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Your John Hancock Please?

What Documents Are Board Members Asked to Sign as Part of the Association's Relationship with its CPA?

By Jules C. Frankel, CPA, MBA

A recurring theme in this publication is that Board members have the ultimate fiduciary responsibility for the maintenance of their Association's financial records, preparation of financial statements and ensuring regulatory compliance with tax filings, payments, etc. Since many Boards frequently delegate these tasks (but not their fiduciary responsibility) to various professionals, and, since Board membership inevitably changes, it seems appropriate to periodically review the documents that provide the structure and scope of the Board's relationship with its CPA.

Specifically, this article covers the four most common documents that require the Board's signature.

- **The Engagement Letter**
- **Confirmation Letters**
- **Audit Representation Letter**
- **Tax Return(s)**

THE ENGAGEMENT LETTER

The Engagement Letter is the contract between the CPA and the Association. Its purpose is to delineate the services to be provided to the Association, and the fees to be charged. The Engagement Letter may cover a relationship of one, or multiple, years. In the case of an audit, it explains the audit's objective, as well as, the procedures that may be utilized and the responsibilities of the Association. It indicates that the entity being audited is required to:

- Establish and maintain adequate records and effective internal controls over financial reporting, the selection and application of accounting principles, and the safeguarding of assets
- Make all financial records and related information available to the CPA; the

entity is responsible for the accuracy and completeness of that information

- Design and implement programs and controls to prevent and detect fraud, and to inform the CPA about all known or suspected fraud involving:
 - Management
 - Employees who have significant roles in internal control
 - Other individuals or circumstances in which the fraud could have a material effect on the financial statements.

CONFIRMATION LETTERS

Part of the auditor's responsibility is to verify independently the accuracy of the information reflected in the Association's books and records. Additionally, the CPA is obligated to determine the extent to which the Association may be "at risk" from other factors. These objectives are often accomplished using third party Confirmation Letters.

When Wilkin & Guttenplan audits an Association, we typically consider using three types of Confirmation Letters:

- **Cash and Investment Accounts**—sent to banks and brokerage/investment firms to confirm the accuracy of account balances and other transactions, such as loans
- **Insurance Coverage**—often sent to the insurance agent/broker to verify the insurance coverage(s) currently in force, as well as the cost of premiums
- **Attorney**—sent to the Association's attorney, to obtain information typically related to three primary issues:
 - Any situation that relates to current or pending litigation involving the Association that could have a

TAXING MATTERS FOR YOUR ASSOCIATION

By Len Nitti, CPA

Recent years have brought many changes to the reporting requirements imposed by the taxing authorities. This article will focus on a number of these changes and requirements that have an impact on Condominium Associations and Cooperative Housing Corporations, specifically:

- **Withholding Requirements**
- **Annual Return-Related Filings**
- **Electronic Payment and Filing mandates.**

WITHHOLDING REQUIREMENTS

Beginning in 2007, the State of New Jersey will require income tax withholding on payments made to certain individual contractors or unincorporated businesses performing services for an Association. **The required withholding rate is seven percent of the gross payments**, unless the contractor (individual or unincorporated business) provides the Association with proof of their registration with the State of New Jersey. The State of New Jersey has not provided any guidance regarding the actual process of ensuring compliance with these requirements. We will be issuing a separate tax alert as soon as this information becomes available.

ANNUAL RETURN-RELATED FILINGS

The Internal Revenue Service requires a number of informational forms to be filed on an annual basis. Two of those most frequently filed by an association are Forms 1098 and 1099-MISC. Form 1098 is typically filed by cooperative housing associations to report the mortgage interest and real estate taxes remitted on behalf

of the owners. Associations are required to file Form 1099-MISC when payments in excess of \$600 are made to an unincorporated business for services performed for the Association. Payments made to attorneys by the Association are also reported on Form 1099-MISC (whether or not the attorney is incorporated). When required, Form 1098 should be distributed to co-op owners and Form 1099 MISC, to service providers, by the end of January. The same information should be transmitted to the Internal Revenue Service by the end of February.

ELECTRONIC PAYMENT AND FILING MANDATES

As the IRS and the State of New Jersey continue their phased approach to paperless filings and electronic payments, each year adds new categories of taxpayers required to comply with these mandates. This initiative is now beginning to affect certain types of Community Associations. The specifically applicable situations are for those Associations with:

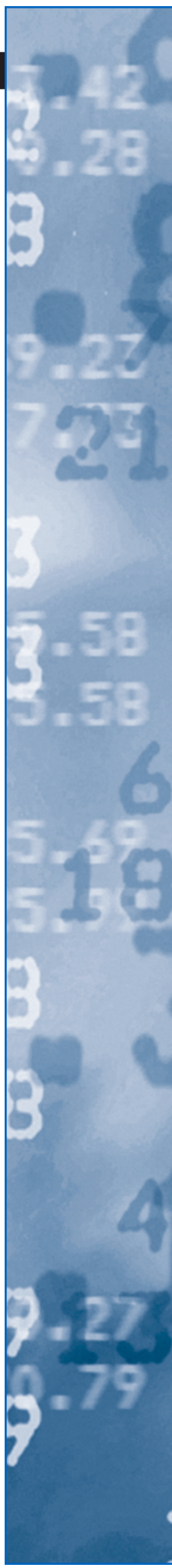
- Assets of \$10 million or greater that file at least 250 annual returns including Forms 1098 and 1099. These Associations are required to file their federal tax return electronically. This most commonly affects Cooperative Housing Associations
- More than 10 employees. They are required electronic payroll tax return filing with the State of New Jersey
- A tax liability of \$10,000 or more for any type of tax (income, payroll, sales/use, etc.) during the immediately preceding year. requires electronic payment to the State of New Jersey.

