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table of contents

COVER STORY

- 03** Community Associations Pivot to Meet Obligations While Social Distancing
by Pamela Dittmer McKuen

SPECIAL FEATURE

- 08** What Would You Do? Handling Sensitive Situations
by Gabriella R. Comstock and Dawn L. Moody

LEGAL UPDATE

- 11** 22.1 Disclosures: Avoid Liability by Properly Including "Anticipated Expenses"
by Nicholas Bartzan

LEGAL UPDATE

- 13** Practical Strategies for Limiting Gatherings in Condominium Buildings
by Howard S. Dakoff, Esq., and Adam T. Kahn, Esq.

BOARD BASICS

- 16** 10 Ways Board Members Can Improve Homeowner's Community Living Experience
by Salvatore Sciacca

RISKS & LIABILITIES

- 18** Roving Patrol Security for HOA's
by Jose "Alex" Treto

- 19** Industry Happenings
Compiled by Michael C. Davids

- 20** From the Editor

- 21** Service Directory Advertisements

LEGAL UPDATE

- 28** Contractor and Contract Issues for Unforeseen Events
by James A. Slowikowski, Esq.

BOARD BASICS

- 31** Pests and Infestations: 8 CONSIDERATIONS FOR COMMUNITY ASSOCIATIONS
by Joseph Scharnak

LEGAL UPDATE

- 33** COMMUNITIES, CARS, AND CAMERAS: Automated License Plate Readers in Associations
by Joeseeph Scharnak

SPECIAL FEATURE

- 36** The Big Lift at Lake Shore Drive Condo
by Angela Duea

MANAGEMENT TALKS

- 39** 10 BEST PRACTICES FOR VIRTUAL MEETINGS IN COMMUNITY ASSOCIATIONS
by Janelle Dixon



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by Pamela Dittmer McKuen

COMMUNITY ASSOCIATIONS PIVOT TO MEET OBLIGATIONS WHILE SOCIAL DISTANCING

...ADAPTING TO THE "NEW NORMAL"

Before March, few of us had heard of "social distancing." Fast forward six months and we all are versed in the concept of keeping a safe space from others to prevent the spread of a contagious disease—in this case, the deadly COVID-19.

According to the Centers for Disease Control and Prevention (CDC), "to practice social or physical distancing, stay at least 6 feet (about 2 arm-lengths) from other people who are not from your household in both indoor and outdoor spaces. Social distancing should be practiced in combination with other everyday preventive actions to reduce the spread of COVID-19, including wearing masks, avoiding touching your face with unwashed hands, and frequently washing your hands with soap and water for at least 20 seconds."

Community associations are designed as groups of people living and often playing in close proximity. Social distancing mandates have required drastic changes in how associations and their leaders operate and govern themselves.

"Condo Lifestyles" queried several association managers and attorneys about the changes and how they are working out for them and their clients. Here's what we learned:

Corporate Offices Are Sparse

It's no surprise that anyone who can work from home is doing so. Complaints are few, although many miss the camaraderie of coworkers. Some offices have brought employees back on limited terms.

At FirstService Residential of Illinois in Chicago, corporate employees are divided into two groups, A and B. Group A comes into the office on Mondays and Wednesdays, and Group B comes in on Tuesdays and Thursdays. Masks are required, and visitors are not permitted. Everyone works from home on Fridays.

"It seems to be working really well, even if like the rest of the world these days, it's just a little



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strange,” reports Michael Donnell, a regional director of onsite management at FirstService. “I’m on the A team, and other than seeing them on many video calls, I haven’t physically seen any of the people on the B team since March. It definitely requires a different effort to continue connections which were common before social distancing.”

Property Specialists Inc. in Elgin also is operating on a hybrid model. Managers, who are mostly working from home, are asked to come into the office at a minimum of one day a week, says chief operating officer Brittany Kojzarek.

“For the most part, it is working very well,” she says. “At PSI, we truly believe in the ‘water cooler effect.’ You miss out on that by working remotely. Having them come into the office at least once a week helps limit the traffic at any given time but still allows for the water cooler effect.”

Because so many residents are home and many projects were initially put on hold, PSI managers are busier than before the pandemic set in.

“I can say working at home has its setbacks like losing track of time and working at all hours,” Kojzarek says.

Thomas Skweres, vice president, ACM Community Management, a Division of RealManage, in Downers Grove, says he has adapted well to working from home.

“I am not as distracted as I thought I would be,” he says. “I follow my normal business routine, such as getting up at the same time, getting dressed and going to my home office by at least 8 a.m. It is nice not having to travel to and from the office. The only con I have found is not knowing when to stop working and being drawn back to my desk when I think of something in the evening.”

Managers Manage At a Distance

Community association managers are performing the bulk of their workload via telephone, internet and email. Face-to-face meetings are rare and limited to only a handful of people. Masks are prevalent and required.

“The majority of my (onsite) team, and I’ll say for FirstService, is back in the office day-to-day,” Donnell says. “It might be a reduced schedule, but they have a presence. The offices are all closed to foot traffic, and managers are not taking in-person visits. Residents can call down or email, and the manager will respond.”

One onsite manager is Dave Gelfand of Premier Management Services at the 176-unit Clinton Street Lofts in Chicago. Not only does he manage the building, he also lives there, so his commute is between floors. He has no onsite assistant, so he has worked from his office through the pandemic.

“The nuance is that my office is accessed by walking through our fitness center, which is closed,” he says. “If the board opts to open the center back up for working out, I will then re-evaluate where I work and how I am able to access my workplace.”

“Our managers seem to like the fact that they do not have to travel to and from the office, and they can save a few hours of travel time a day,” Skweres says. “They also have limited interruptions working from home; therefore, they are able to concentrate on one or two things at a time.”

Social distancing has not been difficult during the few face-to-face meetings Skweres has attended. “People are respectful of that accommodation,” he says.

Virtual Meetings Are Mainstream

Nearly everyone adapted quickly to video conferencing and is logging major screen time, whether on Zoom, GoToMeeting, Google Hangouts, Microsoft Teams, WebEx or others platforms. Our respondents report attending virtual staff meetings, team meetings, board meetings, annual meetings, turnover meetings and vendor presentations. Outcomes are mostly positive, and turnouts are high.

Virtual meetings have been “working really well for those associations willing to try,” Kojzarek

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says. "Some don't ever want to go back. Within my personal portfolio, I have had greater turnout at the Zoom meetings than the in-person meetings ever did."

Managers don't have to travel to virtual board meetings, which are usually held at night, and their wind-down time is faster, Skweres says.

Clinton Street Lofts' two virtual board meetings (so far) have enabled out-of-town owners to be involved for the first time in more than a decade, Gelfand says.

Some associations were slower than others to incorporate the technology, and a few conducted their annual meetings outdoors, says association attorney Gabriella Comstock at Keough & Moody, P.C., in Naperville, Chicago and Tinley Park.

"At first we had boards putting off meetings since they could not meet in person," she says. "Some were very reluctant to conduct a virtual meeting. With the passage of time and more experience, most now realize it is an effective way to conduct a meeting."

Association attorney Patrick Costello at Keay & Costello, P.C., in Wheaton attended a virtual annual meeting at which, for the first time ever, 46 out of 48 owners voted. Most owners are over the age of 50, which refutes any misconceptions about tech-

nology and ageism.

All this is not to say that some video conferences are better than others. Successful meetings are led by a tech-savvy administrator who has a defined agenda and code of conduct.

"I think managers like Zoom because they have the ability to limit who comes in the room as well as to mute people," says association attorney James Slowikowski at Dickler, Kahn, Slowikowski & Zavell, Ltd., in Arlington Heights. "If you let 20 or 30 people talk at the same time without muting, it can digress very easily, especially if it's a topic they're not happy about."

An administrator's ability to apply various video conferencing functions will contribute to the success of a meeting, Costello says. For example, controlling microphones is helpful during the homeowners forum portion, the only time non-board members may speak. The Chat function allows attendees to type their comments and questions.

Comstock's recommendations: "Do not have some members meeting in person and the rest virtually. It is very difficult to conduct the meeting in this manner. I also do not recommend that associations record their virtual meetings as this will require the board to adopt a policy and procedure as to retain these recordings to comply with Illinois law."

No Exceptions to The Law

Pandemic or not, community associations must follow the laws that bind them. Meetings must be properly noticed, and elections must take place according to prescribed procedures, although the methodologies may be different than in the past.

"Neither the Illinois Condominium Property Act nor the Common Interest Community Association Act addresses a pandemic or a situation that prevents us from meeting in person as we did before," Comstock says. "The association is still a business, and we must be sure that the board runs it as a business. With that said, we certainly must be sure that the safety and welfare of all association members are protected and not do anything to increase or cause the spread of the virus."

"The legal requirements are the same during the pandemic," Slowikowski agrees. "Nothing in the law excuses their obligations, which leads to the question, 'How do we get these things done?'"

Fortunately, with today's technology, associations can address most of the current challenges even if they haven't adopted a system of full-on electronic voting. Under current Illinois reopening guidelines, gatherings of 50 people or fewer are allowed, but associations—and managers—may not want to take the chance of contagion.



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“Once property managers got the hang of it, every association I know switched to virtual board meetings,” Slowikowski says. “That way they can get together and everyone can hear each other, and owners can connect either by computer or phone, satisfying all the requirements under the law.”

“Zoom has a provision where people can pre-register for a meeting, which has proved helpful during a virtual election that requires a quorum of the membership,” Kojzarek says.

It can’t hurt to exceed normal meeting notification requirements along with detailed instructions on how to access a virtual meeting by computer or phone, Costello says.

For owners who are not comfortable with the virtual universe, associations and managers are implementing a variety of workarounds that allow voting without direct human contact. Among them: Placing a ballot box outside an onsite office or clubhouse, leaving proxies at the front desk, implementing mail-in ballots, and proxy assignments. (Consult your legal counsel for specific how-tos.)

Costello is certain to remind owners that regardless of how they are casting their votes and whether they are meeting in-person or virtually, ballots must be retained for a year.

“The record-keeping is exactly the same, and

the ability to inspect those records hasn’t changed,” he says.

“As lawyers, we try our best to get things done but within the four corners of the law so there is not the potential for challenges,” Slowikowski says.

Mingling Is Highly Discouraged

Associations have taken diligent strides in keeping their residents at a safe distance from each other. Exactly what they are doing depends in part on the association’s architecture, location and amenities. Townhome and suburban communities typically have more open space in which to spread out than a city high-rise.

An association’s tolerance for risk is another factor in how far to “open.” For example, just because an association is permitted to open its recreational amenities doesn’t mean it will.

