

Condo Lifestyles[®]

THE SOURCE FOR INFORMATION ON COMMUNITY ASSOCIATIONS, CONDOS, TOWNHOMES, CO-OPS & HOAS

WELCOME TO THE 2020 STATE-OF-THE-INDUSTRY DIGITAL EDITION...

STATE *of the* INDUSTRY REPORT *2020

HOT TOPICS, TRENDS & ISSUES FOR COMMUNITY ASSOCIATIONS

We regret that we cannot hold our annual luncheon seminar scheduled for December 10, 2020, in person, so in an effort to simulate the event, we are producing a digital version (PDF). This document includes articles that replicate our most popular agenda items: the Legal and Legislative Update, and the Community Association Industry Hot Topics, Trends & Challenges panel discussion. The legal update and some current legal questions are covered in an article titled "Lessons Learned from 2020 as We Plan for 2021" and we will provide a legislative update in our January 2021 issue. We also recognize and express our appreciation to our Advisory Board, committee members and sponsors.

COVID-19 has impacted us all in many and varied ways this year. As predicted by experts, we are now experiencing the second wave of the virus, which is causing us all great concern. The community association industry has been impacted more than most as residents typically live in close proximity to each other and share common entrances and facilities. For the most part, companies that serve this market have done an excellent job of adapting and meeting the challenges created by the pandemic. Although we are all growing tired of having to deal with COVID-19, it is important nonetheless for us to share ideas and approaches as to how we can continue to meet its many challenges. We hope you find this information useful and we'd be glad to receive any feedback or input you may have.

My wish for the coming year is that we all do our absolute best to stay safe, healthy and consider the health of others in all that we do until modern medicine can help bring us relief from the grips of COVID-19."

SEASON'S GREETINGS

& Blessed Holidays!



Michael C. Davids

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by Pamela Dittmer McKuen

Hot Topics, Trends and Issues for Community Associations

For 24 years, the annual Condo Lifestyles State-of-the-Industry has brought together hundreds of association professionals, homeowners and volunteers for an enlightening program of education, networking and camaraderie. The event is the signature production of MCD Media, publisher of Condo Lifestyles and Chicagoland Buildings & Environments and websites.

This year, as we all know, has been extraordinarily different. The deadly, fast-spreading coronavirus, known as COVID-19, has shut down much of the world and nearly all in-person gatherings in efforts to keep people safe.

Despite the virus, the needs and obligations of community associations are essential and ongoing. Managers, contractors, lawyers, accountants, maintenance workers and others have adapted to our new reality. They are continuing their work with new safety precautions and methodologies. As with any non-pandemic year, a myriad of hot topics, trends and issues continue to emerge.

For the obvious and necessary reasons of social distancing, MCD Media's traditional State-of-the-Industry program cannot convene at the Chicago Cultural Center as planned. But we can adapt, just as you have adapted since the coronavirus uprooted our personal, private and professional lives.

Every year Michael C. Davids, president and founder of MCD Media, formally opens the event with his heartwarming welcome. Today we hand him the virtual microphone:

LEGAL AND LEGISLATIVE UPDATE

Association attorneys Gabriella Comstock of Keough & Moody, Jim Slowikowski of Dickler, Kahn, Slowikowski & Zavell, Ltd and Howard Dakoff of Levenfeld Pearlstein provide a "Legal Update" and provide their perspective on some currently common questions on page 6 of this edition. A full legislative update is being prepared and will be provided in the January 2021 issue of Condo Lifestyles.

PANEL DISCUSSION: HOT TOPICS, TRENDS & CHALLENGES

Taking new form this year is the "Hot Topics, Trends and Challenges" panel discussion during which leading professionals offer their insights and views on the most pertinent issues facing practitioners, board members and associations. This year's panelists responded to questions via email and telephone interviews.

The 2020 panelists are: David Barnhart, vice president of condominium management, The Habitat Company, Chicago; Michael Bonick, principal, Kellermeyer Godfry Hart architects and engineers, DesPlaines; Brian Butler, senior vice president, FirstService Residential, Chicago; William DeMille, president, Chicagoland Community Management, Chicago; Adam Sanders, project engineer and

team leader, Elara Engineering, Hillside; Peter Santangelo, president, Wintrust Community Advantage, Barrington; Thomas Skweres, vice president, ACM Community Management, a Division of RealManage, Downers Grove; and Jason Wilen and Mike Naponelli, both senior associates at Klein & Hoffman architectural and structural engineering, Chicago.

