



**COSTELLO SURY
& ROONEY**

ATTORNEYS AT LAW

Informational Brochure

One Lincoln Centre, Suite 1670
Oakbrook Terrace, Illinois 60181

2901 Carlson Drive, Suite 330
Hammond, Indiana 46323

630.690.6446
admin@csrlawfirm.com

Visit csrlawfirm.com

Thank you for allowing us this opportunity to introduce our firm. Included in this package is information which details our experience, our fee structures, and various informational articles.

We have concentrated in the area of community associations, homeowners' associations and cooperative law for more than thirty-five years. From its inception in 1984, through its current format, there has been and continues to be quite an evolution in the area of efficient management and administration of community associations and cooperative properties. We are committed to providing quality counsel to our clients based upon a sound foundation of institutional knowledge that over three decades of community association and cooperative practice affords while also actively participating in the continuing development of the statutory and case law that govern how our clients operate.

We are fortunate to represent clients and appear before courts in both Indiana and Illinois. In providing full-service representation to our clients, we perform numerous services including conducting legal "check-ups;" reviewing and amending governing documents; drafting legal opinions; obtaining FHA certification; appealing property tax assessments; reviewing corporate structure and registration with the state; advising boards of directors regarding legislative updates and new statutes; and attending board meetings. We also have extensive experience in litigation efforts on behalf of condominium associations, homeowners' associations, and cooperatives including enforcement proceedings, injunctive relief, suits against vendors and developer litigation.

Recognizing that assessments are the "life blood" of our clients, we have developed an efficient and cost-effective collection procedure to aid associations and cooperatives in the recovery of delinquent assessments. We are confident that our office provides superior assessment collection services for a reasonable fee. Enclosed is our Fee Schedule, which describes each of our collection services and fees generated for each service, as well as providing a list of those services for which there is no charge. We have also enclosed a sample "status report." The status report is sent to each of our clients on a monthly basis and provides a complete picture of the current account status, including discussion of any assessment collection efforts, foreclosure and bankruptcy. Our clients never need to wonder what is going on with a delinquent account.

We always welcome the opportunity to meet new boards. If you believe that your board would be interested in meeting, we welcome the opportunity to introduce our firm at a mutually convenient time and place.

LIBBY F. VASSMER
COSTELLO SURY & ROONEY
2901 Carlson Drive, Suite 330
Hammond, Indiana 46323

LICENSED:

Supreme Court of Illinois, 2015
Supreme Court of Indiana, 2022
United States District Court for the Northern District of Illinois, 2020

EDUCATION:

The John Marshall Law School
Chicago, Illinois
Graduated May, 2014, J.D.

Elgin Community College
Elgin, Illinois
Graduated May, 2010, Post-Baccalaureate Certificate – Paralegal Studies

University of Illinois
Urbana-Champaign, Illinois
Graduated May, 2009, B.A. – Political Science

AFFILIATIONS AND MEMBERSHIPS:

Illinois State Bar Association
DuPage County Bar Association
Community Associations Institute – Illinois
 Manager Education Committee (2024 to present)
Community Associations Institute – Central Indiana
Indiana State Bar Association
Lake County Bar Association

AREAS OF PRACTICE:

General Civil Practice – Shareholder – Costello Sury & Rooney f/k/a Keay & Costello

Condominium/Common Interest Community Association Law:

- litigation relating to homeowners, third party contractors, municipality disputes, developer issues and administrative hearing
- preparing and amending governing documents, including Declarations, By-Laws and Rules and Regulations
- advising boards of managers, including attendance at meetings and legal opinion letters
- enforcement of governing documents
- collection of unpaid assessments, fines and expenses

Landlord-Tenant Law:

- litigation relating to lease violations, security deposit, and ordinance violations
- enforcement of leases

- counseling and advising landlords

PUBLICATIONS:

- *Oddities in Collections*, CAI Illinois 2025 Legal Forum, May 2025
- *Changing Management Companies: 10 Items for a Stress-Free Transition*, CAI Illinois 2024 Legal Forum, May 2024
- *Collection Policies: A Must for Associations*, CondoLifestyles, October 2022

2901 CARLSON DRIVE, SUITE 330
HAMMOND, INDIANA 46323
630.384.8335

ENGAGEMENT AGREEMENT

Client: _____

Address: _____

Phone: _____ Fax: _____ E-mail: _____

This document is the Engagement Agreement (“Agreement”) between the law firm of COSTELLO SURY & ROONEY, P.C. and _____ (Client), with respect to the payment of attorney’s fees and costs incurred in connection with general Association and Cooperative matters, including revisions to governing documents, at the rates set forth in the attached fee sheets. COSTELLO SURY & ROONEY, P.C agrees to represent the Client in connection with the preparation and execution of the above proceedings pursuant to the terms and provisions set out below.

1. **INVOICING.** Client will receive an itemized bill each month, is due upon receipt, showing the time spent and services provided by each attorney or paralegal who worked on its case during the prior month. **Please examine the bill promptly.** If, within 30 days, the Client fails to remit the balance, COSTELLO SURY & ROONEY, P.C. reserves the right to suspend all services, until the amounts are paid and, and COSTELLO SURY & ROONEY, P.C. reserves the right to withdraw from representation. If Client has any questions about any charges on a bill, it must submit them in writing to COSTELLO SURY & ROONEY, P.C. within thirty (30) days of the date of the bill in question, along with payment for that portion of the bill which is not in dispute. Attempts will be made to reconcile the bill immediately. If Client fails to raise any questions concerning the bill, COSTELLO SURY & ROONEY, P.C. will presume the Client has no such objections, and Client waives its right to object to any charge stated on the bill in any future proceeding.

