

CONDO BUSINESS

FINANCIAL STATEMENTS 101

What to know when managing your books

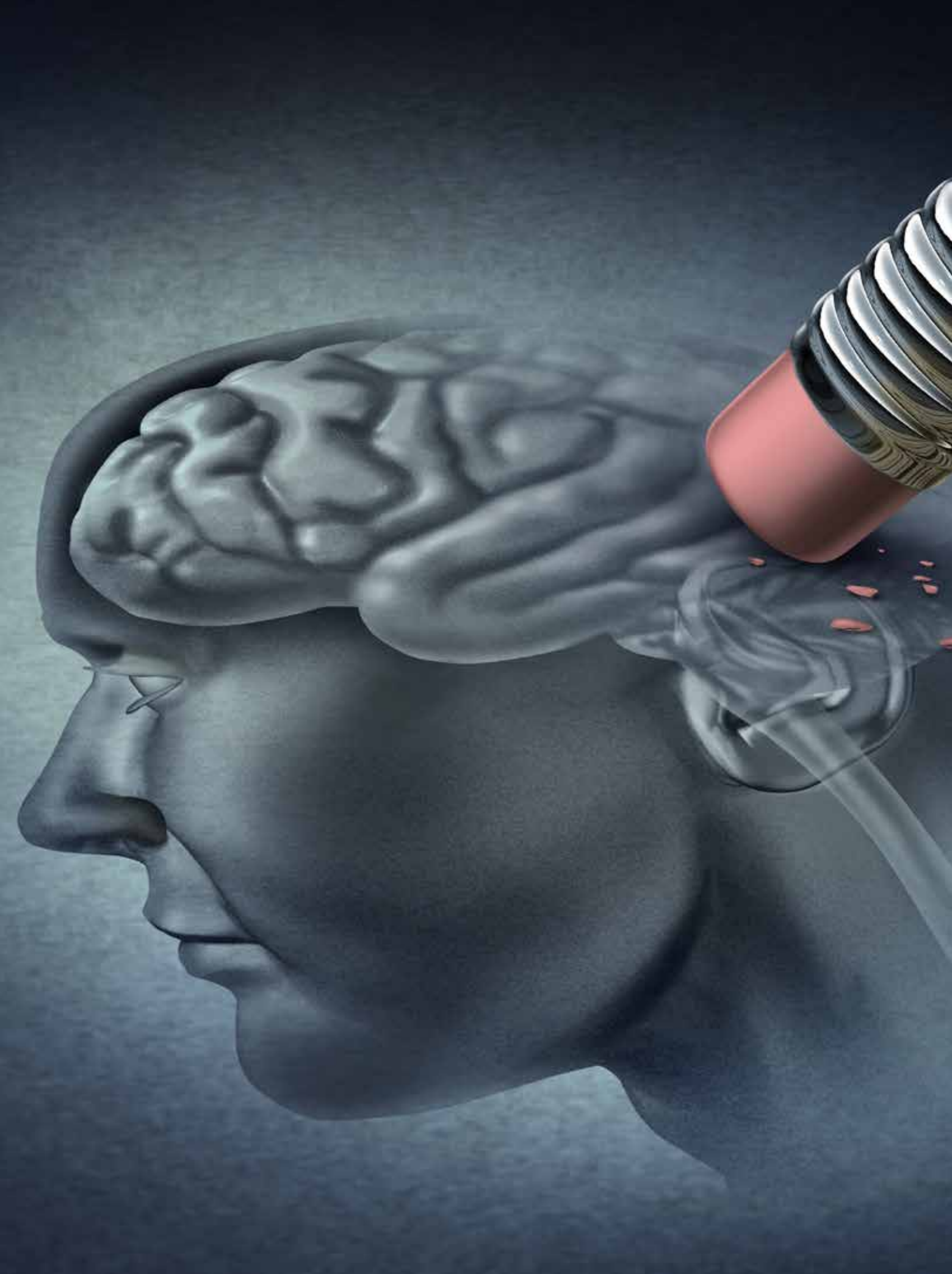
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Preventing mismanaged finances

Managing short-term condo rentals





Staying mindful of mental health

In view of the aging population and the rising number of seniors opting for condominium living, condominium boards

BY BARBARA GREEN


need to be prepared to deal with residents with dementia. A recent meta-analysis reported that the global prevalence of dementia is somewhere between 5 and 7 per cent in people aged 60 or over. By the age of 85 years and older, between 25 to 50 per cent of people display symptoms of dementia -- or more specifically Alzheimer's.