Additionally, all:

- Sales and use tax returns require electronic filing with the state of New Jersey
- Association annual reports filed with the State of New Jersey must be filed electronically (**NOTE:** See our CPA article, *State of New Jersey Annual Report Filing Goes On-Line*, Summer 2006).

Any taxpayer required to use the State of New Jersey's Electronic Funds Transfer Program to pay their taxes must register with the State of New Jersey prior to making any such payments. This process can take several weeks or more, therefore, advance planning is essential to ensuring compliance with these mandates.

Please contact Wilkin & Guttenplan if you have any questions regarding any of these requirements or if you would like our assistance with any of your tax filings and payments.





John Hancock *(continued from page 1)*

material impact on its finances. In such circumstances, the Attorney may also provide an opinion regarding the potential outcome and impact of the litigation

- Significant events which have occurred between the Association's fiscal year-end and the financial reporting date, which could have a material financial impact on the Association
- Best estimates of the likelihood of collections of assessments from delinquent homeowners.

There are less frequent situations in which other types of confirmation letters may be used:

- *Developer/Sponsor Obligations*— used to verify an amount due to the Association by a developer or sponsor
- *Accounts Payable*—is used to verify amounts owed to vendors reflected in the books and records.

Each of these letters is to be signed by an authorized Board Member. Typically, at our firm, we will have a Board Member sign the confirmation and then we will assume responsibility for both sending the confirmation to the appropriate parties and following-up to ensure we collect the required information.

AUDIT REPRESENTATION LETTER

The Audit Representation Letter is the written communication from the Association (via the Board) to its CPA, which contains a series of statements that document and confirm pertinent information provided to the Auditor during the audit process. This written representation is required to ensure compliance with Generally Accepted Auditing Standards (GAAS).

An Audit Representation Letter is necessary to document that:

- The Association understands that the financial statements are ultimately its responsibility
- All significant information was provided to the CPA during the audit process.

Representations contained in the letter will typically include, but are not necessarily limited to:

- Acknowledgement by the Board of its responsibility to fairly present the financial statements
- That all financial records and related data were made available to the CPA
- All related party transactions were recorded/disclosed in the financial statements
- Confirmation that there:
 - Have been no communications with regulatory agencies concerning non-compliance with, or deficiencies in, financial reporting practices

- Is no knowledge of any fraud or suspected fraud that could have a material effect on the financial statements
- Are no material transactions that have not been properly recorded in the accounting records underlying the financial statements
- Are no events which have occurred subsequent to the balance sheet date and through the date of the Representation Letter that would require adjustment to, or disclosure in, the financial statements
- Have been no unasserted claims or assessments that the client's attorney has advised are probable of assertion and must be disclosed.

The signature of the Audit Representation Letter also documents the Board's approval of the Association's financial statements. (**NOTE:** For a more detailed discussion of the subject of Representation Letters, please

Although multiple parties play a role in assisting an Association with its financial operations...the Board has the ultimate fiduciary responsibility for the accuracy and completeness of the Association's financial statements.

see our CPA article, *What Associations Should Know About Audit Representation Letters*, Summer 2004).

TAX RETURN(S)

Once the audit is completed and approved by the Board, the CPA will prepare the Association's tax return, which must be signed by an authorized Board Member. This fulfills the regulatory requirements for an authorized individual to sign the return, to ensure compliance with filing the return with the appropriate government authorities.

CONCLUSION

Although multiple parties play a role in assisting an Association with its financial operations and related recordkeeping, the Board has the ultimate fiduciary responsibility for the accuracy and completeness of the Association's financial statements. This article has reviewed the key documents a CPA may ask a Board Member to sign as part of the annual audit process.

As always, please feel free to contact your Wilkin & Guttenplan advisor with any questions.



NEWS AT THE FIRM

EMPLOYEE ANNIVERSARIES (January–March)

21 years	Sefi Silverstein	8 years	Amanda Brady
20 years	Michael LoVerde		Len Nitti
19 years	Kristine Flores	7 years	Patty Pfaff
14 years	Carol Koransky	6 years	Mohammed Salyani
10 years	Brian Geissler		
	Bill McDevitt		

APPOINTMENTS, COMMITTEES, PRESENTATIONS, PUBLICATIONS...

Wilkin & Guttenplan exhibited at the 2006 Annual Conference & Expo held by CAI-NJ on November 4 in Long Branch. **Gary B. Rosen, Shareholder**, spoke at a conference session on “Building Budgets that Work.”

Edward I. Guttenplan, Managing Shareholder, and **Gary B. Rosen, Shareholder**, published an article titled “Community Association Financial Issues: From Developer / Sponsor Control through Transition and Beyond” in the October 2006 edition of *New Jersey Lawyer Magazine*.

On November 16, **Annette Murray, Principal**, and **Edward I. Guttenplan, Managing Shareholder**, spoke

about “Opportunities in Today’s Real Estate Market: Mixed-Use Developments” in Mount Laurel.

Gary B. Rosen, Shareholder, was appointed to the Board of Advisors for *Community Association Management Insider*.

WELCOME

W&G will host an internship program this winter for students at The College of New Jersey, Rider University and Rutgers University.

Welcome also to new staff members, **Mridula Bhangley, Elena Segal** and **David Schwartz**.

UPCOMING ISSUES:

- Community Association Financial Trends
- Estimated Taxes – The W&G Way
- Municipal Services Update

This publication is prepared quarterly by Wilkin & Guttenplan, P.C. For further information or for complimentary copies or subscriptions, you may contact Jules C. Frankel at:

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