2. **FAILURE TO PAY INVOICE.** Client agrees to pay all bills and statements promptly when rendered and understand that failure to pay any statement will serve as an authorization for COSTELLO SURY & ROONEY, P.C. to discontinue its representation and to withdraw any appearance made on its behalf, unless otherwise agreed to between Client and COSTELLO SURY & ROONEY, P.C. The Client further agrees to pay .75% monthly interest on any unpaid balance more than 30 days past due and agree to pay all costs of collection of said balance, including reasonable attorney's fees, should said collection become necessary.

3. **APPLICATION OF PAYMENTS.** The amounts reflected in the statement primarily consist of time expended on the matters within the representation, or for out-of-pocket expenses which must be paid when incurred by us; therefore, please be prompt with payment as statements are received. Payments on delinquent accounts will be first applied to the oldest charges.

4. **RATE CHANGES.** The hourly rates set forth above shall remain in effect through December 31st of the year in which this Agreement is dated. COSTELLO SURY & ROONEY, P.C. reserves the right to increase those hourly rates after December 31st. Client will be provided at least 30 days’ notice of the increased rates. Absent a subsequent written agreement to the contrary, Client agrees to pay those increased hourly rates.

5. **DISCLOSURE OF FEES.** Client acknowledges that COSTELLO SURY & ROONEY, P.C. has advised Client that the amount of any fees (retainer or otherwise) paid to COSTELLO SURY & ROONEY, P.C. may pursuant to statute, be disclosed to the Court.

6. **OUT OF POCKET EXPENSES.** Client acknowledges and agrees that costs of litigation are separate and distinct from fees. Client will reimburse COSTELLO SURY & ROONEY, P.C. for all costs advanced by them in connection with its case within thirty (30) days of the date a bill for such costs is mailed to Client. Costs may include, without limitation, court costs, travel expenses, parking expenses, tolls, court reporter and transcript costs, process server fees, photocopying, postage, long distance telephone charges, facsimile costs, and expedited or overnight delivery.

7. **EXPERT WITNESSES AND ADDITIONAL COUNSEL.** Client agrees that it will pay, directly, the fees and costs of any expert witness retained in connection with this litigation, regardless of whether or not such expert testifies in court on behalf of the Client. Furthermore, Client agrees to be solely responsible for the fees and costs of any additional counsel (“additional counsel” is defined to mean any attorney not employed by COSTELLO SURY & ROONEY, P.C. directly). It is expressly understood that COSTELLO SURY & ROONEY, P.C. shall not be responsible for or pay any additional counsel fees and that any additional counsel shall arrange to bill Client for their fees and costs directly. Client authorizes COSTELLO SURY & ROONEY, P.C., in its discretion, to retain experts on its behalf, subject to its prior approval, to prosecute or defend its case. It is expressly understood that any fees paid by Client to the aforementioned experts or additional counsel shall not be applied against any fee due COSTELLO SURY & ROONEY, P.C.

8. **MULTIPLE BILLING.** It is understood that it may be necessary for more than one attorney and/or paralegal from COSTELLO SURY & ROONEY, P.C. to work on the case at any given time (i.e., to attend trial, hearings, depositions, settlement conferences or meetings). Client understands and acknowledges that it will be billed for each attorney’s time at the applicable rates set forth herein in connection with any such multiple attorney representation.

9. **DECISION-MAKING AUTHORITY.** It is expressly understood that the final authority to make the decision as to whether to proceed to trial or to settle the case through negotiation rests with the Client. COSTELLO SURY & ROONEY, P.C. will advise the Client and offer opinions in this regard, but will not bind Client to any settlement without its express agreement.

10. **PREDICTION AND RESULTS.** It is expressly understood that COSTELLO SURY & ROONEY, P.C. has made no guarantees, predictions or representations as to the result it will achieve for Client, other than to use its best efforts and judgment on the Client’s behalf.

11. **BINDING AGREEMENT.** Client acknowledges that it has been advised that if it fails to pay COSTELLO SURY & ROONEY, P.C. as required by the terms of this Engagement Agreement, COSTELLO SURY & ROONEY, P.C. can elect to withdraw as its attorneys. Client agrees that this Engagement Agreement shall be binding on the court in connection with assessing any attorneys’ fees and costs owed to COSTELLO SURY & ROONEY, P.C. by the Client.

12. **TERM OF AGREEMENT.** COSTELLO SURY & ROONEY, P.C. reserves the right to discontinue representation that would involve either party in unethical or illegal conduct. This Agreement shall commence upon receipt by COSTELLO SURY & ROONEY, P.C. upon execution of the Agreement, as set forth in paragraph 1 of this Agreement. Upon termination of this Agreement, by either party, COSTELLO SURY & ROONEY, P.C.’s representation of Client ends.

13. **ACKNOWLEDGEMENT.** By the signature below, Client acknowledges that they have read this entire Agreement, that Client understands the entire Agreement, that any questions they have concerning the Agreement have been answered to their satisfaction, that Client finds the Agreement fair, reasonable and satisfactory. Finally, Client has been advised of its right to have an attorney of its choosing review this Engagement Agreement on its behalf and it has voluntarily waived its right to do so.

COSTELLO SURY & ROONEY, P.C.

