems unthinkable can come to pass.

One of the areas I cover in my educational programs is teaching boards and managers to recognize the "Fraud Triangle," and what it can do in their communities if left unchecked. The Fraud Triangle consists of: Opportunity, Pressure and Rationalization.

Opportunity presents itself when a person sits in a position of trust in a community. That trust allows the potential fraudster access which is shut to outsiders.

Pressure presents itself when outside forces wreak havoc on the potential fraudster. This pressure is almost always economic and usually arises in the form of a job loss, divorce, death or illness of a family member, gambling or other addiction problems.

Rationalization allows the fraudster to not see himself or herself as a criminal stealing money from people but rather as someone simply righting the wrongs of the universe. The typical thinking usually falls along these lines: "I am overworked and underpaid so this balances things out." Or, "I am just borrowing these funds and will return them at a later date." Or, "They'll never notice, they have so much money."

By the time you become suspicious of a potential fraud, it has usually been going on for some time. The typical fraud lasts for two years; at that point the fraudster starts getting weary or sloppy.

Stepping Up

So what can your co-op or condo board do to pick up on these signs and discourage fraud in the first place? Here are some easy and preliminary steps you can take:

1. Always have a system of checks and balances in place: dual signatures on checks, more than one set of eyes on the books, proper advance screening of employees;
2. Make sure you request that your bank provides duplicate statements directly to someone other than the person handling your books. Why? A case out of Michigan dealt with a bookkeeper who was the sole person receiving the bank statements. The bookkeeper then simply created a duplicate set on her home computer, and presented that to the board. Having dual statements, sent to two individuals, such as the board treasurer and the property manager, could have prevented this fraud.
3. If you have an association credit card, keep the limit low. Always check receipts against the statement and scrutinize receipts submitted for reimbursement to see if any personal or odd items are included in the reimbursement request.
4. Proper fidelity bonding is a must. Fannie Mae guidelines suggest carrying bonding in the amount of three months' of assessments plus any reserves on hand. Speaking of reserves, check those accounts religiously. If you've been told you have \$50,000 in the painting reserve, make sure that's true.
5. Not every Employee Practices insurance policy is created equal. Some require that you successfully prosecute the fraud before you can recover under the policy. It is also important to remember that board and committee members are not considered employees of the cooperative or the condominium association, so you will need endorsements to your policy to cover that loophole.

If someone wants to steal from you, they usually can do it, at least for a while. But with some advance planning and foresight, you can make your co-op or condo building a much more difficult target for a potential fraudster.

Donna DiMaggio Berger is a managing partner with the law firm [Katzman Garfinkel Rosenbaum](#). A blogger on homeowner association legal issues for such newspapers as the South Florida Sun-Sentinel and The Florida Times-Union, she also serves as executive director of her firm's Community Advocacy Network (CAN), which provides education, outreach and advocacy programs to its more than 1,500 community association clients. This article is adapted from a post at her blog, [Condo and HOA Law](#).

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