“We have some communities that have opened their swimming pools and fitness centers,” Skweres says. “They are limiting capacity and their hours of operation to leave time for cleaning by the attendants. Most pools are also setting aside special areas for sitting and eating. Some associations are not allowing people to congregate in the water. You must keep moving or get out.”

Many associations limit pool access to owners

and renters, he added. No guests.

“I probably talked about pools every day all May and into June,” Costello says. “There were a lot of associations that said, ‘We will not open in 2020, we can’t figure out a path forward, and we will save some money.’ Others said, ‘This is very important to us, and here’s how we are going to have limited use and occupancy.’ They worked with their pool company and manager to put together signs, notices and waivers and to operate in a safe manner, and to communicate to the members what the standards were going to be.”

Slowikowski does not recommend associations yet open their swimming pools and fitness centers, and most of his clients have followed that advice. On top of the fear of contagion is the fear of liability, he says.

“Insurance policies may exclude communicable diseases,” he says.

Most FirstService properties did not open their swimming pools. Summer roof deck parties were canceled. Community rooms are not open for parties.

“If the gyms are open, most of them are using some type of online booking for appointments with rigorous cleaning,” Donnell says. “You can book an hour at a time. That type of schedule may give staff time to clean in between users. Basically, few, if any,



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are open for anybody to walk in without restriction.”

“The association I lived in held their annual garage sale this year with no interruption,” Kojzarek says. “Other associations have canceled all social events. One of my associations is looking into a more socially distant sort of event like a movie in the park with a large blow-up screen to replace their typical block party.”

Under Gelfand’s guidance, the board at Clinton Street Lofts ratified new operating procedures for social distancing. They’ve taken a conservative approach. The building’s only amenity is the fitness center, and it is closed indefinitely. Gatherings in the lobby and courtyard as well as open houses are prohibited.

“The message to the residents was that I may be guessing wrong on the impact of this virus, and if I am to guess wrong, I’m going to hedge to the side of safety,” he says. “I refuse to make a decision that could in any way put anyone in harm’s way.”

Clinton Street Lofts also follows City of Chicago guidelines, which limit guests to five per unit to avoid parties and indoor gatherings. Guests must wear masks while they are in the common areas.

“We have signs on all the entrances and on elevators to limit guests, but we don’t want to put their doormen or maintenance personnel in the

position of having to enforce the rules,” Donnell says. “Our official stance is ‘follow city guidelines.’”

The reopening of swimming pools and other amenities requires multiple considerations like how to pay for increased cleaning costs and how to respond to confirmed coronavirus infections in those who used the amenities. Reopening or not reopening can also be a politically charged issue that creates undue tension and confrontations within the association. Along these lines, many associations have decided to keep their amenities closed.

“All of the reopening of amenities must comply with the CDC, state and local government’s guidelines,” Comstock says. “Posting of signs and reminding people to wear masks, social distance and wash their hands all help to reduce the transmission of the virus. I recommend that the reopening of all amenities be conditioned on the association being able to meet all guidelines regarding the steps to be taken to avoid the transmission of the virus.”

As for residents who may argue that they have paid to use the amenities or that the association is required to operate them, Slowikowski responds: “When we talk about facilities like swimming pools, fitness rooms and social rooms, even though the board has an obligation to maintain and operate

those, I and I think all other attorneys are of the opinion the board has the authority and discretion to close and keep closed those facilities for the health and safety of their residents.”

Although a few boards have gone so far as to enact social distancing rules, some attorneys suggest the softer approach of policies and guidelines to cover the duration of the pandemic. Rules lead to violations, hearings and consequences. Rules could also prompt confrontations between residents (i.e., self-appointed gatekeepers) or between residents and staff, which could lead to further legal action.

Costello prefers “new policies” that “shall be in effect until such time as we are not subject to emergency orders.”

In summary, COVID-19 took over the world rapidly and ferociously. The community association industry responded and continues to respond with thoughtfulness, creativity and determination to see it through. People aren’t thrilled about the restrictions that are necessary for public health, but most are grudgingly accepting.

“We just have to hang in until it’s over,” Donnell says. ■

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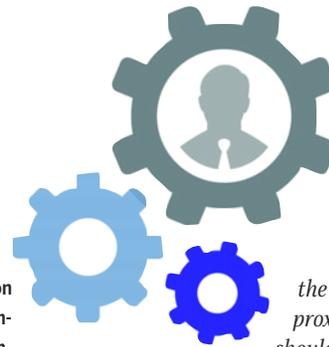






by Gabriella R. Comstock and Dawn L. Moody of Keough & Moody, P.C.

What Would You Do? Handling Sensitive Situations



Many times over this past year, you have heard us say “It is not what you can do, but what you should do.” This was a lesson we learned that has proven to be very beneficial as we navigated our way through uncharted territory during the pandemic. However, this is a good mantra to follow when dealing with sensitive issues within community associations. Consider the following situations and ask yourself what would you do? (Please note that these are actual scenarios that have occurred within associations.)

Scenario Number 1 Counting Proxy Votes:

It is the evening of the condominium association’s annual meeting. You, the community association manager, are one of the three (3) people tallying the votes. Many Owners have voted by proxy. Prior to the meeting, you discussed with the association’s legal counsel what requirements must be met to ensure that the proxies tendered are valid. You know that the proxy must have a full date and the signature of the Owner or designated voting member.

During the tallying, you have located a handful of proxies that do not have a full date on them. Do you tell these Owners what needs to be done to correct their proxies?

Response: *If the manager does nothing, one could argue that the outcome of the election was controlled by the manager. This is not a fair statement since it was not the manager who failed to properly complete the date on the proxies. The manager also should not be put into a position where they are providing “legal advice” to an owner. The manager could call these owners and tell them to come fix*

the date on the proxies, but they should not do this.

After all, there may be other errors with other proxies that were tendered that the manager is not taking steps to correct. For example, the proxy for Unit 101 was tendered by John Smith. John Smith is not the record owner or designated voting member for the Unit, per the association’s books and records. The manager does not count the proxy. Since the manager is not calling the record owner per the association’s records to tell him/her an invalid proxy was submitted, he/she should not call the other owners who failed to insert a complete date on the proxy. This ensures that the manager’s involvement in the election is consistent with all owners. Prior to the meeting, it should have been decided what steps will be

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taken to address issues like this and the decision should not have vested with the manager, but with legal counsel for the association.

Scenario Number 2 Accident Memorial:

You live within a homeowners' association and you are a member of the Board of Directors. Over the weekend, a horrible car accident occurred, and a car crashed into a tree near the main entrance of your association, off of a busy street. Unfortunately, the driver and passenger were killed. The scene of the accident has been cleared, but the victims' families have created a memorial at the association's main entrance. The memorial is clearly on the common area of the association and no one consulted with the Board prior to placing the memorial. Does the Board leave the memorial on the common area, even though there is a provision within the association's declaration that states no addition or alteration may be made to the common areas, except by the Board of Directors?

Response: The Board of Directors does have the

right to remove this memorial. The association's declaration authorizes it to control any and all alterations and decorations to the area. Yet, while it can remove the memorial, should it be removed? Allowing the memorial to remain for some time, may not only help the community to heal, but also it may help in convincing the local government to take additional steps to protect drivers coming off this busy street. This is a situation where what you can do may not be what you should do.

Scenario Number 3 Holiday Decorations:

The condominium association has a rule that states holiday decorations are allowed but cannot be installed more than ten (10) days in advance of the holiday and must be removed within ten (10) days after conclusion of the holiday. The rules also prohibit any decorations that are affixed to the common elements. It is late January and as you are walking through the hallway on the 5th floor, you notice an owner has strands of lights all around the perimeter of the unit door. Christmas happened several

weeks ago. The rules prohibit all of these items so as a board member, you email the association's manager to report the violation. These actions are direct violations of the association's rules, shouldn't a violation notice be sent?

Response: While technically, the Owner's actions may rise to a violation of several rules previously adopted by the association, it is important to remember that other holidays are celebrated during the winter months outside of Christmas. Therefore, before issuing a violation notice, it is best for the Board of Directors and management to investigate the situation a bit to determine if the decorations are really Christmas decorations or have been placed in celebration of some other holiday. The Association does not want to take action that may appear to favor Christian holiday decorations or to be discriminatory. Instead of being quick to issue the violation notice, the Board would be better served to first conduct some research to determine whether the occupant is celebrating a different holiday.



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**Scenario Number 4
Cooking Odor:**

The townhome association's declaration states that no owner shall act in a manner that is considered to be noxious or offensive or which creates a nuisance. The association's declaration and rules also prohibit owners from creating situations that result in the emanation of offensive odors. Management receives four written complaints from two different owners all alleging that there is a foul smell emanating into their units that originates from Unit 104. The odor has been noticed around the dinner hour. One of the complaints includes language that the complaining witness is certain the odor is coming from Unit 104 because when he was walking outside and went past Unit 104's patio, the patio sliding glass door was opened and the odor was coming from the door out to the common areas too. After receiving the written complaints, the Board President decides to walk around the building the next evening around 6:00 p.m.. Upon

It is important that we approach these sensitive situations, to do not only what we can do, but also what we should do.

arriving outside of Unit 104, he immediately smells the odor. However, it is clear that the smell is from the use of curry. Should a violation notice be sent?

Response: Like scenario number 3, technically a violation has occurred. However, cooking with certain spices is a preference for some people based on their culture. Unlike scenario number 3, the use of certain spices is not related to a religious holiday. However, respecting one's culture can be just as important as recognizing one's religious holidays. Instead of sending a notice of violation, this is a situation where letting the owner know that odors are being transmitted from his/her unit to the common elements and to other units. Instead of jumping immediately into citing a violation, suggest that the owner use a fan while cooking or sealing certain areas of the unit to prevent the transmission of smells. The Association's

approach should be one that is respectful of the owner's culture while also doing what it can to prevent the smell from being transmitted to another Unit.

Doing What You Should Do

As we continue to be faced with sensitive issues that may also be violations of an association's community instruments, it is important that we approach these sensitive situations, to not only do what we can do, but also what we should do. While it is often the easier course of action to simply issue a violation notice, this may only create more problems for the Association. It is important for boards to ensure that its enforcement of its rules are fair, even-handed, and objective and to communicate those rules and standards to the members of the community. By doing so, this will likely avoid the escalation of uncomfortable situations and encourage respect of boundaries within our communities. ■

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by Nicholas P. Bartzan, Esq. - Altus Legal, LLC

22.1 Disclosures: Avoid Liability by Properly Including "Anticipated Expenses"

Condos are bought and sold every day in Illinois. One of the critical roles for the association to play in the transaction is compliance with Section 22.1 of the Illinois Condominium Property Act ("ILCPA"), which requires the board to answer nine (9) key questions about the association upon demand by a current unit owner (typically the seller). The "upon demand" component of that last sentence is critical: the unit owner must demand the disclosures before the association's duty to provide them is triggered.