In brief summary, the panelists reported exterior capital projects mostly carried on despite COVID-19, although adjustments were made. Most interior projects are on hold or proceeding slowly due to concerns about potential viral transmissions. Associations report greater expenditures for cleaning and sanitation measures, but, happily, no widespread financial losses or assessment deficiencies. A vaccine is eagerly awaited!

An edited version of our panelists' responses follows:

Q: What types of capital projects did you see being done in 2020?

ADAM SANDERS: In the condominium market, we are seeing viral transmission measures being pursued for exercise rooms, lobbies and other common areas. Additionally, building control modifications and upgrades are being implemented to enhance ventilation and reduce the likelihood of the transmission of airborne viruses.

Also, due to elevated lake levels, several buildings are experiencing water seepage and are pursuing de-watering projects. Plumbing riser studies, plumbing riser implementations and equipment replacement projects (i.e. boilers, chillers, AHUs, etc.) continue to remain a driving force in the industry.

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* indicates that this individual also serves on the Chicagoland Buildings & Environments Advisory Board

PETER SANTANGELO: Associations have been still moving forward with capital improvement repairs and replacement projects even during the pandemic. Projects that we noticed that were prevalent this year were facades, risers and roofs. Associations this year more than ever were incorporating the loan repayment into the regular assessments; however, we did see quite a few special assessments implemented for loan repayment.

WILLIAM DEMILLE: I've got buildings that have plumbing projects going on and buildings doing significant exterior maintenance. One building is embarking on a riser project. It's moving along. The building bought half a dozen hospital-grade UV machines to disinfect units if the residents want it. Another property in the suburbs where they have a rewiring project that requires going into the units and walls, that project is pretty much on hold because too many people don't want anyone in their units.

Q: How did COVID-19 affect capital projects this year? Are certain types of projects done or not done because of the virus?

JASON WILEN AND MIKE NAPONELLI: While some projects were delayed in getting started and not all planned work went forward, Klein & Hoffman has been fortunate to move forward with most of the types of repair/forensic and structural work we normally do. In some cases, clients decided to take on additional work where normally fully occupied buildings were empty or sparsely populated.

For projects in Chicago, there was some worry early in the COVID-19 crisis that construction projects would be shut down or that building permits would be hard to obtain. Thankfully, this did not occur. In our experience and from what we have heard from contractors, the Chicago Building Department has done an excellent job under difficult circumstances to allow for construction work to proceed with little or no disruptions.

DAVID BARNHART: With the onset of COVID-19 this year, projects were very much delayed. The immediate focus became keeping employees and residents safe. Increased cleaning and sterilization became the normal day-to-day activities. Those projects that were not put on hold were isolated to areas where human to human contact could be minimized. Façade work progressed, garage repair and improvement projects moved forward. Projects such as plumbing riser replacements were delayed. Any projects that were intrusive into now full-time occupied units were put on hold. These projects remain on hold particularly with COVID surging.

MICHAEL BONICK: The onset of the virus and the stay-at-home order in March couldn't have come at a worse time for associations considering capital projects in 2020. Many projects were already well underway or about to begin as the weather started to improve, leaving many boards faced with some difficult questions. Do we keep moving forward? How long will the shutdown last? How will this affect our assessments long-term? For those that were ready to begin their façade restoration projects, we saw board reactions across the whole spectrum. A great number of them decided to push their projects to 2021, not necessarily with concern for cash flow, but disruption to a building full of residents already on-edge with the pandemic, and now working and schooling from home. Many other boards decided to plow through and get the work done while the money was in place, or they were forced to keep going to address leaks or safety issues.

BRIAN BUTLER: We saw relatively little disruption for building exterior projects (façade maintenance, landscaping, roof and garage repairs), whereas building interior projects were reviewed to provide protective protocols related to COVID-19. Careful scheduling with residents, universal mask-wearing, and updated sanitation schedules were implemented at many associations that were undergoing interior projects. These projects included: riser replacements, hallway carpeting and remodeling projects, window replacement projects, and elevator modernizations.

