

What to expect when hiring a collection agency?

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The answer is simple — *Results and communication*. Not all collection agencies are the same. There is a specific reason why some firms are exposed on Dateline and you want to be assured that you haven't hired "that" firm. Checking with your local Better Business Bureau is also a great indicator to avoid the worst of agencies. Additionally, selecting a firm with experience in real estate is equally as important.

As a full service collection agency, our primary success comes from two separate but distinct approaches to the collection process for associations, that set ARI apart from the typical "collection agency". Our first focused approach is to be proactive rather than reactive. We start working for a payment plan before the accounts get out of control and virtually impossible to recover. Our second focused approach, is pursue the homeowner individually for recovery, whenever practical — skip the foreclosure route all together and seek a "money judgment."

Collection agencies can do just that. Provide results. To use a familiar phrase, it's "*Show me the money.*" Not to compete with law practices, but rather to compliment their services, when necessary, collection agencies utilize a lawsuit as a means to get to the desired result – payment.

No one ever predicted that the value of the property would be upside down from the first and second mortgage holders and the association would find itself in the situation of being unable to collect when title changed. But this is the predicament some of our newer communities are facing today.

Asking these questions and having a collection plan when a file first becomes delinquent can result in positive cash flow back to the association. You too can implement these processes to increase your cash flow and decrease your outstanding accounts receivable.

The results will vary from file to file and association to association, but the steps are almost always the same. There are key indicators, that when reviewed can determine the overall collection processes to be followed to recovery.

- ✓ Is the property protected by homestead exemption?
- ✓ Is the property currently occupied by the owner, a rental tenant or empty?
- ✓ Has a *Lis Pendens* been filed on the property?
- ✓ Is there a 2nd mortgage holder?
- ✓ Is the property mortgaged for more than the current appraised value? If yes, what is the difference?
- ✓ Is the homeowner garnishable?
- ✓ Is the homeowner paying their other bills? i.e. credit cards
- ✓ How is the rental market in the community?

In reviewing these answers, a targeted collection approach can be designed. In most cases, it's a matter of educating the homeowner of their obligations as well as to the options of the association. Most homeowners are not aware that they are in "breach of covenants" and that the association may have a right to file a lawsuit against them individually. If successful, the association may obtain



a judgment that could be filed and held against them for up to 20 years. We can all agree that the economy will recover. At some point in the next 20 years, the association could recover and replenish the reserve accounts.

The biggest misnomer from homeowners is that they are in bank foreclosure and do not believe they are responsible for association fees – even if still residing in their home. Banks are not foreclosing and associations are stuck holding the bag.

Let's talk about the cost of collection without the use of a lawsuit. Most collection agencies will work on a contingency fee basis. No recovery, no fee. It really is that simple. If you have a recorded Claim of Lien, turn it over to a collection agency. Let them pursue a money judgment. The association really has nothing to lose. The thought of paying 30 or 40 percent on the files is painful to some. But I have to confess, while on some cases the fee may be easily earned, there are many cases in which we collection agencies work tirelessly, to never see any recovery – or may wait years to be paid for their services.

In cases in which the association is not a Plaintiff in a lawsuit, files should be referred to the collection agency. Remember that all costs of collection are deferred back to the homeowner. Only in cases in which an offer of settlement is made, may the association be offered less than the full balance owed. The association can at that time make a determination to accept or reject the offer. (Side note... in almost all cases, associations can settle and take less than the full balance owed. Please see your attorney for legal interpretation of your by-laws and state statutes).

The biggest obstacle to overcome with boards and property managers is the cost of collection vs. the result. Most collection agencies will provide all the services on a contingency fee basis with the association just fronting suit fees. Why spend \$500 today for a judgment in which I won't collect on for 10 years is the biggest question?

As a collection agency, we make a recommendation in favor of a lawsuit 100% of the time when we have been unsuccessful with a voluntary settlement. Our recommendations also come with an opinion – favorable for immediate recovery and collection or unfavorable for immediate recovery and collection.

Our opinion is based on the findings from the initial questions and findings referred to earlier in this article. A common sense approach has to be maintained from file to file. The homeowner who lost his job and struggles to make ends meet and apologizes for the unpaid dues is greeted with compassion and understanding, while the homeowner with the new Mercedes waiting for his "bailout" isn't offered much room for negotiation.

It's amazing what you can read into a combined review of credit reports, assets and legal case filings. It's with these tools that collection agencies are able to provide the results – by knowing the facts and overcoming objections to payment by the homeowner.

Communication is the next tool. Collection is a process. In every case, it's methodical and detailed. The same steps have to be repeated file by file. Based on the availability of information, research



time can take hours for each file, then the files have to be reviewed by a collections expert and a specific plan determined for each file. In some cases, you'll find an immediate – “oh no” reaction and you'll see some cash flow. You should receive a written report no less than once per month with an update on your files. Once you have entered into the legal stages, note the court systems are backed up and from month to month there may not be a change.

In cases where the association moves straight for a money judgment, small claims court and county court may be an option and therefore provide a more timely legal process. However, you will need to be patient.

Collection agencies manage a collection process. Law firms manage a legal process. Let each professional work for you as a team in the respective fields. The two can work very well together to reach the desired result – putting the “check” into your business.

Melissa Andrews is the Founder of ARI, a full-service collection agency in West Palm Beach, Florida and the author of ***How To Get Paid On Time, Every Time***. For more information on ARI or Andrews's recently published book, please visit www.4aronline.com.