In our experience, one particular disclosure manages to get boards and managers in a twist nearly every time and is by far the one that most frequently results in litigation against the association for providing inaccurate or incomplete information - Section 22.1(a)(3) of the ILCPA, which requires "a statement of any capital expenditures anticipated by the unit owner's association within the current or succeeding two fiscal years."

What is "anticipated"?

What counts as "anticipated" is challenging to

identify and creates confusion. Many boards and managers assume that they need only provide capital improvement projects that have been "approved" by the board. This assumption is entirely incorrect and is a recipe for litigation against an association.

As an example, what if the board has merely mentioned or discussed, during a meeting, that the roof is leaking and needs repair and, quite possibly, full replacement? Does that mean the board "anticipates" a new roof? Or what if it's a well-known fact in the building that the elevators are in lousy shape and break down often. Must the board include an

elevator modernization project in the capital expenditure disclosure?

The short answer is if the board reasonably believes that a large-scale capital project on the roof or elevator improvement will take place within the current or following two (2) fiscal years, then yes, those projects are "anticipated" and should be disclosed in the 22.1 disclosure, along with an estimate of the cost of the work. This is true even if the projects have not been formally "approved."

"Anticipated" is NOT the same as "Approved"

We are hitting this point hard because it's such a common misperception - the belief that since the board has not yet formally approved a project, there is no requirement to disclose it in the 22.1 form is false and exposes the association to liability.

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The language of ILCPA is clear - the legislature wanted associations to disclose what they anticipate will occur, not merely what they have formally approved. If the board believes it will replace the leaky roof in the next few years, **disclose it**. If the elevators are on their last legs and the board finds a significant repair is likely in the next few years, **disclose it**. If, however, the board plans to perform simple patching jobs to the roof (which may not be categorized as a "capital expenditure" or "capital improvement") until after the current and two succeeding fiscal years have elapsed, the repair may not have to be disclosed at all.

At this point, we'll reiterate that each situation is unique, and boards should discuss these "grey areas" with their attorneys. After all, it is the association that will be sued as a result of disclosing inaccurate information, so for any specific questions, please speak with your attorney for clarification.

The language of ILCPA is clear - the legislature wanted associations to disclose what they anticipate will occur, not merely what they have formally approved.

Must we include how the association will finance the improvements?

Section 22.1 of the ILCPA does not mandate that the association disclose how it plans to pay for the capital improvements it publishes. Naturally, buyers will want to know such information, and thus may ask whether a special assessment is "anticipated" as well. However, "anticipated" special assessments are not required to be disclosed under Section 22.1. **Whether the board decides to include that information regardless is a board decision, but in general, we caution our clients against volunteering unnecessary information that is not required by statute.** Doing so exposes the association to more liability (which is why, incidentally, boards should be exceedingly wary of completing disclosure forms prepared by the lenders, buyers, or

buyers' attorney, as they invariably include questions that the association is not required to answer under the ILCPA).

Conclusion

Bear in mind, we are not advocating that the 22.1 disclosure become the board's running "wish list" of items it would like to see done. Such a list would enrage current unit owners looking to sell, as it would result in their unit sales prices tanking and the pool of potential buyers thinning dramatically. That said, the board has a fiduciary duty to the association, and that means ensuring that it makes the proper disclosures to limit liability from lawsuits filed by new buyers who feel they were misinformed before their purchase. As such, the 22.1 disclosure must strike the proper balance between disclosing what work the association reasonably anticipates doing without making it a document that needlessly frightens off potential buyers. ❏

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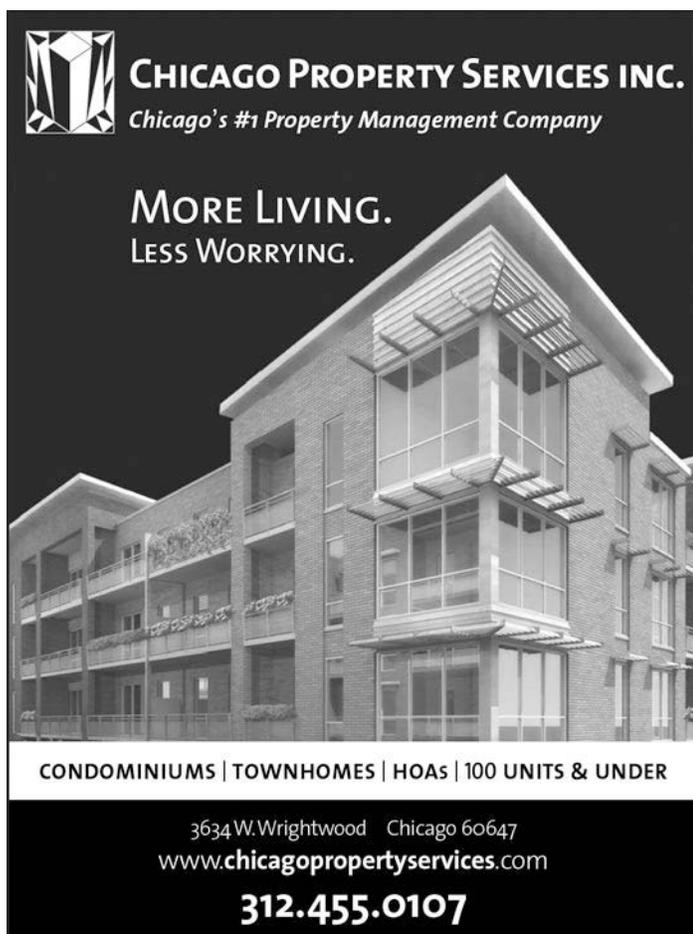
Practical Strategies for Limiting Gatherings in Condominium Buildings

Gatherings in condo buildings are problematic because they pose a potential risk of spreading Coronavirus. Making matters worse, as Fall approaches, the demand for residents who wish to congregate in indoor common element gathering spaces (party rooms, community rooms, exercise rooms or hospitality suites, for example), or have guests in units, will likely increase.

Completely shutting down indoor gathering spaces and / or prohibiting guests may help ensure safety (and may even be appropriate in certain circumstances); however, doing so will leave residents without the ability to safely socialize and enjoy the amenity spaces and thus will likely be unpopular in the community. A complete ban on unit guests may also prove difficult to enforce. Notwithstanding its unpopularity, condo boards and management will therefore be faced with the question of how to effectively limit gatherings and safely operate the common element gathering spaces to protect the health, safety and welfare of all residents.

Mayor Lightfoot sought to address this issue for Chicago condominiums by imposing an additional restriction effective at 12:01 a.m. on Friday, July 24, 2020 that “Residential property managers will be asked to limit guest entry to five per unit to avoid indoor gatherings and parties.” This restriction was also reiterated in Mayor Lightfoot’s additional restrictions effective at 5:00 a.m. on October 1, 2020. While enforcement of this restriction may prove difficult, below is a list of practical strategies for limiting large gatherings in condo buildings:

- 1. Adopt Temporary Policies or Rules to Limit Guests.** Temporary policies or rules can be adopted by the condo board to limit the number of guests permitted in a unit and / or in any common element amenities. Condo boards can adopt a policy or rule and regulation via board vote at a board meeting (if a board chooses to formally adopt a rule, it requires a few extra steps including a unit owner’s meeting to discuss the proposed rule, which requires 10–30 days written notice plus a formal vote at a board meeting to adopt the rule after the unit owner’s meeting).
- 2. Limit Gatherings in Common Element Amenities.** Temporarily close or limit the number of persons in common element gathering spaces. At a minimum,



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capacity limitations must comply with applicable federal, state, local guidance, such as CDC guidelines and City of Chicago guidelines for residential buildings regarding indoor spaces and gatherings, though more stringent limits may be adopted.

A resident reservation system is recommended for small interior spaces such as exercise rooms to help limit traffic while also ensuring all residents have fair access to the common elements. Also, appropriate sanitization protocols should be adopted for disinfection.

3. Notify Residents of Restrictions. The board or management (if professionally managed) should circulate clear and concise correspondence to all residents and post signs in conspicuous locations (lobbies, elevators, etc.) regarding any temporary policies or rules as well as the directive from Mayor Lightfoot on limiting the number of unit guests (for Chicago condominiums). Residents should also be promptly notified of any updates to the restrictions.

Of course, residents should be directed to refrain from using common element amenity spaces and quarantine / self-isolate if they have tested positive for, experienced symptoms of, or been exposed to coronavirus until they are cleared by an appropriate medical professional.

4. Send Reminders as Needed. Verbal or written reminders from the board or management (if any), as needed, are recommended to ensure compliance. Reminders should be firm in tone but not antagonistic. Self-help by residents / directly confronting an offending owner or resident is not recommended to avoid unnecessary escalation and/or potential coronavirus exposure. Instead, it is appropriate for the board or management to issue necessary and appropriate reminders.

5. Document Violations. Any violation of temporary policies or rules limiting guests should be documented in written complaints submitted to the board or management to determine the appropriate next step. Docu-

mentation is key for enforcement of available remedies. As with reminders, resident self-help / direct confrontation is not recommended, and submitting written complaints or incident reports is the suggested course of action for residents who observe a violation.

6. Remedies for Enforcement. The board may seek to impose available remedies under applicable law and the governing documents such as levying fines or injunctive action via circuit court. The association's legal counsel should be contacted to determine appropriate next steps and available remedies for violations.

As the temperature drops, it is understandable that residents will desire to hold gatherings in indoor common element amenity spaces. While gatherings pose a risk of exposure to, and transmission of, Coronavirus, the measures outlined above can help to effectively mitigate the risk, limit gatherings, and ensure that residents are able to safely use the common element gathering spaces. ■



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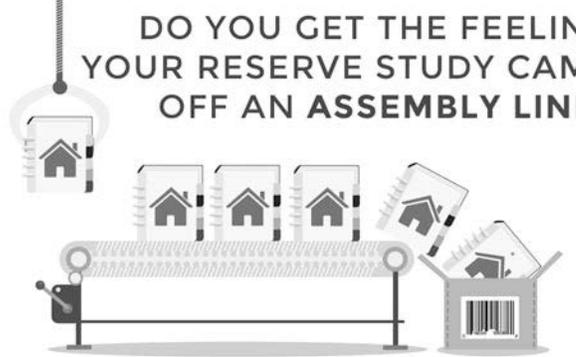
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by Salvatore Sciacca – Chicago Property Services

10 Ways Board Members Can Improve Homeowner’s Community Living Experience

There are many reasons why people serve on the board of directors of a community association. Some reasons are better than others. Some people volunteer for completely self-serving reasons while others truly care about the fellow homeowners and want to make a positive impact on the community living experience. For those board members that serve on the board because they truly care about the health and well-being of the community, here are easy tips to follow to further improve the community living experience:

- 1. Define a vision for the community association.** What do you want the community living experience to feel like? Do you want the community to have beautiful outdoor gardens? Do you want the association to have fun social events? Do you want the association to have sufficient reserves to avoid special assessments as much as possible? It all starts with a dream. Write down a vision and share it with all the homeowners and see how it turns into reality.
- 2. Improve the working relationship with your management company.** There is always a way to improve a working relationship with a business partner. Meet with your

manager and discuss ways to improve the way you communicate with each other. Share the positive feedback with your manager and ask what you can do to help the manager be more effective for your community.