DEMILLE: It depends on the project. If you have a major plumbing problem where people aren't getting enough water or hot water, they are a little more amenable to letting a contractor into the unit to do that project. It runs the gamut of residents who are afraid and residents who are not afraid. I have residents who will not come outside their units, but that's not the norm. I think the average person is doing the best they can do to get on with their life and do what they need to get done.

Q: What types of special adjustments were made for Covid-19 on projects you were involved with this year?

BONICK: Façade and roof contractors were generally very accommodating of associations' needs, working shorter hours, off-hours or limiting noisy work to certain hours of the day—whatever it took. And in most cases, this worked out fine. But we also saw our share of irate residents. Let's just say they were 'expressing themselves' on a daily basis, and some of them to a borderline criminal extent. It's been tough on everyone, for sure.

SANDERS: As everyone is aware, remote online meetings have been heavily relied upon for coordination. Contractors are taking measures to maintain safe work environments including wearing masks, social distancing, temperature checks, regular cleaning of spaces, etc. Additionally, while it has always been our practice to include increased levels of filtration for good indoor air quality on all of our projects, there is increased attention and opportunity to build-in filtration and control enhancements specifically targeted at reducing the likelihood of airborne virus transmission within buildings (i.e. MERV13 filters, UV filtration, bipolar ionization, increased ventilation, building flushes, etc.) where projects are already ongoing (i.e. AHU replacements). Equipment manufacturers have also published extended lead times on specific equipment due to COVID-19 related manufacturing delays. As a result, equipment lead times are an even more significant factor in design selections that we evaluate upfront wherever possible.

2020 State-of-the-Industry Committee

David Barnhart and Shruti Kumar The Habitat Company	Gail Filkowski First Community Management
Tony Briskovic Chicagoland Community Management	Tom Skweres ACM Community Management
Tairre Dever-Sutton Tairre Management	William Townsell Chicago Police Dept.
Michael Donnell, Marla Jackson and Bill Southall FirstService Residential	Derek Wilkinson Associa Chicagoland
Natalie Drapac, and Molly Trogdon Community Specialists	



WILEN AND NAPONELLI: Given the large shift from occupants working in an office setting to working from home, a lot of collaboration occurred between Klein & Hoffman project managers and condominium associations and apartment owners to provide options for reducing the noise burden associated with various repair types. In a few instances where substantial repairs were planned for residential buildings, projects were delayed until 2021; however, we found that most projects moved forward and were successful.

SANTANGELO: We have not made any adjustments for projects that are being financed, and associations seem to be moving forward with needed repairs.

Q: What is your forecast for capital improvement projects in 2021? Are some properties holding back on projects because of COVID-19 or possible delinquent assessments or other financial issues?

DEMILLE: I think projects for residential properties in 2021 will be pretty much like 2020. It will be a property-by-property and project-by-project basis. If it's not better in terms of projects, at least more people are learning how to deal with this.

BARNHART: Try and get back on track with 2020 projects that have been delayed and to prepare for scheduled 2021 projects. We are waiting for widespread COVID vaccination to be implemented before unit-intrusive projects are restarted.

SANTANGELO: We anticipate moving forward as normal and continue to ask our clients if they see any deterioration in their delinquencies.

BONICK: Now as we approach the winter amidst the worsening pandemic, I see associations again worried about next spring and whether or not those deferred projects should move forward. I think most residents have grown accustomed to working from home at this point, so noisy work is less of an issue. And while I haven't heard of any buildings fearing imminent assessment collection issues, the longer the pandemic lasts the more those fears will grow. But I'm optimistic that we will survive another winter, the virus and an uncertain economy, and come spring we'll at least be able to see the light at the end of the tunnel. 2020 is almost over!

SANDERS: Projects for viral transmissions are being pursued while most equipment replacement projects continue to progress. Typical equipment replacement projects are centered in mechanical rooms and result in a natural separation of workers from building occupants. Additionally, equipment and MEP infrastructure replacements due to failure and age are essential to the continued operation of buildings, especially multifamily buildings that serve as the primary residence for many of the building occupants. Thus, they often cannot be avoided and are best planned for in advance to ensure the right project is pursued at a competitive cost.