ASSOCIATION

By: _____

Name: _____

By: _____

If the case is resolved after suit is filed with one court appearance (this does not include fees billed for contested hearings or trials, which are billed at the hourly rate)	\$700.00 Please note that above \$200.00 is included in this amount.
If an owner files motions, a trial is requested or more than one court appearance is necessary	Hourly rate
All work related to preparation of a settlement agreement or payment plan agreement	\$150.00

Motions to Reinstate

Preparation and filing of a motion to reinstate a collection suit as a result of an owner's failure to make all payments and no court appearances are necessary	\$300.00
If court appearances are required	Hourly rate

Placing Order of Possession

Review of file, update bankruptcy, ownership/foreclosure foreclosure searches, obtaining certified writ from clerk of court, scheduling eviction with sheriff and all communication	\$300.00
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Capped Rates – Lien Foreclosure

Preparation and Recording of Lien

Review account statement, conduct title and bankruptcy search; Prepare Notice of Lien; Open file; Review, execute and record Notice of Lien with County Recorder; Send Notice of Lien to owner	\$350.00
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Preparation, filing and prosecution of suit

Prepare and File Summons and Complaint; Prepare and Record Lis Pendens	\$500.00
Prepare and File Motion for Default and Entry of Judgment	\$300.00
Court Appearance for entry of Judgment	\$250.00
Schedule and prepare notice for sale	\$150.00
Preparation of Sale Documents, Prepare and File Motion to Confirm Sale	\$150.00
Court Appearance for Order Approving Report of Sale	\$250.00
Prepare and Record Deed with County Recorder of Deeds	\$50.00

(Uncontested Lien Foreclosure Proceedings where additional steps as outlined below are not necessary results in total fees, but not costs, of \$2,000.00)

If an owner contests proceedings or additional court appearances are necessary	Hourly rate
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Potential additional steps

(If Owner is Deceased) Prepare and File Motion to Appoint Special Representative; Court Appearance to Appoint Special Representative; Receipt and review of Special Representative's Report	\$450.00 (does not include Special Representative Fees, or fees related to preparing and filing Amended Complaints)
(If Property is Vacant) Prepare and File Motion to Shorten Redemption Period	\$100.00

Post-Judgment Collection

All work related to preparation, filing, service plus 2 court appearances on post judgment proceedings	\$550.00
If more than 2 court appearances are required in any post judgment proceeding	Hourly Rate

Foreclosure monitoring

Receipt and review of the foreclosure complaint along with preparation of a letter to the client	\$100.00
Review of the foreclosure file and preparation of letter to client regarding entry of judgment	\$150.00
Review of the foreclosure file and preparation of letter to client concerning completion of public auction and new ownership. Included in this fee is a tract search to determine if deed from auction has been recorded.	\$150.00
Letter to client advising of new ownership if no recorded deed can be located after completion of the public auction. A second tract search is included in this fee.	\$100.00
Letter to client concerning dismissal of foreclosure This charge is the alternate to the letters concerning the public auction and new ownership.	\$100.00
<i>NO OTHER CHARGES to monitor a foreclosure are billed The MAXIMUM amount of fees that could be charged to monitor a foreclosure that proceeds through a public auction is \$500.00</i>	
Preparation of Affidavit in Lieu of Answer or Answer and Notice of Filing; preparation of Appearance; file with Clerk of Circuit Court	\$275.00

Bankruptcy

Receipt and review of bankruptcy notice; Review bankruptcy petition and plan (if applicable); Detailed letter to client	\$300.00
Receipt and review of bankruptcy conversion notice; Review bankruptcy petition and plan (if applicable); Detailed	\$150.00

letter to client	
Preparation and filing of Proof of Claim	\$300.00
Preparation of Motion for Relief from Automatic Stay (includes preparation and filing of the motion along with 2 court appearances)	\$700.00
If more than 2 court appearances are necessary	Hourly rate
Preparation and filing of objection to plan repayment plan (includes preparation and filing of the motion along with 2 court appearances)	\$425.00
If more than 2 court appearances are necessary	Hourly rate
Preparation and mailing of default notices to debtor	\$100.00
Preparation of letter to client concerning owner's successful completion of bankruptcy or dismissal	\$100.00
NO CHARGE to monitor bankruptcy	
NO CHARGE to send payments received from bankruptcy trustee to the client/management company	

Governing Document Review

Upon completing our review, we provide a detailed letter advising the client of any conflicts between the declaration or bylaws and applicable law. The review letter also identifies any provisions in the declaration and bylaws that conflict with each other, as well as those provisions that in our opinion are too vague or otherwise may have enforceability issues. If applicable, the letter will also recommend additions to the documents in an effort to improve the Association/Cooperative's overall governance and administration.	\$695.00
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Drafting Amended and Restated Declaration for Compliance Only

Preparation of Amended and Restated Declaration and By-laws for compliance with applicable statutory requirements. Billed at an hourly rate \$275.00 per hour with an agreement not to exceed \$3,000.00. Fee and costs for recording shall be billed separately.	\$3,000.00.
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PLEASE NOTE THAT ALL COURT COSTS, SERVICE OF PROCESS, SHERIFF FEES AND CERTIFIED MAILING COSTS HAVE NOT BEEN INCLUDED AND ARE BILLED SEPARATELY

2901 CARLSON DRIVE, SUITE 330
HAMMOND, INDIANA 46323
630.384.8335

MONTHLY RETAINER PROGRAM

In an effort to comprehensively serve the growing legal needs of our association clients, we are pleased to offer the following services in return for a monthly retainer fee of in the amount of \$_____, subject the terms and conditions herein:

- All telephone and email communications with the board, property management and the association's legal counsel
- Service as the association's registered agent and preparation and filing of all annual reports
- Legal research and preparation of legal opinion letters to the association
- Review, preparation and completion of audit letters for the association's auditors
- Client notifications and alerts regarding changes in governing statutes and case law
- Communications regarding foreclosures and closing with realtors, lenders, attorneys and title companies
- Review of and revisions to Association contracts, loans and other legally-binding documents
- Review and analysis of the Association's Declaration, Bylaws and Rules and Regulations
- Drafting of amendments to the Declaration, Bylaws and/or Rules and Regulations
- Preparation of necessary corporate resolutions to ensure compliance with governing documents
- Preparation of correspondence to third parties in dispute with the Association (this does not include correspondence sent to owners/occupants for violations of the Association's governing documents in anticipation of litigation or enforcement proceedings which is an excluded item)
- All monthly status reports concerning open assessment collection files, pending bankruptcies and foreclosures
- Preparation of Amended and Restated Declaration and By-laws for compliance with applicable statutory requirements at a reduced flat fee of \$2,500.00.