Dementia encompasses a number of diseases associated with a decline in cognitive abilities, including Alzheimer's. Symptoms include memory loss, difficulties with thinking and problem-solving, and changes in mood and behaviour.

There have been cases before the courts considering instances when condominium residents with dementia have engaged in potentially dangerous activities such as leaving the stove, gas, or tap on in units, and creating an increased risk of fire or water damage. There have also been situations where condominium residents with dementia have exhibited aggressive or violent behaviour towards other residents. These types of actions pose safety risks to the individual, the other condominium residents, and the building.

In managing these safety concerns, condominium boards must be mindful of human rights protections afforded to individuals with a condition of mental impairment such as dementia. Every individual has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of disability.

Condominium boards have a duty to accommodate residents with dementia up to the point of undue hardship. This duty to accommodate takes precedence over the requirement under the Condominium Act for residents to comply with the Act, the declaration, the by-laws, and the rules of the Condominium Corporation. As a practical result, if a condominium resident with dementia violates




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“Condominium boards have a duty to accommodate residents with dementia up to the point of undue hardship.”

the Act, declaration, by-laws or rules, the Board cannot properly take action against him or her if it has not appropriately accommodated the resident.

So, What Can Condominium Boards Do to Protect their Interests?

Be proactive


Condominium Boards may wish to:


- Inform residents of safety modifications that can be made to their units, such as installing appliances with built-in safety features and installing safety equipment in the bathrooms.
- Collect the contact information of each resident's emergency contacts and/or family members on an annual basis.
- Ask residents with a Power of Attorney (also known as POAs) to file it with the Condominium Corporation. This is a good idea if the attorney anticipates having frequent interaction with the corporation on behalf of the unit owner.

Know who to contact for help

If a resident creates safety risks, the condominium board should know who to contact. In an emergency, the Condominium Board should contact the local police department. In other circumstances of concern, the resident's emergency contact, family member, and/or POA should be called to deal with the issue.



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If the resident does not have an emergency contact, family member, or POA, or the contacts are not being co-operative, the board can contact the Local Health Integration Network (LHIN), which may provide information and coordinate professional support and homemaking services for individuals with disabilities.

What if the issue persists?

First, talk to the resident and family members. One option is to have a discussion with the resident and his or her family members in order to find a solution that ensures the safety of all parties. Solutions may include removing hazardous appliances from the individual's unit, hiring a personal support worker for the individual, or moving the individual into an assisted living facility or nursing home.

Second, seek legal advice. It is not a board's responsibility to look after its aging residents. If a resident and his or her family members are not co-operating with the board in finding a solution, and accommodating that resident surpasses the point of undue hardship in terms of health and safety risks, the Condominium Corporation can bring an Application to court to seek relief under section 117 of the Condominium Act.

Section 117 states that no person shall carry on an activity in a unit or in the common elements that is likely to damage the property or cause injury to an individual. It should be noted that only in very rare cases will relief include an order for the condominium resident to sell his or her unit.

That said, litigation should be seen as a last resort. Courts have responded negatively to Condominium Corporations that chose to "first litigate and only talk later" and have limited cost awards in order to discourage this behaviour.

Lastly, contact the office of the public guardian and trustee (PGT). In the event that the individual is incapable and does not have family members, the Condominium Board may wish to contact the PGT, the government body which undertakes to protect mentally incompetent adults from neglect, abuse and exploitation. The PGT may choose to conduct an investigation if the resident may be incapable and is at risk of suffering serious personal harm by living alone in his or her unit and there is no alternative solution available. An investigation could result in the PGT asking the court for authority to make decisions on the person's behalf on a temporary basis.

Condominium boards should be mindful that the PGT's priority is to protect the interests of the incapable individual, not the Condominium Corporation.

When dealing with residents or tenants with various forms of dementia, condominium boards need to be sensitive to the circumstances. Having legal guidance and advice along the way is good condo governance and a matter of proper due diligence. □

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