We have not had any condominium clients hold back on projects for those specific reasons to date. Other segments of the construction industry have seen a

slowdown. As a result, the bidding environment is favorable to clients as contractors are looking for work. We anticipate the bidding environment to continue to be favorable for the near future with consideration to the current economic climate.

BUTLER: We are in the height of budget season right now for the vast majority of our clients who operate fiscally on the calendar year. We are seeing relative adherence to the capital planning outlined in the reserve study for each association. We have counseled our clients to maintain a focus on both short- and long-term goals through the budgeting plans. Also, necessary capital maintenance should continue to be planned as we move forward into 2021 to avoid costlier repair projects in the future for deferred maintenance.

SKWERES: I see boards looking closely at all contracts, including management contracts, to make sure that they are getting all the services specified in them. I believe vendors and contractors will see tougher negotiations ahead because of this.

WILEN AND NAPONELLI: As structural and architectural engineers, Klein and Hoffman is often asked by our clients to assist with budgetary planning by providing building assessments and cost estimates for potential structural, façade, roofing and waterproofing work. Requests for such assistance have continued to come in indicating that many of our clients are planning for such work in 2021. We have also noticed that many of our clients have adjusted to the realities of COVID-19 and have invested in efforts to keep building occupants, visitors, and vendors safe inside their buildings and properties. Most contractors and design professionals have also adjusted work practices based on COVID-19-related guidance from local, state and federal authorities. Lastly, we have been asked by some clients to assist with prioritizing future restoration work so that they will have the information they need to be flexible should financial realities require important work to occur sequentially.

Q: What types of financial issues, such as delinquent assessments, are associations facing because of COVID-19?

DEMILLE: Whether or not associations are raising assessments depends on need. If a project can be put off for a year or two, they might be doing that. I think the overall average association is going to have a minor increase, more close to the cost of living than anything else. I don't see anyone in our portfolio that is really being financially stressed at this point, but who knows what happens tomorrow? I think that everybody in this industry from our management personnel and assistant management and maintenance personnel has been lucky to be classified as essential workers and have still been able to work. I feel very bad for people who either own their businesses or work in restaurants that are not going to reopen. I haven't seen that translate to financial stress in our properties but it could. It's something we are watching for. I think associations as a whole have been good about working with owners who come to them and say, 'I'm having financial difficul-

ties because I lost my job to COVID-19. I'm not trying to not pay you, but I need some accommodation.' Down the road there might be a ripple effect because associations have to foreclose and banks will have properties on their hands, but we're not there.

BARNHART: None in particular. We've seen more expenditures on cleaning supplies and plexiglass shielding for employees. The urban lakefront condominium associations are faring pretty well in terms of delinquent assessment collection. Collections have not impaired the ability to move forward with capital projects.

SANTANGELO: At this point in time, we have not seen any adjustments made for projects or a significant increase in delinquent assessments. We have discussed with all our clients if they are seeing delinquency issues during this time, and most have said collections have not dramatically increased.

SKWERES: We do not see a lot of people paying their assessments late at this point. Some boards, though, are becoming stricter with following their delinquency policies. I don't see boards putting off the planning of major capital projects, although I think they will approach them more cautiously. Exterior projects will probably move ahead, but there will be a lot more to consider on indoor projects. I think there will be more analysis of money requirements, and management will be pushed to take a more aggressive role with borrowing options and obtaining quality vendors at competitive prices. Boards tried to keep assessment or increases low for 2021, again due to the uncertain economic and political climate.

As a company, we have had some boards request funds or relief on the cost of property inspections that they contracted for, since many inspections were not done on building interiors for a few months. For boards that have complained we doubled up on inspections or credited fees back to our clients.

BUTLER: Boards have a fiduciary duty to the communities they represent and we are counseling our boards to maintain a careful focus on several key factors including resident safety, the nature of the project and its immediate need, financial planning and resources, as well as delinquency rates. We began monitoring the relative financial health of our associations earlier this spring, specifically related to the economic impact of the COVID-19 pandemic. At this time, we have not yet seen systemic negative impact on associations as a whole related to higher delinquency rates; however, we recognize that the longer this pandemic continues that higher delinquencies may become more acute.

