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Understanding the Corporate Transparency Act (CTA) and Its Possible Impact on Community Associations

By Donna DiMaggio Berger
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In a pivotal move to enhance corporate transparency and combat financial crimes, the U.S. Congress passed the Corporate Transparency Act (CTA) as part of the Anti-Money Laundering Act of 2020, tasking the Financial Crimes Enforcement Network (FinCEN) with its implementation. This legislation represents a significant shift in corporate reporting and oversight, designed to shed light on the complex structures of corporate entities. The CTA aims to deter and detect financial crimes, bolster the integrity of the U.S. financial system, and contribute to the global fight against illicit financial activities.

However, it poses potential challenges for volunteer association board members in private residential communities, who must now provide personal information to FinCEN. The CTA, integral to the Anti-Money Laundering Act of 2020, seeks to thwart the misuse of corporate entities for illegal activities like money laundering, fraud, and terrorism financing. It mandates that certain corporations, limited liability companies (LLCs), and similar entities disclose key information about their beneficial owners to FinCEN, potentially affecting board members and their management companies.

Affected entities must report details of their beneficial owners, including names, addresses, birth dates, and identification numbers (e.g., passport or driver's license numbers). Entities are required to submit beneficial ownership information upon formation and update it as necessary. Failure to adhere to the CTA can result in substantial penalties; noncompliance can result in daily fines up to $500 until the issue is rectified. Criminal penalties are also a possibility. For example, providing false ownership information may lead to fines up to $10,000 and/or imprisonment for up to two years.


Courtesy photo

Donna Berger of Becker & Poliakoff in Fort Lauderdale.

On March 1, 2024, a federal district court in Alabama declared the CTA unconstitutional, a decision at the trial level which has led to an appeal and may potentially reach the U.S. Supreme Court. In the interim, the outcome of the CTA remains uncertain, and community associations should remain vigilant about compliance and implementation. The CTA aims to remove the anonymity surrounding shell companies and similar entities, providing clarity on actual ownership but in the community association context should the CTA really apply? That question remains to be answered.

A recent lawsuit, *Boyle v. Yellen*, has been filed in the federal district court of Maine, challenging the constitutionality of the Corporate Transparency Act (CTA). The plaintiff argues that the CTA violates his rights by mandating the disclosure of sensitive personal information to FinCEN. This case raises the possibility that volunteer community association board members could make similar claims if the CTA is upheld.

Donna DiMaggio Berger *is a shareholder at Becker & Poliakoff and practices community association law in Fort Lauderdale, Florida. She is the host of Take It To The Board, a podcast that explores the reality of life in a condominium, cooperative, or homeowners' association, and what's really involved in serving on its board.*