Excluded items include out-of-pocket costs, attendance at meetings, assessment collection matters, litigation (including covenant enforcement actions) and appearance at administrative actions or alternative dispute resolution proceedings.

This retainer shall commence the next full month following the date below. The Association will be billed the retainer fee on a monthly basis and we request that payment be made within 30 days of invoicing. The fees are deemed earned when paid. At the end of 12 months, if the parties agree, the monthly retainer fee may be adjusted. This Agreement shall continue until cancelled.

If the Association is in agreement with above, please have an officer execute in the space provided below and return a fully-executed copy to my office.

COSTELLO SURY & ROONEY, P.C.

ASSOCIATION

By: _____

Name: _____

By: _____

2901 CARLSON DRIVE, SUITE 330
HAMMOND, INDIANA 46323
630.384.8335

MONTHLY COMMUNICATIONS RETAINER PROGRAM

In an effort to serve the growing legal needs of our association clients, we are pleased to offer the following services in return for a monthly retainer fee of in the amount of \$350.00, subject to the terms and conditions herein:

- All telephone and email communications with the board and/or property management
- Service as the association's registered agent and preparation and filing of all annual reports
- Review, preparation and completion of audit letters for the association's auditors
- Client notifications and alerts regarding changes in governing statutes and case law
- All monthly status reports concerning open assessment collection files, pending bankruptcies and foreclosures

This retainer shall commence the next full month following the date below. The Association will be billed the retainer fee on a monthly basis and we request that payment be made within 30 days of invoicing. The fees are deemed earned when paid. At the end of 12 months, if the parties agree, the monthly retainer fee may be adjusted. This Agreement shall continue until cancelled.

If the Association is in agreement with above, please have an officer execute in the space provided below and return a fully-executed copy to my office.

COSTELLO SURY & ROONEY, P.C.

ASSOCIATION

By: _____

Name: _____

By: _____

2901 CARLSON DRIVE, SUITE 330
HAMMOND, INDIANA 46323
630.384.8335

FHA/HUD CERTIFICATION AGREEMENT

Client: _____

Address: _____

Phone: _____ Fax: _____ E-mail: _____

This document is the Engagement Agreement (“Agreement”) between the law firm of COSTELLO SURY & ROONEY, P.C., and the Association (“Client”). By executing this Agreement, Client acknowledges it has duly approved the exclusive retention of COSTELLO SURY & ROONEY, P.C., to represent the Association for the limited purposes of review of Association’s package of documents for submission to Federal Housing Administration (“FHA”) for approval of Association for FHA backed loans, preparation of Association’s package of documents for compliance with FHA/HUD requirements, and sending of Association’s package of documents to the FHA for certification of the Association’s approval.

COMPENSATION

The Association agrees that the fees charged by COSTELLO SURY & ROONEY, P.C., will be as follows:

- **Review and Submission of Application:** A flat fee of \$1,250.00 will be charged for the review of Association’s package of documents, preparation of Association’s package of documents for compliance with FHA/HUD requirements, sending the Association’s package of documents for approval to the FHA/HUD and tracking the progress of this submission until approval.
- **Association Cancellation:** If COSTELLO SURY & ROONEY, P.C., is asked to begin work for the Association under this agreement but Association later asks COSTELLO SURY & ROONEY, P.C., to cease such work on its behalf before the completion of the project provided for herein, Association will be obligated to COSTELLO SURY & ROONEY, P.C., for a total amount of \$500.00 for its services performed.
- **FHA/HUD Rejection:** If the FHA rejects the Association’s initially submitted package of documents and Association elects not to re-submit these documents, then Association will be obligated to COSTELLO SURY & ROONEY, P.C., for a total amount of \$300.00 for its services performed.

MISCELLANEOUS

1. **Invoices and Collection:** Payment of \$300.00 shall be due and payable upon engagement of COSTELLO SURY & ROONEY, P.C. The remaining balance of the fee shall be payable upon one of the following: (a) Approval of the Association, at which time the remaining fee of \$950.00 shall become due and payable; or (b) Decision by the Association to cease work on seeking approval, at which time the remaining fee of \$200 shall become due and payable. In the event complications arise with the Association’s submitted FHA/HUD package which will require additional work by COSTELLO SURY & ROONEY, P.C., more than just follow-up communications with the FHA/HUD, and the Association, in writing, request that COSTELLO SURY & ROONEY, P.C., perform this additional work it will not be covered by the above flat fees, but the fees will

instead be billed in quarter hour increments at \$275.00/hour. Client further agrees to pay .75% monthly interest on any unpaid balance more than thirty (30) days past due and agrees to pay all costs of collection of said balance, including reasonable attorney's fees, should said collection become necessary. All disputes concerning this Agreement shall be litigated in DuPage County.