We have also seen higher interest by board members to review current debt they may be carrying to refinance into more favorable repayment plans or to utilize financing to address building capital repairs due to one of the most favorable interest rate environments in decades. Our FirstService Financial team has saved tens of thousands of dollars for individual associations just by refinancing existing debt for our customer base alone.

We have seen several areas of rising costs for associations in light of the economic situation in 2020.

Predominantly, we have seen a hardening of the insurance market which has led to a trend of higher premiums for common coverages from several carriers and potentially impacted deductible levels. We recommended that boards consider these expenses, along with allocating additional funds for sanitation supplies and PPE for staff. While many of the costs in 2020 have been unexpected due to the fast-moving nature of the pandemic, we have more data now to plan for another year in which it will continue to affect our daily lives.

Q: How have social distancing and virtual meetings impacted your relationships with client associations?

SKWERES: Zoom or videoconference meetings are effective, and I think will be a norm for the future. The meetings and presentations that I have attended and done seem to run smoothly and better. Everyone seems to be respectful of time and wanting to get back to whatever is going on around them at home. Since homeowners do have the ability to participate in these meetings—at the board’s discretion, they do not lose out on giving their input.

BARNHART: Zoom meetings have been a huge help in managing associations and in conducting board and committee meetings. The same amount of manpower and time needed to prepare and participate in meetings is still there. I have not seen any requests to discount management fees or salaries during the epidemic.

BUTLER: Management does not consist of one monthly board meeting but rather continues 24/7 and 365 days a year. The year 2020 has led to a number of process and governance changes. As a company, we worked with our boards to adjust to virtual meetings and the true limits of in-person discussions in light of social distancing requirements. When we can’t get together physically due to these restrictions, we have counseled our boards to improve and expand on other communication channels to maintain

engagement with the communities. Newsletters, regular email updates, virtual social events and others have helped keep communities bound together during these challenging times.

Q: What additional “hot topics” are associations and managers looking at these days?

WILEN AND NAPONELLI: For community associations, as with all building owners in the City of Chicago, a long-planned update to the Chicago Building Code became mandatory for construction projects. New energy-related provisions came on line in January, and new building and restoration provisions became effective on August 1. As such changes apply when a permit is issued, much of the work we did this year fell under the old code as permits for restoration work were obtained before August 1. For 2021 projects in Chicago, work will have to comply with the new code. In our experience, it takes a while for clients and design professionals to become familiar with a new code. At Klein and Hoffman, we have staff that participated on City of Chicago code committees and have analyzed the new code to determine where requirements have become more stringent. Some of the biggest changes in stringency affect roofing projects. Klein and Hoffman has developed a number of presentations to bring building owners, contractors, and our staff and partners up-to-speed with the new requirements.

BARNHART: With everybody cooped up at home, rules violations are on the uptick. We’ve had violations of children riding their bicycles in common areas. Now if there is a noisy neighbor, you’ve got a dispute during the business day we wouldn’t normally see. We have face mask violations. People are all COVID-19 weary, so not everyone is on their best behavior.

DEMILLE: It will be interesting to see what new products and new expenses will come out of COVID-19. We’ve already seen a shift in cleaning supplies, which initially were priced through the roof if you

could even find them. A lot of companies have stepped up to the plate and are making cleaning products. We have to make sure they are effective and approved, not just something someone pours in a bottle and slaps a label on. One association wanted patio heaters for their outdoor space. Those are hard to come by.

SKWERES: Qualified managers have been hard to find for a long time. New people are not entering the industry fast enough to keep up with the demand. People who are currently working in the industry are hesitant to make the switch to another company because sometimes the devil you know is better than the devil you don’t know. This will probably also get harder as older managers retire.

BARNHART: Finding qualified managers is a challenge that never ends. I’m searching for some right now. There is no training program through colleges and universities, so people don’t even know we are a substantial industry. No one goes to school to major in property management. They all fall in in some general way. We have kind of a defined pool of candidates we are all trying to pick from.