- 3. Ensure board members are properly trained on their duties and responsibilities.** Ask your management company for board member training. If they don’t offer it, check out the Community Association Institute’s website, www.caionline.org. They offer a wealth of information to help board members become more effective and productive.

- 4. Hold board meetings that are effective and efficient.** One of the most important actions of the board of directors is to hold board meetings to conduct association business. To effectively conduct business at the board meetings, the meetings must be properly noticed, have a clear and concise agenda and run effectively with a time limit. In addition, the homeowners should be educated about the difference between a town-hall meeting and a board meeting.
- 5. Check and revise the rules and regulations, as necessary.** There may not be any issues today, but there might be significant issues tomorrow. A new homeowner may not pay their assessments, a new tenant might have a dog that barks incessantly, a new homeowner might move in through the front door and destroy the hallways. Does your current version of the rules and regulations properly address these situations?

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Check them and revise them to ensure the language on fees and fines are clearly stated.

- 6. Apply rules and regulations equally amongst all the homeowners.** Make sure all the homeowners are aware of the latest version of the rules and regulations. Also, verify that there is a process defined so that the rules and regulations are applied evenly. There should also be a process to ensure homeowners are given the opportunity to have a hearing if they are fined for violating the rules and regulations.
- 7. Make some visual upgrades to the common areas.** Homeowners like to see their assessment dollars going towards a good cause. One way to effectively invest into the community is to make visual and aesthetic improvements. Although it is most important to keep the physical elements of the association in working order, it is also important to keep the visual aspect including curb appeal in good shape.

- 8. Encourage homeowners to participate within the community.** One of the most important elements of successful community living is having a high level of homeowner engagement. The more engaged the homeowners are within the community; the more vested they are and the more willing to participate. This ensures that there will be a high level of interest from the homeowners to become new board members who want to continue an enjoyable community living experience.
- 9. Clearly communicate the long-term capital plan.** Not only is it important to have a capital plan but it is important to maintain and update it. In addition, the board and management company should communicate this information to the homeowners so that the homeowners are aware of any large expenditures anticipated down the road. This would also give homeowners a heads-up on any potential special assessment and/or bank loan that the association might need to consider.

- 10. Have FUN.** In the end, it is important to have fun and enjoy community living. So take the time to organize social events. Even during our current Covid-19 situation, it is possible to setup virtual networking events within the community. Take the time to setup a social event and enjoy community living at its finest.

Conclusion

What is your vision as a board member of your community? How important is it to ensure homeowners have an enjoyable community living experience? Do you find it important to leave a positive legacy behind once you finish serving on the board of your community association? Whether you realize it or not, you can make a significant impact upon the community living experience within your association. Do not miss out on this opportunity. ■

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by Jose "Alex" Treto -American Sentinel

Roving Patrol Security for HOA's



We as humans love to feel the sense of security and protection knowing that we are free from harm or at least knowing that there is a deterrent. Most of today's society rely on dedicated guards to help them deter and enforce rules/regulations. In most cases, dedicated guards only work for active sites with steady traffic that require a constant guard to be on post. Most suburban HOA's, COA's, and residential communities do not require a dedicated security guard. In most cases they benefit from roving patrol for their security needs, concerns and wants.

Roving patrol (RVP) is not typically seen in your regular security market. Which is a surprise because of its considerable benefits that regular service does not provide. The first being economically cost efficient. We all know budgeting season can be a hassle and will most likely result in a lot of over time. Roving patrol is quite economical for your security budget. A mobile patrol service provides you with a security presence all night and typically costs much less than traditional dedicated service. Visible presence is another essential benefit that help deter unwanted and suspicious activity. It is vital that security is easily identifiable. Mobile patrol establishes a strong visible deterrent with flashing lights, well-marked and branded vehicles, and constant movement throughout your property. This allows your residents, guests, and other people within the community know that security is onsite. An added benefit to that is GPS monitoring

tracking the mobile officer's position. Knowing where your guard is always is a little bonus.

Being observant 100% percent of the time is quite a difficult task and for others, staying awake is a struggle. Roving patrol does not allow time for a guard to fall asleep because of the constant movement from one location to the next. Roving patrol is not your typical security task given that the security officer is driving the entire shift and performing the clients scope of work. So, there is no idle time for that officer to perform unauthorized activities. Which gives you the benefit on having a quality guard patrol through your community. A mobile patrol security officer has a lot more responsibility driving a company vehicle. Officers working in an active, mobile patrol require more training and skill than a dedicated guard.

Lastly, quick response is a benefit that can be essential in a time of need. The mobile security officers can respond quickly since they are already on the move. This is a benefit to communities of all sizes and it only takes a couple of minutes for the officer to respond. When there are multiple vehicles patrolling the area, quick response time is vital to deterring crime and disturbances. There are many ways to provide security. As a property manager or board member you should look at what services your security company provides.

In addition, you should approach and address issues commonly found within the security guard industry. Look for a company that utilizes advanced technology which includes GPS tracking, video cameras that record both interior and exterior of the vehicle, smartphones that allow typed, real time reports, and cloud-based reporting database. So, next time you are looking for a security company for your community keep these benefits in mind.

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continued from previous page...

HOA Safety & Security Tips

Security & Safety have always been important. Remind your homeowners that security is a group effort and that a property is only as safe as the residents make it. Homeowners should be encouraged to do the following things on a regular basis.

- » Report suspicious behavior or vehicles to the local authorities or property security.
- » Report streetlights that may be out to either the municipality or to management.
- » Homeowners should also be reminded to keep their coach lights and/or porch lights lit during evening hours to help eliminate those dark spots close to homes where criminals can hide.
- » Garage doors should remain completely closed when not in use. This helps keep animals and rodents out, but also, keeps criminals from being able to see what belongings you have inside and eliminates that potential entry point.
- » Homeowners who are responsible for their own landscaping should be reminded to keep large bushes and trees trimmed away from windows and entries.
- » Scheduling a quarterly night inspection can also help identify the lighting issues and areas of concern for an Association.
- » All walkways, corners and intersections should be well lit for security and for safety. Asking the local municipality for grants or assistance may be an option for combating this issue.
- » Those Associations who maintain all of the landscaping at an HOA should keep large bushes and trees trimmed away from windows and entries.
- » Associations should identify any landscape concerns around pools, clubhouses, ponds, parks, walking paths and other areas. Security cameras at a clubhouse, pool or recreation area are very helpful.
- » Ponds and parks should be well marked to reduce liability around the perimeters to help deter evening guests. Walking paths, especially those through wooded areas are harder to address, as bright lighting may not always be a reasonable addition. In these areas, it is important to remind homeowners to use common sense and to be careful if ever using the area in the evening or late hours.
- » Communicate with owners and residents. Utilize neighborhood newsletters, issue special bulletins in the event of a major issue, and make owners aware of their responsibilities. And keep reminding them! You may sound like a broken record, but unless you keep it in the forefront of their minds, owners may get lackadaisical about security. Then when something bad happens they blame the Board of Directors and Management.
- » A great way to assess your association's safety issues is to invite your local police department to a meeting. Your CAPS or local beat officer should be around your property on a regular basis, and know what local issues are. They can assess the area prior to your meeting and give you and your neighbors and residents specific ideas to resolve specific issues. In addition, some municipalities do offer vacation watches, which are a good way to help keep your home secure while you are out of town.
- » Creating a community watch group and/or holding a community "night out" can greatly add to the safety and security of your property. This activity can also add a sense of community to your association when the residents begin to work together to improve their homes.

As with all aspects of Community Management, each community is unique and will have its own nuances that may need to be addressed. You may utilize this information as a starting point from which you can build and customize your own inspections for your associations with a team of professionals.

The bottom line... you need to be proactive, communicate with homeowners and board members, and get residents involved in maintaining the security of the property.

INDUSTRY HAPPENINGS

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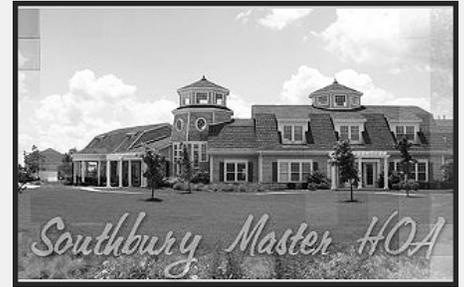
Associa Chicagoland is excited to announce a management partnership with Southbury, a premier pool and clubhouse community in Oswego, IL. Southbury is made up of seven distinct communities, which include upscale single-family homes, luxury townhomes, and an active adult community. Residents have access to a wide range of quality amenities, including walking and bike paths, ponds, tennis courts, volleyball courts, and a children's play area. The community features three pools and a 7,000+ square-foot clubhouse with a great room, kitchen, library, craft room, theater, and conference room. A local junior high school, elementary school, and the South Point Park District Facility are all within walking distance from the community.

Residents may also enjoy the historic buildings, 70+ dining options, and Fox Bend Golf course in nearby Oswego, as well as the 317-acres of wetlands, prairies, and greenways near the community. Associa Chicagoland will provide their unique management services to Southbury Master, Villas at Southbury, and The Seasons at Southbury. "Associa Chicagoland remains committed to providing quality management services and expanding our community partnerships with unique communities like Southbury," stated **Erica Horndasch**, CMCA®, AMS®, Associa Chicagoland vice president. "Our team is excited to work with the Southbury board of directors to achieve their community vision and best serve their residents."

Associa Chicagoland was recently recognized by the National Association for Business Resources (NABR) as one of Chicago's Best and Brightest Companies to Work For® in 2020.

The Best and Brightest Companies to Work For® program identifies companies that promote the most innovative and thoughtful human resources approaches. Companies are evaluated on a number of key measures, including compensation, benefits, engagement, retention, employee education and development, recruitment, communication, diversity and inclusion, community initiatives, and more. Companies receiving the Best and Brightest designation are recognized for their commitment to fostering employee enrichment and professional growth and demonstrating a commitment to their employees.