2. **Representation:** COSTELLO SURY & ROONEY, P.C.'s representation is solely limited to application to the FHA/HUD and does not involve any advice or counsel as it relates to the laws of any state beyond the state in which they are licensed to practice law. COSTELLO SURY & ROONEY, P.C.'s representation does not consist of any review of Association's governing documents, legal documents or other documents or information for compliance with any state or local laws that may be applicable to Association and does not involve any execution or certification of any submittal documents on the part of COSTELLO SURY & ROONEY, P.C., or any of its employees.
3. **Certification:** To the extent that FHA/HUD's requirements contain a requirement that the Association certify that the Association and/or its governing documents are in compliance with all state and local laws that are applicable to Association, the Association agrees and acknowledges that COSTELLO SURY & ROONEY, P.C.'s representation does not include such a certification and does not include any advice or counsel to the Association with respect to whether or not to make such a certification.
4. **Acknowledgement:** By your signature below, you acknowledge that you have read this entire Agreement, that you understand the entire Agreement, that any questions you have concerning the Agreement have been answered to your satisfaction, that you find the Agreement fair, reasonable and satisfactory. Finally, you have been advised of your right to have an attorney of your choosing review this Engagement Agreement on your behalf and you have voluntarily waived your right to do so. This Agreement constitutes the entire Agreement and understanding of the parties relative to the subject matter hereof and shall only be modified upon mutual written consent.

COSTELLO SURY & ROONEY, P.C.

ASSOCIATION

By: _____

Name: _____

By: _____

2901 CARLSON DRIVE, SUITE 330
HAMMOND, INDIANA 46323
630.384.8335

FHA/HUD RE-CERTIFICATION AGREEMENT

Client: _____

Address: _____

Phone: _____ Fax: _____ E-mail: _____

This document is the Engagement Agreement (“Agreement”) between the law firm of COSTELLO SURY & ROONEY, P.C., and the Association (“Client”). By executing this Agreement, Client acknowledges it has duly approved the exclusive retention of COSTELLO SURY & ROONEY, P.C., to represent the Association for the limited purposes of review of the Association’s package of documents to the FHA/HUD for an additional three (3) year re-certification of the Association’s FHA/HUD approval, preparation of Association’s package of documents for compliance with FHA/HUD requirements, and sending of Association’s package of documents to the FHA for re-certification of the Association’s approval.

COMPENSATION

The Association agrees that the fees charged by COSTELLO SURY & ROONEY, P.C., will be as follows:

- **Review and Submission of Application:** A flat fee of \$900.00 will be charged for the review of Association’s package of documents, preparation of Association’s package of documents for compliance with FHA/HUD requirements, sending the Association’s package of documents for approval to the FHA/HUD and tracking the progress of this submission until approval.

MISCELLANEOUS

1. **Invoices and Collection:** Payment of \$300.00 shall be due and payable upon engagement of COSTELLO SURY & ROONEY, P.C. The remaining \$600.00 shall be due and payable upon the granting of re-certification to the Association by the FHA. In the event complications arise with the Association’s submitted FHA/HUD package which will require additional work by COSTELLO SURY & ROONEY, P.C., more than just follow-up communications with the FHA/HUD, and the Association, in writing, request that COSTELLO SURY & ROONEY, P.C., perform this additional work it will not be covered by the above flat fees, but the fees will instead be billed in quarter hour increments at \$275.00/hour. Client further agree to pay .75% monthly interest on any unpaid balance more than thirty (30) days past due and agrees to pay all costs of collection of said balance, including reasonable attorney's fees, should said collection become necessary. All disputes concerning this Agreement shall be litigated in DuPage County.
2. **Representation:** COSTELLO SURY & ROONEY, P.C.’s representation is solely limited to application to the FHA/HUD and does not involve any advice or counsel as it relates to the laws of any state beyond the state in which they are licensed to practice law. COSTELLO SURY & ROONEY, P.C.’s representation does not consist of any review of Association’s governing documents, legal documents or other documents or information for compliance with any state or local laws that may be applicable to Association and does not involve any execution or certification of any submittal documents on the part of COSTELLO SURY &

ROONEY, P.C., or any of its employees.

3. **Certification:** To the extent that FHA/HUD's requirements contain a requirement that the Association certify that the Association and/or its governing documents are in compliance with all state and local laws that are applicable to Association, the Association agrees and acknowledges that COSTELLO SURY & ROONEY, P.C.'s representation does not include such a certification and does not include any advice or counsel to the Association with respect to whether or not to make such a certification.

4. **Acknowledgement:** By your signature below, you acknowledge that you have read this entire Agreement, that you understand the entire Agreement, that any questions you have concerning the Agreement have been answered to your satisfaction, that you find the Agreement fair, reasonable and satisfactory. Finally, you have been advised of your right to have an attorney of your choosing review this Engagement Agreement on your behalf and you have voluntarily waived your right to do so. This Agreement constitutes the entire Agreement and understanding of the parties relative to the subject matter hereof and shall only be modified upon mutual written consent.

COSTELLO SURY & ROONEY, P.C.

ASSOCIATION

By: _____

Name: _____

By: _____

2901 CARLSON DRIVE, SUITE 330
HAMMOND, INDIANA 46323
630.384.8335

TAX APPEAL ENGAGEMENT AGREEMENT

Client: _____

Address: _____

Phone: _____ Fax: _____ E-mail: _____

This document is the Engagement Agreement (“Agreement”) between the law firm of COSTELLO SURY & ROONEY, P.C., and the Association (“Client”). By executing this Agreement, Client acknowledges it has duly approved the exclusive retention of COSTELLO SURY & ROONEY, P.C., for the following:

- **Reduction of Assessment:** COSTELLO SURY & ROONEY, P.C., will take all reasonable efforts to **lower** the assessed value the property beyond the printed assessed valuation appearing on the paperwork initially mailed to you by the Assessor’s office;
- **Certificate of Error:** COSTELLO SURY & ROONEY, P.C., will take all reasonable efforts to requesting that missed exemptions be added through a Certificate of Error in the event your prior three (3) year’s tax bills do not reflect all exemptions available; and/or
- **Property Tax Appeal:** COSTELLO SURY & ROONEY, P.C., will take all reasonable efforts to appeal to the Property Tax Appeal Board (PTAB) to obtain a fair, equitable and just real estate tax assessment for your property.