SKWERES: I am receiving a lot of calls from currently self-managed associations as boards are finding out how much work is involved in keeping their community thriving as it ages. We’ve picked up a few, but it’s not economical for us to take on the smallest associations. We refer them to a real estate agency that might be interested in helping them out.

DEMILLE: Hopefully, when the election issues are over, people will not be so at odds with each other. I think the best thing we can do is work to communicate well and to unite our homeowners and bring a sense of neighborhood back to our properties.

BARNHART: If we can get a vaccine out there and get everything back to normal, that’s what we’re all hoping for.

by Matt Panush - Worssek & Vihon, LLC.

Property Tax Update

We hope that you, and those closest to you, are doing well and staying safe during these unprecedented times. With everything going on in the world, property taxes may not be at the top of your list of things to worry about. However, we wanted to provide you a quick update on recent events for Cook County property owners that may affect your 2020 property assessment.

Soon after the pandemic caused local governments to issue stay at home orders, and many businesses closed or went to remote work arrangements, the Cook County Assessor issued a press release stating that he would be examining the effect that COVID had on real estate values and would issue adjustments, when necessary, to properties throughout Cook County. These adjustments would be made without the need for an appeal.

According to the information published by the Assessor, if your property is located in Berwyn, Lemont, Lyons, Worth, Stickney, Orland Cicero, Bremen, Rich, or Bloom Townships, the initial assessment notice you received from him already contained the Assessor’s COVID adjustment. For those taxpayers in Palos Township, Calumet Township, Chicago or the North suburbs, your COVID adjustment will be sent after the Assessor

completes all the appeals in your township. You can check your current assessment at this website: <https://www.cookcountyassessor.com/address-search> to see if the Assessor adjusted your value. You can monitor the Assessor’s appeal progress and see the updated list of townships here: <https://www.cookcountyassessor.com/assessment-calendar-and-deadlines>.

Please note that this COVID adjustment will not automatically translate to a lower tax bill. These reductions could be offset by increases in the local levies set by taxing districts or increases in the local tax rate. The true effect, if any, of this reduction will not be known until the second installment tax bills are issued sometime in 2021.

If you have engaged the services of a qualified property tax attorney, they should be actively monitoring these changes and how they affect your property’s assessment. If an appeal is necessary, they should contact you and let you know how to get the appeal process started. If there is already an appeal filed for you, your tax attorney should report back to you as soon as possible after the Assessor and/or Board of Review issues a decision and let you know what the next steps are.

by Gabriella R. Comstock, Keough & Moody, P.C., Howard S. Dakoff, Levenfeld Pearlstein, LLC., and James A. Slowikowski, Dickler, Kahn, Slowikowski & Zavell, Ltd.

The Lessons of 2020 as We Plan for 2021

For most of 2020, we have been navigating through uncharted waters. Accordingly, few issues or questions were addressed by the Illinois Condominium Property Act, Illinois Common Interest Community Association Act, and/or Illinois case law. Instead, we had to rely on our experience over the years and the plain language of the law that does exist to advise our clients. Now with approximately nine (9) months of "COVID-19 experience" under our belt, it is time to plan ahead and be ready for 2021.

Should we Adopt Specific Rules for Adherence to Health Guidelines?

Guidelines have been issued by federal agencies, the State of Illinois, and the counties and cities within the State of Illinois. All have said people should wear masks when they cannot socially distance. Many Board of Directors have asked time and time again if they should take the necessary steps to adopt rules and regulations requiring owners, occupants, and guests to wear masks, while in the common areas of the association. While most of the community associations we represent did not initially adopt rules requiring adherence to applicable State and City guidelines, we are seeing that more are reconsidering this position since it appears the guidelines will remain in effect for most of 2021. A Board of Directors can adopt rules requiring adherence to applicable State and City requested guidelines, as well as any additional reasonable restrictions or requirements the Board wishes to impose. The Board can adopt rules which are stricter than the State and City guidelines.