Associa Chicagoland and the other winning companies were recognized at the Best and Brightest Digital Conference, where 13 elite winners were honored in the Best of the Best small, medium, and large business categories. "Associa Chicagoland has always been committed to employee advancement and growth, as well as providing re-



sources and professional opportunities that strengthen the ultimate employee experience," stated **Stephanie Skelley**, Associa Chicagoland president. "It is an incredible honor to be recognized by NABR as a Best and Brightest Companies to Work For®. Our leadership team will remain dedicated to elevating our employees' engagement and work experience."

Associa Chicagoland also announced the hiring of **Michele Trina** as the vice president of operations. Ms. Trina has been involved in the property management industry since 1998 and brings with her extensive experience in operating suburban properties and working directly with community associations. Her areas of expertise include business strategy, operational improvement, financial and budget planning, and conflict management. In her new role as the vice president of operations, Ms. Trina will oversee a diverse team of managers and operational staff and will help lead management operations.

"Michele's experience in maintaining all aspects of community management, strong client focus, and proven team leadership abilities will enable her to provide the highest level of management services for our clients," stated Stephanie Skelley, Associa Chicagoland president. "Associa Chicagoland is proud to welcome her to the team, and we are excited to see how her leadership will contribute to our client vision and help continue to drive excellence for our branch."

Ms. Trina is a licensed community association manager in Illinois and has obtained the Certified Manager of Community Associations (CMCA®) designation from the Community Association Managers International Certification Board (CAMICB) and the Association Management Specialist (AMS®) designation through the Community Associations Institute (CAI). She is a member of CAI and has been a featured speaker at their annual conference, where she educated board members, managers, and homeowners.

FirstService Residential

FirstService Residential is proud to announce the promotion of **Brian Butler**, CMCA, CAM, to Senior Vice President - High Rise. In this role, Mr. Butler will lead the entire downtown high-rise portfolio and a diverse team of Vice Presidents and regional directors. "This role will not only ensure our associates and clients have the very best support, but will also allow for sustainable growth for years to come," said President Asa Sherwood.

Mr. Butler is an attorney and a member of the Illinois State Bar Association and the Chicago Bar Association. He is a licensed Community Association Manager (CAM) in Illinois and holds the Certified Manager of Community Associations (CMCA) designation, the Association Management Specialist (AMS) designation, and the Professional Community Association Manager (PCAM) designation, the in-

dustry's highest professional accreditation.

Mr. Butler continues to serve as a subject matter expert in all facets of our business including operations, risk management, legal support, customer service, process improvement, talent development, employee engagement, strategy and sales. These are areas that will help him excel in his new responsibilities. His efforts extend beyond FirstService Residential as he volunteers his time toward improving education and manager support in our industry as President-Elect of the Board of the Community Associations Institute of Illinois, and serves as Vice President of the Board of the Streeterville Organization of Active Residents (SOAR).

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Condo Lifestyles attempts to provide its readership with a wide range of information on community associations, and when appropriate, differing opinions on community association issues.

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From the Editor

So it's been over six months since Covid-19 changed our lives and caused government officials to drastically change our way of living. It was hard to imagine such a thing could happen when it first came on us. Hindsight is 20/20 and it appears we could have mitigated the impact of the virus with some basic changes in our health and safety protocols that we commonly accept now as social distancing. While it was hard for us to accept social distancing back then, now the danger is becoming complacent in this regard. So we all need to continue to practice social distancing protocols as we re-engage life, work and family activities.



➤ **Mike Davids**

Our cover story offers some insight on how several top management professionals, attorneys, companies and associations are adapting to meet some of the challenges of Covid-19. Various perspectives are shared in this article on staffing offices, staggered schedules, holding meetings, conducting elections, use of amenities, liability, and other topics that association boards and managers must consider.

Our second story tackles the handling of sensitive situations in this challenging time and provides some specific examples of how boards and managers can show empathy while still meeting their obligations. In fact, by handling sensitive situations with care and thoughtfulness, a board can actually help build a sense of community within their association.

Other articles in this issue that are designed to help you address the challenges of the pandemic are on practical strategies for limiting gatherings in condo buildings, best practices for virtual meetings, and contractor/contract issues for unforeseen events. Rules and regulations of all types are impacted by Covid-19. It's a good idea to consider new or temporary policies and rules as well as update contracts to protect the association. Of course, each association is unique and there will be varied opinions of residents so getting guidance from other professionals on your team is imperative.

We've also included some articles that are not COVID-19 specific in this issue. Two articles pertaining to security issues cover the topics of automated license plate readers and roving patrols. One article in our Board Basics column outlines ten ways boards can improve a homeowner's community living experience while another covers pest infestations. A legal update on avoiding liability by properly including "anticipated expenses" in Section 22.1 disclosures also appears in this issue.

A special feature in this edition on how 3470 North Lake Shore Drive Association handled the replacement of mechanical equipment (chiller) that had exceeded its useful life expectancy. They took a holistic approach that considered the entire closed loop system (not just the chiller) and selected high efficiency equipment to achieve energy savings as well as a significant rebate.

As we all continue to make our way through life with COVID-19, we need to do our best to help and encourage each other when we can. It will require teamwork and cooperation from all of us to fight off the virus and continue to operate associations, businesses and our lives in a safe and healthy way. If you have an idea or new message that you would like to share, please send it to me or feel free to call. We continue to be optimistic in our outlook and cautious at the same time. Hopefully our doctors, scientists and other leaders will work in unison to help us all navigate this difficult period as we move through it together. ❖

Warm Regards,
Mike

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by James A. Slowikowski, Esq.
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Contractor and Contract Issues for Unforeseen Events

All community associations hire contractors to perform work on the property. Whether it's painting a hall or full replacement of roofs, there are a number of concerns that the board will want to address to protect itself and its residents.

Safety Measures

In any project you want contractors to implement safety measures to prevent injury to persons or damage to property. This should be discussed before a project starts. An important safety measure is to identify specific locations of the property that are to be used by the contractor. By limiting the areas that will be used it should limit the workers exposure to other persons, and reduce risk of injury to others.

This should include a specific location where the contractor is to stage and to store equipment and materials. This could be a particular area of a parking lot, driveways, or

areas next to buildings. It should be limited to just one or a few areas, to limit contact with the residents. If a dumpster is to be used it should be set in a location away from pedestrian traffic and play areas and where the trucks have easy access. These areas can be marked or roped off to help keep others away from the workers. Similarly, if vehicles will be coming on to the property (such as trucks delivering materials), it is better to limit the entrances and roads they will use.

If work is being done inside the building, you should limit the doors the workers are to

use, and avoid the front entrance and high traffic areas. Limit the contractor to a particular elevator. The floor should be covered with sufficient protection not only to protect the floor, but to keep people away so that they do not trip on material or equipment. The contractor should be restricted from storing materials, equipment, and tools in common areas such as hallways, lobbies, entrances and exits, and anywhere that may have pedestrian traffic. The contractor should be prohibited from leaving debris or trash in common areas for any period of time.

Covid-19 Safety Concerns

The Covid-19 world has added a new layer of safety concerns when bringing contractors onto the property. This should be dis-

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cussed with the contractor before starting any work. You should ask the contractor to identify protocols that have been implemented and which the workers are required to follow. Ask the contractor to explain what training has been provided to the workers. OSHA has published Covid-19 guidelines for construction workers. Although these are intended to protect the workers, it would be prudent to review the list with the contractor to make sure the contractor has implemented the guidelines. Of course, workers should be required to wear face coverings at all times, and should be required to stay at least six feet away from residents and others when possible. The contractor should be required to regularly sanitize those parts of the building the workers are regularly using, such as doors and knobs, rails, elevators, etc. You might require the contractor to inform the association at any time a worker has tested positive for Covid-19. It is a good idea to require the contractor to have a supervisor on site who will be responsible to make sure these protocols are being followed.

Protecting Against Extra Charges from Unforeseen Events

It is very frustrating during a project to have a significant increase in costs because of “unforeseen events.” These usually can be addressed in the contract. Others may be addressed by making sure the contractor is familiar with the property before providing a proposal.

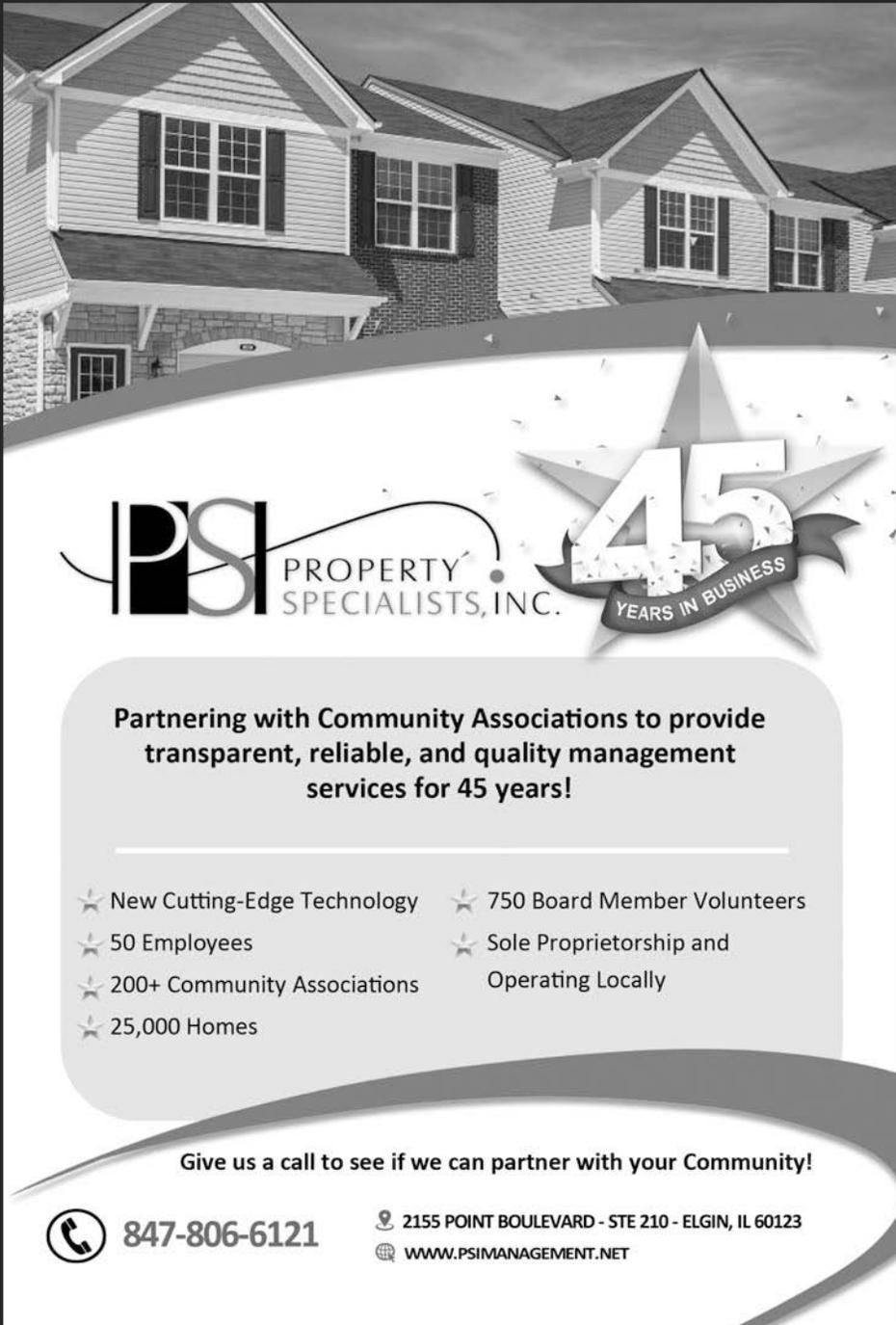
The contract should be used to set the project costs and try to prevent increases during the project. For instance, try to avoid contracts with escalator pricing, where the cost will go up if the project takes longer than planned or if the cost of materials or labor goes up. Weather may cause legitimate delays. Today we now know that an unforeseen worldwide pandemic can cause delays, or increase costs because the contractor must implement additional safety protocols. While the delay itself may be unavoidable, the association can protect itself from the related increased costs. The contract can fix those costs at a set amount so there are no or little increases in price if those events happen. In that way the contractor will bear the risk of those events, not the association.