COMPENSATION

The Attorneys’ fees payable to COSTELLO SURY & ROONEY, P.C., are calculated as follows:

Reduction of Assessment: The Client agrees to pay COSTELLO SURY & ROONEY, P.C., thirty-three percent (33%) of any tax savings obtained by the lowering of the assessed value of the property below the printed assessed valuation appearing on the paperwork initially mailed by the Assessor’s Office. The thirty-three percent (33%) fee payable to COSTELLO SURY & ROONEY, P.C., is calculated by taking the amount of the reduction in assessed valuation in the filed tax year, multiplied by the current State Equalization Factor in effect at the time your Assessment is mailed to you, multiplied by the current Tax Rate in effect at the time your Assessment is mailed to you. ***COSTELLO SURY & ROONEY, P.C., is paid only after your assessment is reduced.***

Certificate of Error: In the event COSTELLO SURY & ROONEY, P.C., combines your assessed valuation appeal with a request for a Certificate of Error for any previous years, the Client agrees to pay COSTELLO SURY & ROONEY, P.C., thirty-three percent (33%) of any tax savings successful obtained. ***COSTELLO SURY & ROONEY, P.C., is paid only after your refund is confirmed in writing.***

Property Tax Appeal Board Case: The Client agrees to pay COSTELLO SURY & ROONEY, P.C., one-third (1/3) of any tax refunds issued to you on whatever years tax bills are reduced through an appeal to the Property Tax Appeal Board. This may include multiple years of tax savings. ***COSTELLO SURY & ROONEY, P.C., is paid only after the Property Tax Appeal Board makes a favorable determination in your Case.***

MISCELLANEOUS

1. **Power of Attorney:** This Agreement shall act as a Power of Attorney granting full authority and autonomy to COSTELLO SURY & ROONEY, P.C., to initiate, negotiate and settle all assessment issues with the Assessor's Office, with the Board of Review, and to negotiate and settle all issues relative to Certificates of Error and missing exemptions. If a refund is secured by COSTELLO SURY & ROONEY, P.C., as a result of an assessment appeal, the Client authorizes COSTELLO SURY & ROONEY, P.C., to execute all necessary documents on behalf of the Client to obtain such refund and to endorse any tax refund checks payable to Client for deposit to COSTELLO SURY & ROONEY, P.C., Client Trust Account and to disburse such refund to Client and COSTELLO SURY & ROONEY, P.C., in accordance with the terms of this Agreement.
2. **Invoices and Collection:** Invoice for Attorneys' Fees may be issued from the date of the property tax assessment appeal ruling and is due within thirty (30) days of receipt. Client further agree to pay .75% monthly interest on any unpaid balance more than thirty (30) days past due and agrees to pay all costs of collection of said balance, including reasonable attorney's fees, should said collection become necessary. All disputes concerning this Agreement shall be litigated in DuPage County.
3. **Termination:** Agreement may be terminated at any time by Client or COSTELLO SURY & ROONEY, P.C.; however, Client agrees to pay all fees due upon termination, any work completed prior to termination and any fee as a result of a reduction obtained on behalf of Client after termination.
4. **Prediction and Results:** It is expressly understood that COSTELLO SURY & ROONEY, P.C., has made no guarantees, predictions, or representations as to the result it will achieve for you, other than to use its best efforts and judgment on your behalf.
5. **Acknowledgement:** By your signature below, you acknowledge that you have read this entire Agreement, that you understand the entire Agreement, that any questions you have concerning the Agreement have been answered to your satisfaction, that you find the Agreement fair, reasonable and satisfactory. Finally, you have been advised of your right to have an attorney of your choosing review this Engagement Agreement on your behalf and you have voluntarily waived your right to do so. This Agreement constitutes the entire Agreement and understanding of the parties relative to the subject matter hereof and shall only be modified upon mutual written consent.

COSTELLO SURY & ROONEY, P.C.

ASSOCIATION

By: _____

Name: _____

By: _____

REVIEW OF DELINQUENT ASSESSMENT ACCOUNTS

Every association has them haunting their books: delinquent homeowner assessment accounts. Do any of the accounts belong to owners who lost their units in foreclosure but left an outstanding assessment balance? What should be done with the balance? Should the association try to collect the balance? Who is responsible for paying the balance? Should the balance be written off? Or what about the current owner who is behind on her assessments but keeps saying she will pay the balance “next month?” This article seeks to provide guidance on how associations can determine answers to those questions. By obtaining a comprehensive review of its delinquencies, an association can put itself in a better position to collect those delinquent balances and to place itself on solid financial footing.

In addition to cluttering the monthly report from the management company, carrying delinquent account balances harms an association in several ways. First and foremost, every delinquent account represents budgeted assessments that, if not paid, must eventually be recovered by increasing the future assessments on the other, paying homeowners. An association’s board has a fiduciary duty to collect assessments. By not taking steps to address delinquencies, board members could fall short of their fiduciary obligations to the homeowners. Second, for condominium associations, FHA guidelines include a maximum delinquency threshold. If the number of delinquent account exceeds a certain percentage of the total accounts in the association, homeowners’ ability to qualify for FHA financing could be revoked. Third, when an association applies for a loan, one of the elements the bank considers is the delinquency rate. If an association has too many delinquent accounts, the loan’s underwriter may determine the risk in lending to the association is too great and deny the loan. Therefore, allowing delinquent accounts to fester affects the board’s ability to effectively manage the association and places a greater financial burden on the paying homeowners while also negatively impacting both the association and homeowners’ ability to obtain credit.