Even without the adoption of specific rules requiring the adherence to applicable guidelines, the Board may rely on the provisions within the association's community instruments which prohibit noxious and offensive/nuisance-type conduct. After all, not wearing a mask within the common areas can be interpreted to be noxious and offensive conduct as it unquestionably addresses health and safety. Thus, the issuance of a violation notice and levying a fine is warranted.

Whether a community association should adopt such rules is dependent on the community. Rules may not need to be adopted if the community has been responsive to the reminders posted throughout the association by the Board of Directors. Yet, rules may be needed where a significant amount of the residents fall

within a high-risk category. Regardless, if the Board adopts a specific rule or relies on the noxious provisions existing within its community instruments, a Board of Directors can only enforce the restrictions if an Owner issues a complaint. If Owners are not willing to issue these complaints, specific rules on the topic may give Owners a false sense of security. It is important for a Board that seeks to enforce guidelines to continue to remind their Owners that they cannot do this alone and need the Owners to help be the eyes and ears of the community.

Issue a Fine or Deny a Rule Violator the Use of Common Elements?

While fines are the most common consequence to a rule violation, due to the seriousness of not adhering to guidelines, a more aggressive approach may be to deny a unit owner use of the common elements. Certainly, the Board cannot deny one the right to ingress and egress to their Unit or the Building, but a common question is whether they can deny the violating Owner use of the fitness room, clubhouse, social and meeting rooms, etc. This is not a settled issue. We do agree that this consequence could be subject to a legal challenge. However, a Judge may also look more favorably upon denying an Owner access than the Board imposing steep fines. After all, a fine is not going to stop the spread of the virus, and the Owner had the choice to follow the guidelines and use the common elements or not and be denied access.

Follow Safety Protocols for Amenities That Are Open

In 2020, we all saw many community associations keep common amenities closed. However, this may not be practical for 2021. It is important for community associations to ensure that proper safety protocols are followed when reopening amenities and/or to keep the ameni-

ties opened. The protocols to be followed have been well-publicized and are as follows:

- Decrease maximum capacity (and comply with any limitations set by your municipality);
- Require reservations (to reduce large gatherings and to assist with contact tracing);
- Limit access to residents only (no guests);
- Increase cleaning and sanitation protocols in accordance with applicable CDC and IDPH guidance;
- Re-arrange space to promote proper social distancing (separating exercise equipment and/or furniture, as applicable);
- Adopt rules regarding use of the amenity spaces, such as a mask/face-covering requirement during use of amenity;
- Adhere to all applicable CDC, state, and local guidelines regarding indoor amenities;
- Temporarily close amenities in the event of an outbreak, and only reopen after proper and thorough sanitation protocols are completed in accordance with CDC guidelines;
- Send reminders to all residents of the protocols, policies, and rules, as necessary;
- Update waivers signed by the residents to specifically refer to COVID-19; and,
- Reduce hours of operation (which will also allow for additional cleanings).

Like the adoption of rules, whether an amenity is opened, or remains opened, during the pandemic is a decision for the Board of Directors to make. To make this decision, the Board can consider the financial impact on the community, whether the area is commonly used by the members, whether the residents are cooperating, and it may consider composition of the community. It is a good practice, when moving to reopen the amenities for the Board, to make the opening conditional upon compliance with the protocols remaining feasible.

Virtual Meeting Trend To Continue

A small, silver lining of the COVID-19 pandemic is that it has forced community associations to re-evaluate their practices for meetings. Many associations are having success with conducting meetings virtually via platforms such as Skype or Zoom. This appears to be a trend

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that will continue into 2021. Virtual meetings allow more members to attend the Board meetings. They have also led to more efficient meetings, with less interruptions. Like a fine wine, conducting virtual meetings will get better with age, as people get used to it.

What are some tricks to ensure that a virtual board meeting is a success? First, the Association should select a forum that will work best for its community. Second, just like an in-person meeting, an agenda must be created and followed. Third, the host of the meeting must be familiar with the features of the platform being used, i.e. know how to “mute all” to avoid interference, others speaking over one another, and background noises. Fourth, a process must be adopted to ensure that only Owners are admitted to the virtual meeting. Finally, Owners should be required to submit written questions in advance of the meeting.

