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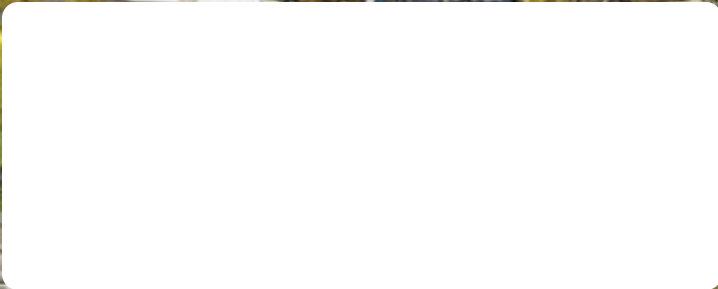
RECIPE FOR KEEPING ENCLAVE AT COUNTRY LAKES BEAUTIFUL AND PROPERTY VALUES UP

FEATURES

- » APPEALING TO THE NEXT GENERATION OF CONDO AND HOA UNIT OWNERS
- » *UNDERSTANDING CONDO AND HOA INSURANCE:* Coverage Types and Key Considerations for Community Associations

- » *A NEW DAY IN ILLINOIS:* Insurance Coverage for Construction Defect Damage Claims
- » A BLUEPRINT FOR ENGAGING A PROFESSIONAL ENGINEER
- » TEN WAYS FOR COMMUNITY ASSOCIATIONS TO SLASH EXPENSES

- » WHAT COMMUNITY ASSOCIATIONS NEED TO KNOW TO AVOID COMMON SOCIAL MEDIA AND INTELLECTUAL PROPERTY PITFALLS
- » HOW TO INCREASE ASSOCIATION REVENUES WITHOUT INCREASING ASSESSMENTS





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by David Conforti – RealManage Illinois

Recipe for Keeping Enclave at Country Lakes Beautiful and Property Values Up

You know that feeling of throwing all your ingredients into the pot and stirring them up in the hopes that the dish you are serving is appreciated by all? It takes a lot of love and effort to make it turn out just right!

You want everybody to love what you have served and sometimes it is not easy to please everybody. In this article, I am going to highlight some real important ingredients you need for every recipe success when it comes to Community Association Management!

Without these essential ingredients, you may serve up a dish that causes belly aches! This article will also illustrate how Enclave at Country Lakes Condominium Association uses all the ingredients discussed in order to

serve up a fine product to their residents. Enclave at Country Lakes Condominiums is comprised of 438 condominiums in 69 buildings and is located in Naperville, Illinois. The community abuts up to a beautiful golf course, a city park and playground, and protected wetlands. So how does Enclave at Country Lakes stay beautiful? The association, led by the Board of Directors and their Community Association Manager focus on using the key ingredients noted below for success.

INGREDIENT #1

Communication: The number one ingredient needed for a community associations success is effective communication! You will see communication discussed many times throughout this article, as it is the basis for being successful in any customer driven industry. Effective communication starts with the Property Manager and the Board of Directors. It is essential to always keep the community's owners up to date with projects, whether just completed, in progress or planned. Communications, such as holding additional meetings to inform residents, sending newsletters and/or eblasts on a frequent basis will boost your community's trust in the Board of Directors. That is really the key; having harmony with the Board, Owners

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and Management and it all starts with effective communication. As I stated in previous writings, “The three most important things in successful property management are communication, communication and communication!”

To expound on how important communication is to the Community Association Manager, Marcia Caruso, CPM, LCAM at Real-

Manage Family of Brands, who has been a successful pillar in the industry for over 50 years and one of my greatest mentors, stated, “The three most important things we all need to do in order to keep residents happy and the community’s we manage looking beautiful are (1) communicate, (2) communicate and (3) really listen to what the owners say!” Marcia,

who currently manages Enclave at Country Lakes, reminds us you cannot be a successful communicator if you do not also practice good listening skills. Let’s keep communication on your countertop, as you’ll be using it daily!

