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**COMMUNITY ASSOCIATION INSTITUTE'S  
39TH NATIONAL CONFERENCE**

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**HANDLING DIFFICULT  
DELINQUENCY CASES**

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## HANDLING DIFFICULT DELINQUENCY CASES

CAI'S 39th National Conference  
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### I. TO SUE OR NOT TO SUE

#### A. Practical Questions

1. Amount of Debt
2. Costs and Time of Litigation
3. Financial Status of Unit Owner, i.e., those who won't pay vs. those who can't pay
4. Third-Party Sources
5. Mortgagee and Other Lien Creditors
6. Condition of the Unit (Resaleability)
7. Dissatisfaction of Unit Owner No Excuse
8. Exercise of Board's Fiduciary Duty

#### B. Legal Questions

1. Evaluate Sources of Authority
2. Unit Owner's Claim of Set-Off or Counterclaim

Rivers Edge Condominium Association v. Rere, Inc., 568 A.2d 261 (Pa. Super. 1990)

Agassiz West Condominium Association v. Solum, 527 N.W. 2d 244 (N.D. 1995)

Panther Lake Homeowners Association v. Juergensen, 887 P.2d 465 (Wash. App. 1995)

Trustees of Prince Condominium Trust v. Prosser, 529 N.E. 2d 1301 (Mass. 1992)

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3. Recoverability of Attorneys' Fees

Wrenfield v. DeYoung, 600 A.2d 960 (Pa. Super. 1991)

Breyer Woods Condominium Association v. Katz, Nos. 2522 and 2604 (Pa. Super. 1993)

Nottingdale Homeowners Association v. Darby, 514 N.E. 2d 702 (Ohio 1987)

Baker v. Monga, 590 N.E. 2d 1162 (Mass. App. 1992)

400 Condominium Association v. Wright, 608 N.E. 2d 446 (Ill. App. 1992)

4. Alternative Dispute Resolution (ADR) -  
Binding Arbitration or Mediation

**II. SOURCES OF AUTHORITY**

A. Statutory Authority

1. Uniform Common Interest Ownership Act (UCIOA)
2. Uniform Condominium Act (UCA)

B. Governing Documents

1. Declaration of Covenants
2. By-Laws
3. Rules and Regulations

C. Creation of Lien vs. Personal Obligation

**III. METHODS OF COLLECTING ASSESSMENTS AND ENFORCING JUDGMENTS**

A. Look to the Unit

1. Foreclosure on the Lien

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2. Super Priority Lien (6 months)
  3. Evaluate Equity in the Unit
  4. Investigate Status of First Mortgage
  5. Statute of Limitations (3 years)
  6. Lien Not Discharged in Bankruptcy

B. Look to the Unit Owner

1. Personal Judgment Against the Unit Owner(s)
2. Confession of Judgment
3. Acceleration of Assessments
4. Levy Upon Personalty and Sheriff's Sale
5. Sheriff's Sale of the Unit
6. Attachment
  - a. rent from tenants
  - b. debts owed to unit owner
  - c. bank accounts
  - d. safe deposit boxes
  - e. certain insurance proceeds
7. Discovery in Aid of Execution
8. Reassessment of Damages
9. Personal Liability May be Discharged in Bankruptcy

Wrenfield v. DeYoung, Nos. 2557 and 3186 (Pa. Super. 1993), allocatur den., July 5, 1994

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C. Collection Upon Resale

1. Possible Joint and Several Liability - the Seller and Buyer
2. Resale Certificate
3. Notice to Title Company
4. Recovery Against Buyer's Title Insurer

**III. APPENDIX**