In order to help the board maintain as low of a delinquency rate as possible it is important to review the association’s delinquent accounts and develop answers to the questions posed at the beginning of this article. By making decisions on the association’s ability to collect delinquent accounts, the association’s financial standing should be greatly improved. There are essentially two primary legal proceedings that inhibit an association’s ability to collect a delinquent balance: mortgage foreclosure and bankruptcy. If a unit is foreclosed, the association’s lien is extinguished as of the date of the foreclosure sale; the new owner of the unit (typically the foreclosing bank) is not responsible for the prior balance, with certain limited exceptions.

The second legal proceeding that affects an association’s ability to collect on delinquent accounts is bankruptcy. When a person files for bankruptcy protection, any personal liability they has for debts owed as of the date of the bankruptcy filing is legally removed (known as a “discharge”). Without personal liability, an association cannot use any of the post-judgment collection procedures described above. The bankruptcy does not extinguish the association’s lien for unpaid assessments. However, if the unit of a bankrupt owner is subsequently foreclosed, the foreclosure removes the lien. Therefore, if a bankrupt owner’s unit is foreclosed, the balance owed as of the date the bankruptcy was filed cannot be collected from any party. If, however, the bankrupt owner maintains ownership of the unit, any balance owed as of the date of the bankruptcy filing (the pre-petition amount) remains as a lien on the unit and can be collected at closing whenever the owner sells or refinances or through an in rem judgment against the property itself.

The owner remains personally responsible for assessments that accrue beginning the month following the bankruptcy filing (the post-petition amount).

Cross checking the association's delinquent accounts against foreclosure and bankruptcy records in order to determine the collectability of those accounts can be a daunting task for the board. Fortunately, our firm can help. We now offer a comprehensive review of an association's entire delinquency report. Our office charges \$650.00 for this service, which includes a review of all delinquent accounts against foreclosure and bankruptcy court records and a recommendation of options available to the association on each account. The board can then use this data and these recommendations to make informed decisions on how to proceed with each account. In some situations, an old balance previously viewed as uncollectable might be available through post-judgment collection. In other situations, a balance must be legally removed due to bankruptcy. Whatever the particular circumstance of each account, the review will give the board the tools it needs to fulfill its obligations to the association's homeowners in order to reduce assessment delinquencies and promote the financial stability and creditworthiness of the community.

2901 CARLSON DRIVE, SUITE 330
HAMMOND, INDIANA 46323
630.384.8335

EXAMPLE OF MONTHLY COLLECTION STATUS REPORT

Association
c/o Management Company
Attn: Property Manager
Street Address
City, State Zip
Email address

Re: (Association) Status Report

Dear Property Manager:

The following is a status on each account for the Association currently in our office:

The following is a status on each open or unresolved file pending in our office. **Please refer to "Action Items" for information / direction our office is waiting for from the Association on accounts.**

ACTION ITEMS

Owner 1 / Property Address - On January 23rd our office asked for direction to file suit.

Owner 2 / Property Address - On January 2nd our office asked for direction to file suit.

STATUS

Owner A / Property Address

ASSESSMENT COLLECTION

- May 13, 2018: The Association and owner entered into an agreed order concerning repayment of the balance owed of \$48,512.52. This amount consisted of \$32,993.09 in past due assessments, \$14,826.00 in attorney's fees and court costs of \$693.43. The owner agreed to make monthly payments of \$700.00 toward the arrearage plus the then current monthly assessment.
- May 2023: The account is to be paid in full
- January 17, 2023: As of this date the owner's balance is \$162.00. We have closed our file

Owner B / Property Address

FORECLOSURE

- August 12, 2022: Mortgage foreclosure filed against this owner
- November 28, 2022: Judgment was entered the amount of \$148,121.85.
- April 1, 2023: The redemption date for the owner after which a public auction of the property may be conducted.
- May 2023 check date

Owner C / Property Address

ASSESSMENT COLLECTION

- October 27, 2022: Demand letter sent to owner
- December 4, 2022: Owner's deadline to pay in full or dispute balance
- January 26, 2023: Filed suit and court date scheduled

Owner D / Property Address

ASSESSMENT COLLECTION

- December 28, 2022: Demand letter sent to owner
- February 4, 2023: Owner's deadline to pay in full or dispute balance

Owner E / Property Address

FORECLOSURE

- January 25, 2022: Mortgage foreclosure action was filed against these owners
- April 12, 2022: Our office was served as registered agent
- June 7, 2022: We corresponded with the managing agent concerning the Association's rights and the collection of assessments. Appearance, answer, and counterclaim was filed.
- January check revealed no new date is pending
- February 2023 check date

Sincerely,

Legal Assistant

COSTELLO SURY & ROONEY, P.C.

INFORMATIONAL ARTICLES

FHA OWNER OCCUPANCY REQUIREMENTS

The U.S. Department of Housing and Urban Development (“HUD”), recently published Mortgagee Letter 2016-15, which modified the owner occupancy requirements for condominium associations seeking Federal Housing Administration (“FHA”) approval. Prior to the adoption of Mortgagee Letter 2016-15, a condominium association with an owner occupancy rate of under fifty percent (50%) could not be granted FHA approval. With the adoption of Mortgagee Letter 2016-15, however, condominium associations with owner occupancy rates as low as thirty-five percent (35%) may be eligible for FHA approval, provided they meet certain additional requirements.