INGREDIENT #2

A Plan: In order for the association to stay on target with funding, the Community Association Manager should have many tools to assist with staying on par for the future needs of the association. A key part of the planning process should include having a reserve study conducted by a qualified engineer at least every 3-5 years. A reserve study consists of having the engineer inspect all capital components of the community association. From the inspection, details and numbers are projected by the engineering company to illustrate the following information for each capital component owned by the association:

- A. name of reserve component
- B. when the component was installed
- C. expected life of the component in years and the estimated years left of use
- D. the approximate cost to replace the component

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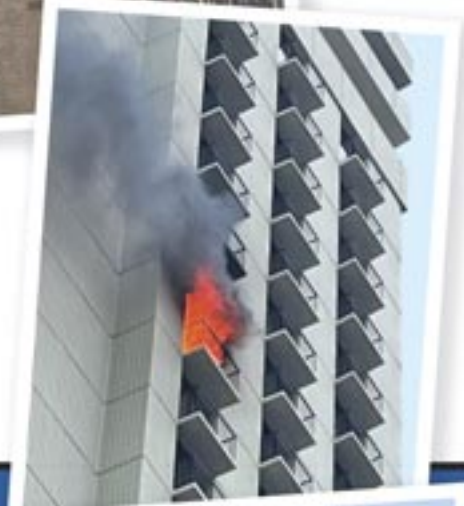
- Jan. 25: 4850 S. Lake Park Ave.
- 1 resident death
- Apr. 5: 1212 N. Lake Shore Dr.
- 1 firefighter death, others injured
- Apr. 8: 6430 S. Stony Island Ave.
- Residents injured
- Apr. 12: 6151 N. Winthrop Ave.
- May 4: 6730 S. South Shore Dr.
- No injuries/deaths in this case, but 2 resident deaths in 2013 fire
- Jun. 11: 999 N. Lake Shore Dr.
- July 31: 7100 S. South Shore Dr.
- Aug. 18: 421 W. Melrose St.
- 1 resident critically injured
- Sep. 10: 3620 S. Rhodes Ave.
- Sep. 23: 3550 S. Rhodes Ave.
- Oct. 4: 6401 S. Yale Ave.
- Oct. 9: 3110 N. Sheridan Rd.
- 1 resident injured
- Nov. 6: 3515 S. Cottage Grove Ave.
- 5 residents injured
- Dec. 8: 3033 N. Sheridan Rd.
- 1 resident injured
- Dec. 10: 6430 S. Stony Island Ave.
- 2nd fire in 2023
- Dec. 26: 6253 S. Michigan Ave.
- 2 residents injured
- Dec. 29: 1020 W. Foster Ave. (5200 N. Sheridan Rd.)
- 2 residents critically injured

Hundreds of Chicago's residential high-rises built prior to 1975 remain unsprinklered, needlessly risking the lives of residents and responding firefighters.

The fire injuries and deaths we witnessed in 2023 did not have to happen. And while each fire may have only affected a single building, it ultimately impacted upwards of hundreds of households due to damage and long-term displacements. Compartmentation and passive fire safety measures in high-rises do not offer enough life safety and are long outdated.

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E. projections on what the replacement cost of the component will be when the useful life is over

The reserve study process also includes financial information of the community association being inspected by the engineer. This allows the study to provide projections of how much the association will need in reserves for the replacement of the components, as well as how much money the association should be putting into their reserve accounts in order to be best prepared for the future funding of replacements. In order to have a recipe for success, it is essential to always have a recent reserve study at your fingertips to assist in planning for the future. Now that the plan was added to the recipe, we have to discuss funding the association properly in order to effectively execute the plan.

INGREDIENT #3

Funding: Let's face it, without having a plan for proper funding for the future of the community association and its needs you will struggle to get major capital projects completed. It does not mean you cannot be successful with managing the community, as there are definitely several options out there for funding the

necessary work. The current or upcoming capital projects do rely on work of the ever-changing Board of Directors throughout the years. If the Board of Directors has not increased assessments over the years in order to properly fund the Reserve Account, (association savings account for capital projects) there will be some extra work for the board and management to do. If this is the case, the Community Association Manager should advise the Board of Directors of their options and then facilitate meetings with the appropriate experts that can assist in overcoming the financial hurdles. Board President of the Enclave at Country Lakes Condominium Association, Mark Anderson says, "Our community has an expensive plumbing repair capital project coming up and it's likely to span over a five-year period. It's a real high priority of our Board of Directors to make sure the unit owners have all their questions answered." With the upcoming project for Enclave, it's still essential to be mindful of your funds for projects that are still to come down the road. Mark Anderson went on to say, "I would like to see Enclave in a solid financial position within the

next 5 years, while also meeting the operating expenses and the upcoming capital improvement obligations that must be tackled. We also have one long-term debt to retire within that period, which was created from our last major capital improvement project."