Electronic & Absentee Voting for Annual Meeting

These same tips should be followed during an annual meeting. In addition, if it was not done in 2020, now is a good time for Boards to review the association's rules on how to conduct an annual meeting and to consider adopting absentee ballot or voting by acceptable electronic means. For condominium associations, these rules must be adopted at least 120 days before the annual meeting. The adoption of such rules will also ensure that both the members of the Board and the Owners understand how the meeting will proceed.

Handling Positive Cases of Covid-19 Within Communities

In 2021, we will continue to learn of positive COVID-19 cases within our communities. It is important for a Board of Directors to understand what it can and should do when it becomes aware of a positive case. Often, when the Board learns of a case, it is conflicted between privacy concerns and ensuring the safety of those within the community. Adopting a policy, as to the protocol to be followed when a case is known, will help to assure a resident that they will not be ostracized or targeted, while also ensuring all are safe.

If the person to test positive is a resident, the Association should send correspondence to the resident directing him/her to (a) adhere to all applicable CDC guidelines including self-quarantining; (b) remain in his/her Unit except as neces-

sary to receive medical treatment and coordinate with management on when he/she will need to enter/exit so that the hallways can be cleared to avoid exposing other residents; and (c) coordinate with management on trash removal, package pickup, etc. to ensure no risk of exposure. If applicable, the resident should be encouraged to participate in relevant contact-tracing programs. The Board should also send correspondence to all residents and unit owners advising of the positive test and to explain the additional steps taken by the association to protect the health, safety, and welfare of residents. The name or any identifying information about the resident who tested positive must not be shared.

If the person who testified positive is a staff member, the same notice should be sent to the residents. It is important that the Association understands its obligations to the staff member or employee regarding paid time off and when the person may return to work. Similarly, the Association must know what to do if other staff members may have been in close contact with this employee. It is recommended that the Board consult with legal counsel and, if applicable, the Union representative, if an employee tests positive.

Plan to Be Proactive in 2021

It is still unknown as to exactly what 2021 holds. We all believe it will be a transition from the reactivity of 2020 to becoming proactive, as we learn to live with COVID-19. We believe that we will see community associations adopting rules and regulations and protocols in an effort to maintain a safe environment. We also believe we will see community associations embrace technology and how it can help them to be more efficient. While the growing pains for our new “normal” will continue, we also believe in 2021 the members of our boards, through the guidance and wisdom of their managing agents, will be more confident in their administration of their community association. We also believe community associations will resume replacement projects, reopen common facilities, and remain focused on preserving their community.

Embrace Learning New Things from the Pandemic

These have been difficult times for everyone. We have all been involved in this industry for over 20 years. Yet, we each have

learned something new. For Howard, this is the first time in his life that he is working from home for an extended period of time (more than a day here or there). As the father of three young children, he has learned to laugh when one of his children barges into a ZOOM Board meeting by accident, and he has also learned that a 10 minute walk with your dog mid-day is quite therapeutic.

While prior to the pandemic, Gabby commonly worked from home, she has learned what a different experience it is when you “can” work from home versus you “must” work from home. Last spring her home was a remote office for Keough & Moody, a college campus and a high school. She and her husband are grateful for having more time than ever expected at home with their teenagers. The pandemic has taught (and continues to teach) Gabby that life is not black and white, and we need to adjust our mindset to balance our physical and mental well-being.

Jim's experience has been difficult and having a wife who is a medical professional has added another layer of the unknown. Jim has learned to adapt to new lifestyles with limited options, while making the best of it. Technology, looking for new things to do, and changing how to approach tasks, has helped him. New forms of entertainment have helped Jim too, including a neighborhood “wheel of fortune” contest where the weekly winner picked a charity and over \$1,000 was made in donations! Fortunately, Jim learned new ways to stay in contact with family and friends so he can still carry on. Overall, Jim has learned to adapt.

Look for the Good in This Difficult Time

Yet, all would agree that this is a time to remember, we are not alone. We will get through this if we continue to listen to one another, treat each other with respect, and show grace to one another. The authors are thankful for this unique opportunity to collaboratively write this article, that may not have occurred, without the pandemic. We all hope you too can find something good from this most difficult time, and stay healthy and safe.

Gabby, Howard and Jim



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