A contractor may try to impose extra charges because during the work it is learned

that more work or material is needed than was anticipated. For instance, they find that they can't run an electrical line where they thought and now need to go around a wall. Or they miscalculated the amount of asphalt needed. Before even getting the proposal, require the contractor to thoroughly inspect the property so they know what they will need to get the job done, and confirm the inspection in the contract. The contract should firmly set the prices for all labor and materials

to be included, so there is no room for the contractor to try and wiggle for more because they underbid the job.

A common “unforeseen event” is the replacement of rotted wood during roof or siding replacement. It is always expected that rotted wood will be found, but often it is more than the association anticipated so that the cost is much higher than expected. Since the wood is behind the siding or under the roof shingles it is difficult to estimate up front. It is again helpful



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for all parties to be familiar with the scope of the work. An engineer or architect can determine a scope of work, and have a pretty good estimate of what will be involved. This information may be helpful for bidding purposes and to anticipate the actual cost of the project. Many times, based upon that estimated scope, the contractor will agree to an “allowance” where the contract price will include a certain amount of the wood replacement and the association only pays for the costs above that. This should be discussed with the architect or engineer, and addressed in the contract.

There are insurance options to protect against some unforeseen events. Builders risk insurance can be obtained to protect the association’s interest in the materials, fixtures, and equipment that are to be installed, in the event they are damaged or destroyed by an unforeseen event like a fire or a storm. A performance bond can be obtained to insure the work will be completed, in the event something happens and the contractor does not or cannot finish the work. Similarly, a payment bond will insure the payments to subcontractors and material suppliers if the general con-

tractor is unable to pay. These types of insurance policies are not usually obtained because of the cost involved, but they should be considered in connection with specific projects.

Contractor Insurance

Unfortunately, associations often incorrectly assume that contractors have insurance, or even if the association requires it, they don’t ask for proof of the insurance.

No contractor should be allowed work on the property without having general liability insurance. This covers claims for injuries or for damage to property. The contract should also require that the association and its management be “additional insureds” on the policy. This makes them insureds as if the policy were their own so they have coverage if they are sued because of something the contractor did. The association will be entitled to advance notice from the insurance company if the policy is going to be cancelled. The association could also require umbrella liability insurance, which provides additional insurance above the limits of the general liability policy. The contractor should be required to have automobile

liability insurance, to protect against claims from accidents involving contractor vehicles.

The other important insurance is workers compensation insurance, which is generally required by state law. This insurance applies to the contractor’s workers in the event they are injured. It is important because if the contractor does not have the insurance the association can be considered the “employer” and could be responsible for the worker’s injuries.

It is also important to make sure the contractor actually has the insurance. A certificate of insurance may identify the insurance carried. The certificate, however, will not tell you specifically what the policy covers or excludes, and you would need to look at the policies themselves. Also, to make sure that the association was actually added as an additional insured, you should require and obtain a copy of the policy endorsement which adds the insureds. The contractor should be able to get the endorsement from its agent.

The community association may avoid a lot of headaches during projects by addressing all of these things in the contract and before work begins. ■



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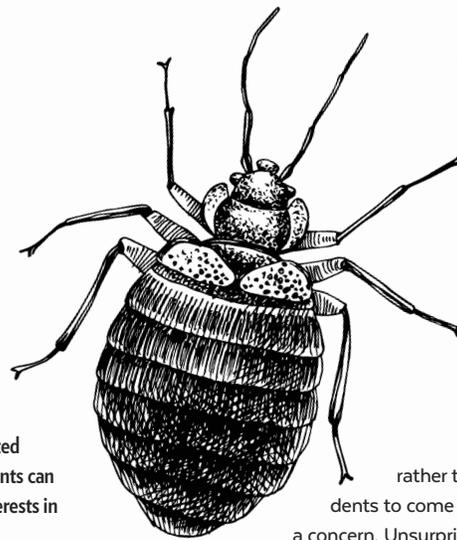
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by Joseph Scharnak – Kovitz Shifrin Nesbit



Pests and Infestations:

8 CONSIDERATIONS FOR COMMUNITY ASSOCIATIONS

As the temperature changes, community associations often see an increase in the number of pest-related complaints. Determining the best way to deal with bed bugs, rodents, termites, and other pest complaints can be a challenge for board members and property managers who must juggle a variety of competing interests in order to best serve their communities.

Condominium, homeowner, and townhome associations can seek to avoid the significant damage and major inconveniences caused by pest infestations by following these eight steps:

1. Educate Residents

Associations are encouraged to provide residents with an annual reminder of best practices for preventing pest problems including proper storage of food, waste removal, and property maintenance. In addition, residents should be provided with information to assist with early identification of

potential pest problems and instructions for properly reporting/responding to pest sightings.

2. Encourage Reporting

In the fight against pest infestations, rapid reporting and appropriate response are the best weapons. It is essential for associations to encourage residents to report potential pest issues as soon as possible and discourage any self-help attempts.

Too often, associations put more focus on punishing residents who experience pest issues

rather than encouraging residents to come forward when there is a concern. Unsurprisingly, this results in residents failing to report pest issues and/or attempting to resolve issues on their own; both of which are widely responsible for minor pest problems quickly becoming major disasters.

3. Hire Reputable Contractors

Any attempt to prevent or eliminate a pest problem is only as good as the person providing the service. Associations are best protected against pests when proper prevention and extermination services are performed by licensed and trained professionals.

Associations should always engage reputable



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vendors who are licensed to use the most effective treatment methods and should avoid asking maintenance staff to use consumer grade products obtained from the local home improvement store.

4. Take Preventative Measures

The best way to address a pest infestation problem is to avoid it from happening in the first place. While it may be impossible to entirely prevent all pest infestations, preventative measures performed on a routine basis can go a long way towards stopping a problem before it starts.

5. Budget for Pest Control Services

Boards often strive to avoid any assessments increases and in doing so may look for opportunities to trim the budget. In this regard, preventative pest control may seem non-essential compared to keeping the lights on or making sure the garbage gets taken out.

Associations should be mindful that failing to include proper funding for preventative pest control services is a gamble that could result in a large unbudgeted expenditure when the building gets hit with a pest infestation.

6. Enforce the Declaration

It should come as no surprise that pests thrive in unsanitary conditions and many associations face the challenge of dealing with certain residents who live in less than desirable conditions. Nearly all declarations contain a covenant that requires residents to keep their homes in good order and repair.

In order to mitigate the possibility of an unkept home being the source of a pest infestation, associations must be vigilant about policing this covenant.

7. Have a Written Pest Management Plan in Place

While some municipalities (like the City of Chicago) mandate that all condominium associations have a pest management plan, associations outside of the city limits and urban centers would be well served to follow suit.

A successful pest management plan provides for regularly scheduled preventative treatments, education, mandatory reporting requirements, treatment, inspection, and an enforcement policy.

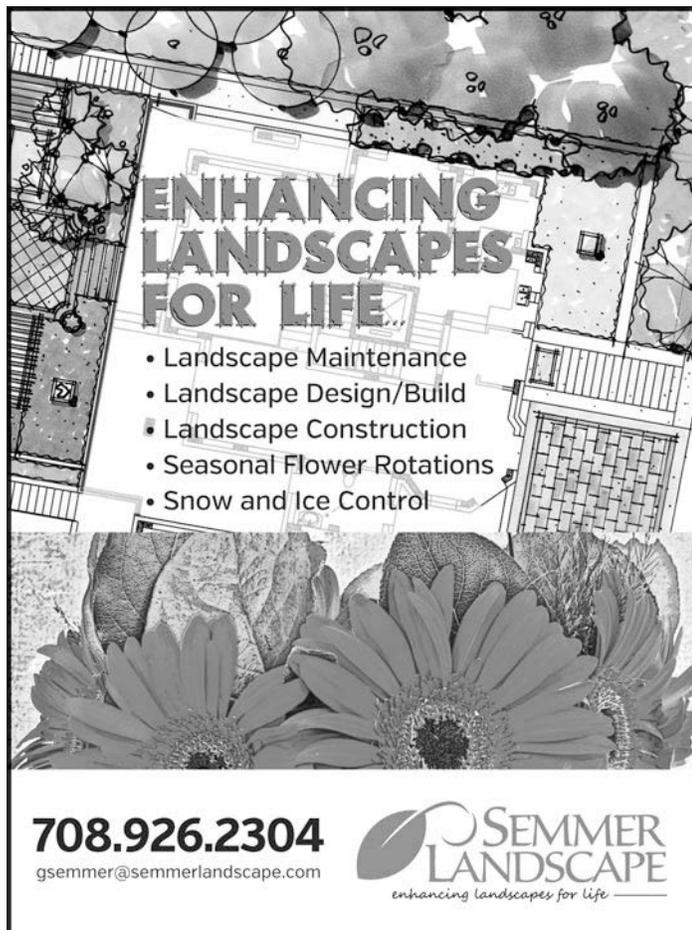
Pest management plans should also establish who is responsible for arranging and paying the

costs of extermination services under a variety of different scenarios. For example, an association may determine that a resident reporting a single bed bug at the first available opportunity is not the same as a hoarder who only gets discovered when neighboring units are affected.