Specifically, a condominium association with an owner occupancy rate between thirty-five percent (35%) and fifty percent (50%) may be eligible for FHA approval if it meets the following additional requirements:

1. The association’s financial documents (i.e. budget, balance sheet, and income and expense statement) provide for the funding of replacement reserves for capital expenditures and deferred maintenance at a level of at least twenty percent (20%) of the total annual budget for the association.

For condominium associations with an owner occupancy rate of at least fifty percent (50%), the reserve contribution requirement is ten percent (10%) of the annual budget. So, HUD’s minimum reserve contribution requirement for associations with under fifty percent (50%) owner occupancy rates is double the minimum reserve contribution requirement for associations with at least fifty percent (50%) owner occupancy rates.

2. No more than ten percent (10%) of the total units in the association may be delinquent by more than sixty (60) days on assessment payments to the association.

For condominium associations with an owner occupancy rate of at least fifty percent (50%), the delinquency requirement is that no more than fifteen percent (15%) of the total units in the association may be delinquent by more than sixty (60) days on assessment payments to the association. HUD is requiring associations with under fifty percent (50%) owner occupancy rates to have significantly fewer unit’s delinquent by more than sixty (60) days on assessment payments to the association than it requires for associations with at least fifty percent (50%) owner occupancy rates.

3. The association must provide financial documents (i.e., budget, balance sheet, and income and expense statement) for the previous three (3) years.

For condominium associations with an owner occupancy rate of at least fifty percent (50%), HUD requires only the current year budget, a balance sheet that is no more than ninety (90) days old, and an income and expense statement from the prior fiscal year end as well as one that is no more than ninety (90) days old. Thus, HUD is requiring associations with under fifty percent (50%) owner occupancy rates to provide financial documents for two (2) additional prior fiscal

years as compared to what it requires for associations with at least fifty percent (50%) owner occupancy rates.

4. The association must apply for FHA approval through the HRAP process.

The HRAP process means the association submits its application directly to a HUD office for review. Associations with at least fifty percent (50%) owner occupancy rates also have the ability to apply for FHA approval through the DELRAP process, whereby an authorized lender has the ability to grant the association FHA approval. It would appear that the DELRAP process is not available for associations with under fifty percent (50%) owner occupancy rates.

These new owner occupancy requirements announced by HUD should permit additional condominium associations to obtain FHA approval, provided that an association with an owner occupancy rate between thirty-five percent (35%) and fifty percent (50%) can also meet the new financial requirements set forth by HUD. If your condominium association is considering applying for FHA approval and would like assistance with this process, please feel free to contact our office and one of our attorneys would be happy to assist you.

COSTELLO SURY & ROONEY, P.C.

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SECURED OR UNSECURED, NO LONGER A QUESTION: ASSOCIATIONS MUST FILE PROOF OF CLAIM BY THE DEADLINE IN ORDER TO BE INCLUDED IN CHAPTER 13 BANKRUPTCY PLANS

A recent federal court decision highlights the importance of an association's manager or board contacting the association's attorney whenever a homeowner files for bankruptcy protection. When an individual files for chapter 13 bankruptcy protection, she is allowed to repay her debts over a period of up to five years through a court-approved payment plan, and her creditors are barred from attempting to collect on those debts unless first granted permission by the bankruptcy court. The plan is administered by the bankruptcy trustee, an official who collects money from the individual in bankruptcy (known as the "debtor") and pays the creditors. In order to be included in the chapter 13 payment plan, a creditor, such as an association, must file a legal document with the bankruptcy court known as a "proof of claim." The proof of claim sets forth the amount the debtor owed to the creditor as of the date she filed for bankruptcy protection (the "pre-petition debt"). Unless the debtor successfully objects to the proof of claim (i.e., convinces the court of some legal reason why the money is not owed or should not be paid through the bankruptcy), the creditor should be included in the plan and receive payments toward the pre-petition debt.

Since unpaid assessments are a lien on a homeowner's unit in favor of the association, an assessment obligation is a "secured" debt (The lien on the unit "secures" the obligation.). The Federal Rules of Bankruptcy Procedure provide a deadline for when a proof of claim must be filed if a creditor wishes to be included in a chapter 13 plan. However, while it is well accepted that "unsecured" debts such as credit card debt will not be paid through the plan unless the creditor files a proof of claim by the deadline, there has been some confusion over whether this deadline applies to creditors, such as associations, holding secured claims.

The Federal Seventh Circuit Court of Appeals, whose jurisdiction includes Indiana, Illinois and Wisconsin, settled this confusion in May 2015 with its decision in *in re Pajian*. For the first time, the Seventh Circuit clarified the proof of claim deadline established by the Rules of Bankruptcy Procedure applies to both unsecured and secured creditors. If a secured creditor does not file its proof of claim by the deadline, it may not be included in the chapter 13 plan and will not receive payments from the bankruptcy trustee.

The upshot of *Pajian* for associations is managers and board members, in order to ensure the association receives payments to which it is entitled, must notify the association's attorney immediately upon receiving notice that a homeowner has filed for bankruptcy protection. The notice typically mailed to creditors by the bankruptcy court includes the proof of claim filing deadline. Given the ruling in *Pajian*, the proof of claim must be filed by this deadline for the association to receive payments through the plan. While a secured debt, even if not included in the plan, survives a discharge in a chapter 13 bankruptcy, collecting that debt five years down the road can be a much more cumbersome process when all that could have been required was filing a form with the bankruptcy court. Therefore, when the association's manager or board becomes aware of a bankruptcy, notify the association's attorney so she may file a proof of claim.

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