8. Consult with the Association's Legal Counsel

A skilled community association lawyer can be a valuable resource for assisting boards who make pest control a priority. Community association lawyers are familiar with the practical aspects of pest control in common interest buildings and can be instrumental in helping to develop an effective pest management plan.

The Association's legal counsel should also be consulted before an association enters into any recurring or long-term pest control contract. Moreover, an association's attorney should be called upon if a board finds it necessary to enforce the association's declaration against a unit owner that puts the other residents and the community property at risk. ■



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Chicago-based The Habitat Company, a leading U.S. multifamily developer and property manager, recently announced that the firm has been awarded property management of Eliot House, a 324-unit high-rise condominium building at 1255 N. Sandburg Terrace, effective Sept. 8. The addition of Eliot House marks the third significant Chicago condominium management contract award to Habitat in 2020 – the firm announced its management of the 724-unit Park Tower in January, followed by the 234-unit Metropolitan Tower in July.

“As an integral part of the historic Carl Sandburg Village of condominium associations, Eliot House is a well-regarded presence in the heart of Chicago’s renowned Gold Coast neighborhood,” said **David Barnhart**, vice president of condominium management at Habitat. “We are pleased to be working with the Eliot House Condominium Association and its board of directors to deliver superb building service to the unit owners, residents and team members – many of whom have proudly called the building home for decades.”

Designed by Chicago architectural firm Solomon, Cordwell & Buentz and originally constructed in 1963 as apartments, Eliot House is an anchor property in Carl Sandburg Village, a residential community that includes nine high- and mid-rise condominium buildings, 60 townhomes and artists’ lofts, recreational facilities, pedestrian malls and commercial storefronts. Buildings within Carl Sandburg Village have the distinction of being named after famous authors, writers and poets. When the Village was converted to condominiums in 1979, it marked the largest apartment-to-condominium conversion ever completed to date in the city.

A full-service, 28-story high-rise, Eliot House, named after British essayist T. S. Eliot, includes condominium residences ranging in size from studio to two bedrooms and offers 24-hour door staff, bike storage and on-site management, maintenance and package management. Recent property enhancements include new windows and balcony doors throughout the building and the addition of a rooftop amenity deck. Recreational amenities available within Carl Sandburg Village include four tennis courts, two outdoor pools, landscaped green space with dog runs and play areas, and reservable hospitality rooms. Eliot House is also within walking distance of Lake Michigan, the Magnificent Mile shopping district, Lincoln Park and various CTA bus routes as well as the Clark and Division Red Line L station.

by Joseph Scharnak – Kovitz Shifrin Nesbit

COMMUNITIES, CARS, AND CAMERAS:

Automated License Plate Readers in Associations

Condominium, homeowner, and townhome associations have traditionally relied upon security gates as the sole means of controlling vehicular access to their communities. While a gatehouse that is staffed 24/7 may provide residents with a sense of security and grandeur, the relatively low cost, efficiency, reliability and increased capabilities associated with implementing new Automated License Plate Reader (ALPR) technology as an alternative to traditional security gates is increasingly changing the way associations monitor their communities.

What is an Automated License Plate Reader?

ALPRs use strategically placed cameras to capture images of vehicles as they pass by. Within milliseconds, proprietary ALPR software analyzes the vehicle's license plate, storing the image in a database and documenting the precise time that the vehicle entered or exited the user's property. ALPRs have the capability to send out automatic alerts or contact local law enforcement should a flagged license plate be detected.

What are the advantages of Adopting ALPR technology?

The cost of installing a new ALPR system is a mere fraction of the cost of installing a security gate. Unlike traditional security gates, ALPRs do not have any mechanical components that require routine maintenance, repair and replacement. The monthly license fees associated with using ALPR software is far less than the cost of employing 24/7 gate staff and the burden of employment taxes, overtime pay, vacation pay, workers compensation and unem-

ployment claims are eliminated.

ALPRs provide timestamped electronic images of every vehicle that has entered or exited the user's property. This evidence can be used to verify the validity of damage claims and can assist law enforcement agencies in connection with criminal investigations.

ALPRs can be used to monitor when employees and vendors are present on the user's property which can be helpful in resolving contract and employment disputes.

What should community associations consider before switching to an ALPR?

Of paramount concern should be how an association's residents will react to the implementation of this "Big Brother" technology.



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While some residents may be attuned to their every movement being collected into a third-party database, associations should expect other residents to take issue with images of their vehicles being stored in the network of internet servers that make up the cloud.

It's important for associations to be keenly aware of what they are signing up for when they utilize ALPR system licensed software. Some ALPR software license agreements may allow the ALPR company to sell data aggregated from capturing vehicle images to third parties.

Legal guidance and ALPR technology

An association's trusted legal counsel can assist with the implementation of ALPR technology by:

- Meeting with board members and unit owners to understand the membership's security concerns so that tailored policies and procedures can be formulated to accomplish the association's specific ALPR goals.
- Appropriately updating the association's governing documents to reflect the adoption of this new technology.
- Assisting with the publication of informational notices and signage informing residents and guests that ALPR technology is being used on the property.
- Creating rules for how the ALPR technology will be implemented including how data will be stored and accessed and the circumstances under which a unit

owner may be provided with access to such data.

- Reviewing ALPR vendor contracts to ensure that the data being collected is securely stored and not disseminated.
- Providing guidance should law enforcement agencies request access to ALPR data.
- Keeping the association aware of developing law that may affect the way this new technology can be used.

The privatized use of ALPR technology by community associations is a relatively new phenomenon. As usage becomes more widespread and various issues come to light, it should be expected that the courts and the legislature will create new laws restricting and governing the way this new technology may be used. Accordingly, association board members and property managers should be judicious when implementing new technology in their community. ■

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by Angela Duea – FirstService Residential

The Big Lift *at* Lake Shore Drive Condo

The one and only chiller providing cooling for the entire building at 3470 N. Lake Shore Drive was reaching a breaking point: the 25+ year old chiller exceeded its useful life; some of the parts reached obsolescence and were no longer manufactured. The reality of the situation was if no plan was put into action, an obsolete component failure could leave the entire building without cooling in the middle of the summer for months on end awaiting a new chiller to be manufactured. The condominium board, along with FirstService Residential's Regional Director Deborah O'Hagan, recognized that it was time to plan for a replacement system.

Starting in March 2019, O'Hagan sent five vendors requests to bid. During the bid process, she learned the most important step is the walkthrough and preparation with the vendors. "Picking the right partner was easy once we saw the detail involved in one contractor's proposal," she said. "All the details were spelled out and all issues were completely thought through. They anticipated all our questions and covered contingencies."

Building the Best Solution

EMCOR Services Team Mechanical, led by Ken Boubel, Operations Manager – Mechanical Services, was the engineering and mechanical contracting firm hired. The company had successfully completed projects with the board of 3470 N. Lake Shore Drive in the past, and that positive relationship helped them work well together. Boubel says, "The best part of this project was that the board of directors empowered us to build the best solution, not the cheapest one." He encourages property

managers to study the lifecycle cost of the equipment, and to educate the board members on the long-term efficiency of the system. "Oftentimes it's best to consider the highest efficiency equipment for the site at the right price, not the lowest price."

Holistic Approach

During the proposal process, O'Hagan appreciated the depth of detail paid by EMCOR. "We investigated various scenarios and thoroughly exhausted the details to provide the best turnkey solution to our customer," added Boubel. "We made several visits, provided detailed equipment comparisons along with the estimated rebates, annual energy savings analysis and included a 3D model for the crane lift within our proposal." Paying close attention to current conditions, taking a holistic approach to review the entire closed loop cooling system, not just the chiller, and striving to

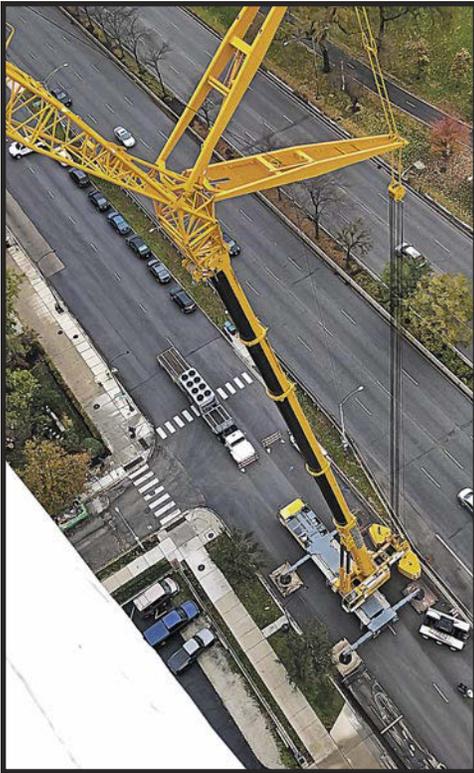
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➤ A 500-ton crane was used to lift a 180-ton air cooled chiller to the top of the 30-story building.

provide the best solution was key to the success of the proposal they accepted.

Rebates Achieved

O'Hagan also noted that EMCOR had a smarter approach that saved money on the project including energy efficiency rebates, and competitive pricing. "Some of the other contractors didn't include energy rebates at all, but EMCOR's plan included a \$20,000 ComEd rebate due to energy efficiencies." The winning bid was \$291,000 which included replacement of the existing chilled water pump and installation of a new side stream filter for the closed loop cooling system.

Coordinating the Big Lift

EMCOR successfully used a 500-ton crane to lift a 180-ton air cooled chiller to the top of the 30-story building. Significant coordination was required with the City of Chicago Department of Transportation, Police Department and local Alderman's Office for a street closure at inner Lake Shore Drive for 72 hours. "It was pretty spectacular," recalls Boubel. "An enormous crane built by smaller crane(s) was erected Friday night into the early hours Saturday morning, the lift was completed in lightning speed Saturday morning in less than an hour, and takedown was completed by 2 p.m. the same day -- an entire day ahead of schedule! Motorists on the outer drive saw a dramatic lift as they drove by."

As a precaution, property managers will have to coordinate with neighboring buildings, provide notifications to residents and commercial tenants along with any last-minute reminders. But one reason that O'Hagan had chosen EMCOR was that they handled most of the details for her. Residents had to leave the building by 8 am the day of the lift, but other than that, the project was completely transparent to them.

Planning Details and Contingencies

"What's most important during the project is to continue to pay attention to the details," says Boubel. Successful project execution can be achieved by planning well in advance, uncovering all the details and having contingency plans if anything unexpected happens. A strong engineering firm should steer the manager and board through the process and work together to make the details come together effectively.

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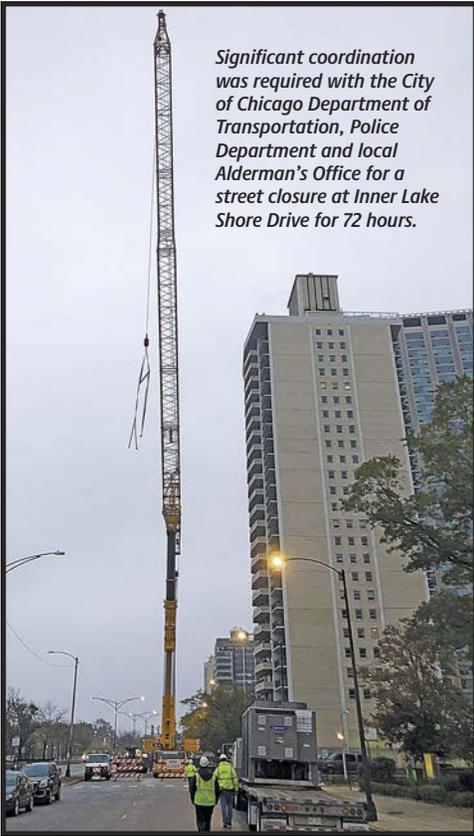
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Significant coordination was required with the City of Chicago Department of Transportation, Police Department and local Alderman's Office for a street closure at Inner Lake Shore Drive for 72 hours.



➤ Shown here is the new chiller being lifted on top of the roof at 3470 North Lake Shore Drive.



➤ Pictured here are crew members beginning work to install the new chiller equipment. ❧

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by Janelle Dixon - Kovitz Shifrin Nesbit

10 BEST PRACTICES FOR VIRTUAL MEETINGS IN COMMUNITY ASSOCIATIONS

Virtual meetings have recently become an extremely popular and necessary topic of discussion within condominium, homeowner, and townhome community associations. Because in-person board meetings are such familiar territory, breaking with tradition and holding a virtual meeting will require advance preparation. To effectively and efficiently address community business, meeting facilitators must be organized and participants (board members and owners) should be aware of expectations.

The following list includes ten best practices to help board members, property managers, and community association leaders limit distractions. These considerations should also help ensure that virtual meeting attendees are engaged even when they cannot be physically present.

1. Select user-friendly software - Virtual meetings can be hosted from several different software platforms including Go-To Meeting, Teams, and Zoom. Prior to scheduling the virtual meeting, consider the different software options available and choose the one that best fits your association's needs. There are many apps that are offered at little to no cost that allow the flexibility for participants to attend from their computer or phone.

2. Trouble-shoot - Prior to your meeting, test the software so you can work out any technical difficulties. Doing so will save time during the actual meeting and allow you to assist members who may run into similar difficulties.

3. Create an agenda - Let your attendees know what to expect by creating an agenda that will serve as a roadmap for the meeting. This will help replicate the structure and pacing that has been established at previous in-person meetings.

4. Be aware of your surroundings - While you may enjoy the idea of conducting a meeting from the comfort of your own home, consider your location and its appearance before beginning the meeting. It is important to ensure that there is nothing distracting in the background which might take away from the meeting itself.

5. Be courteous of time - Do not be afraid to set and enforce a time limit. If a meeting goes on too long, it's easy for attendees to lose focus and start multitasking. Time constraints are a good way to keep discussions on track and encourage everyone to stay present until all the items on the agenda have been addressed.

6. Don't invite too many cooks to the kitchen - Virtual meeting software allows the meeting facilitator to designate multiple hosts. However, it's probably best to assign one host per meeting. This will allow one person, and one person alone, to have the power to

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mute/unmute individuals for the purpose of limiting distractions and maintaining order.

7. Acknowledge those present - If time allows and if they wish to do so, allow attendees to introduce themselves. Experience has shown that individuals are more likely to contribute when their presence has been acknowledged and they have had the opportunity to meet everyone else in virtual attendance.

8. Use software tools to your advantage - Video conferencing software allows attendees to control a number of things in the background that might, otherwise, cause distractions. One of the most helpful tools at your disposal is the ability to manage background noise. As an attendee, you can help avoid microphone feedback, barking dogs, or echoing by muting yourself when you are not speaking.

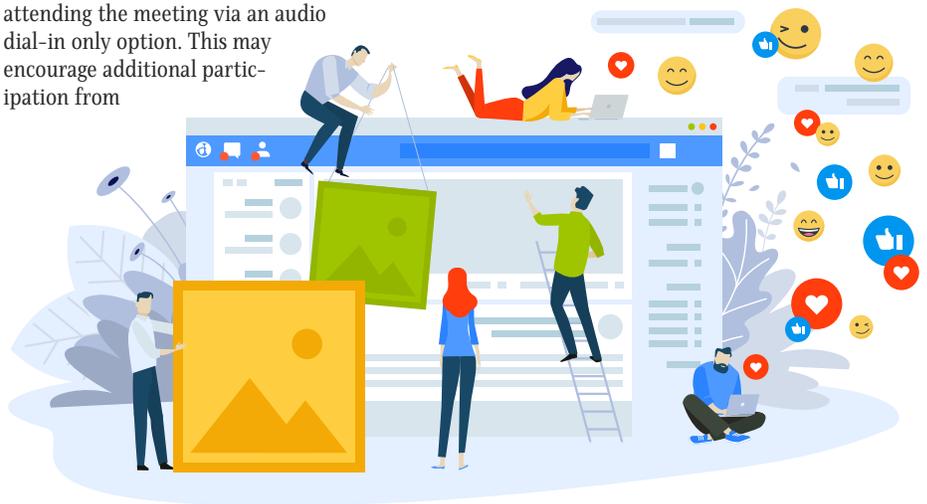
9. Update rules for meetings - It is likely that your association has rules for in-person meetings. However, it may be necessary for the board of directors to pass new rules and regulations that take into account the need for virtual meetings. For instance, it may be necessary for board members to determine how to address roll call, proxy delivery, and

other voting procedures prior to calling a virtual meeting. The association's legal counsel can provide guidance regarding the governing documents and state laws that address the use of technology in community association meetings.

10. Offer several ways for attendees to join meetings - While you may wish to encourage everyone to use the video component of the virtual meeting, it is still important to offer attendees the option of attending the meeting via an audio dial-in only option. This may encourage additional participation from

participants where video attendance is not an option or preferred.

Incorporating meeting rules, encouraging civility, and maintaining an agenda will allow board members and owners to continue to address association issues. With some practice and adjustments, it may even feel just as natural (and more convenient) to convene in a virtual, remote setting. ■■



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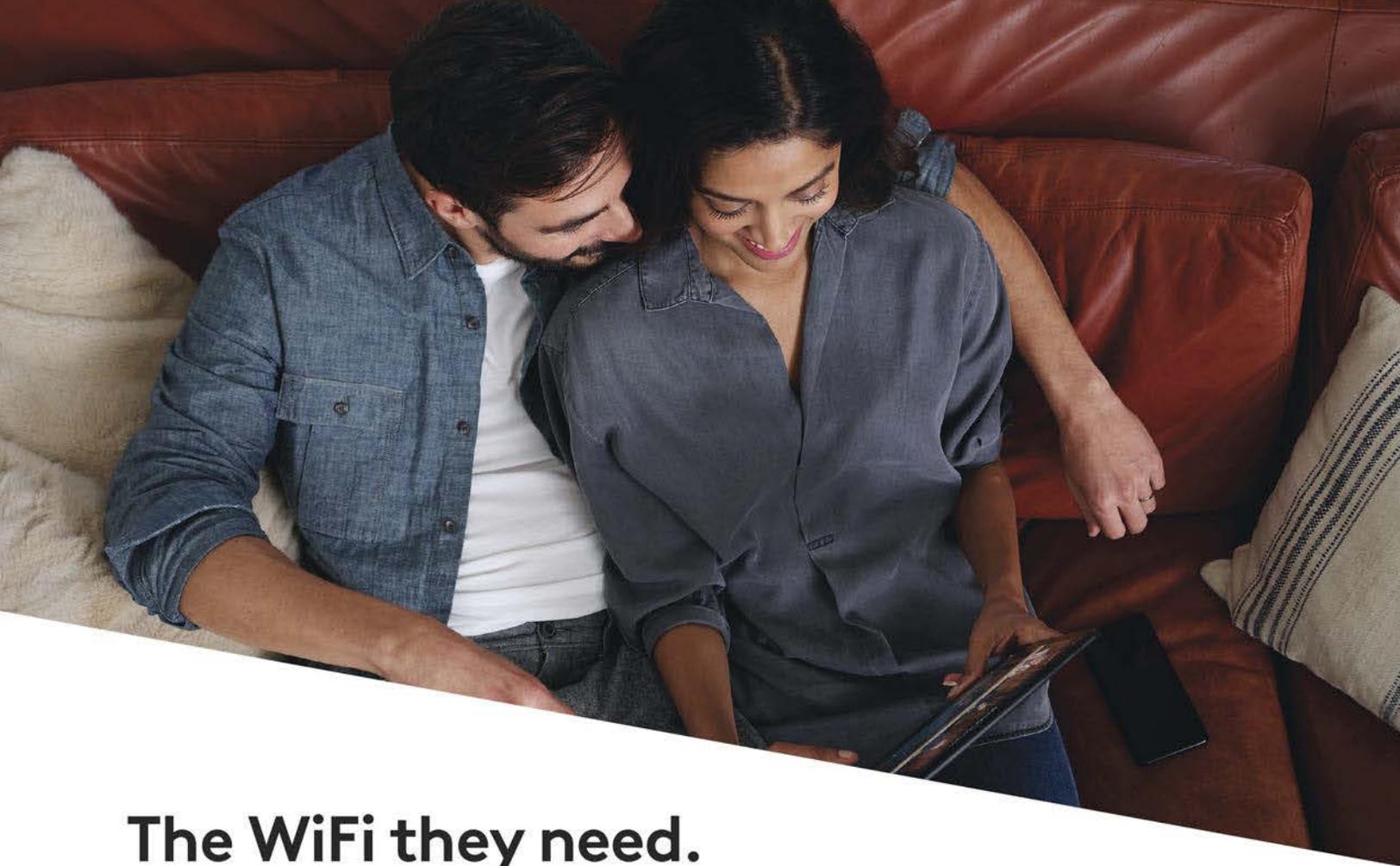
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