This is where it is essential for the Community Association Manager to inform the Board of Directors of the options that may be out there to assist community associations that need some financial help. Options include having the association take out a loan and/or implement a special assessment. A special assessment is separate from the association's monthly or annual dues owed by each owner. The special assessment may be charged by the association to the owner as due in one lump sum or the board may opt to have the owners pay in smaller increments on a monthly basis, in addition to their regular assessments. When it is a realization that the association is in need of a special assessment, the Manager should facilitate meetings with the appropriate business partners for banking and legal review of all things considered. Which brings us to the next ingredient.

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INGREDIENT #4 -

Business Partner Relationships: Now that we have communication, a plan and funding added to the pot, it is time to find the right vendors for the upcoming project. This is where the Community Association Manager is relied upon to bring in trusted business partners to submit proposals for the work. If it is a really large-scale project, the manager may wish to recommend bringing an engineering firm in to assist with inspecting the components that are to be replaced. The engineer can also create the specifications for the project and assist the association with the bidding process, which may or may not include them also finding trusted business partners to bid on the job. Once the appropriate business partners are selected by the Board of Directors and with the assistance or guidance of the engineering firm and the manager, it is time to send the RFP or ‘Request for Proposal’ out to the desired

business partners. Knowing the specifications were created by the engineering firm is a huge relief to everyone involved, as it ensures the association will get bids that are ‘apples to apples’.

Although hiring an engineering firm to assist with project planning and inspections can be very costly, it can give the Board of Directors piece of mind knowing (a) the bids are apples to apples and (b) the work is being done correctly. Imagine spending upwards of \$1,000,000 on a project only to have the city inspectors come in after the work is completed and advise the association that something was not completed up to the city code. With an engineer checking the vendors work throughout the project, you will be more likely to unearth any work not in compliance with city code a lot sooner. Issues can then be corrected right away and the rest of the work that follows should then be smooth sailing. It is much better to be safe than sorry when it comes to

protecting your community’s assets.

When it comes to choosing the right business partner for the work, management is typically a wealth of knowledge to the Board of Directors in as far as recommending the right companies. This is another reason why it is so important for the Board of Directors and Management to have trust in one another. It is near impossible to successfully get a capital project completed if the board does not trust the manager or vice versa. When asked, “What are the most important factors when considering hiring the right property management company,” Enclave at Country Lakes Board President, Mark Anderson replied, “The quality of the staff is of major consideration. The professionals within the management company need to have broad industry experience. These persons also need to accept a role of being partners with the board to help manage the community. I like being told the truth, even if it is not what I may like to hear. Honesty and integrity are key traits for any property manager.” Mark’s insight and requirement of having management held in the highest regards for having honesty and integrity resonates with managers feeling the same about the trusted business partners brought to the table for the bidding process.

The business partners include the contractors but may also include engineers, as noted above, bankers to discuss loan options, if needed and the associations attorney. The Community Association Manager should always advise the Board of Directors to have their attorney review contracts before they sign and execute them just to ensure the Association is limiting their exposure to liabilities. If additional funding is necessary for the project, the manager should set up meetings with the Board of Directors and prospective lenders so questions can be asked and answered regarding different options. It is also essential to try and facilitate the loan process with lenders that specialize in Community Association Banking. During a recent project, I had the opportunity to work with Mark Stelter, Vice President, Senior Lender & Director of Community Association Lending at Itasca Bank & Trust who has closed over 1,200 community association loans during his career. Throughout the process, Mr. Stelter expressed the importance of having a recent reserve study on file, as discussed above. He stated, “The idea is that the lenders want to issue a loan for the major common element repairs and replacements but are looking for the board to be able to handle

the smaller items from the reserve fund. And, ideally, the board should only need a lender once for a major common element repair, provided they make the hard decisions to properly fund the budget for the next major repair. This is where the reserve study can be a great asset to the board. Knowing what funds are needed and making a plan to get the reserves properly funded can save the board and the rest of the unit owners all the interest costs and fees associated with financing a project." Stelter reminds us again of the importance of having a vision for the future when it comes to the association's planning and funding projects.

Now that we have a plan, funding and the right business partners added to the pot, it is time to sprinkle some more communication in! Remember, we can never communicate enough and a really nice reward that comes with over-communicating is that it actually reduces the Community Association Manager's time spent taking phone calls and answering emails regarding the project at hand.

Directions to Cook Recipe for Success - Add the communication into the pot and keep

it on your countertop, as you will need to continue to add it to the pot throughout the process. Mix in your plan for the project and funding and remember to use trusted bankers and attorneys to assist with your recipe. Sprinkle in some more communication and stir, making sure you continue to communicate with the board, owners, banker, and attorney as needed. Add in the business partners for the bidding process and let the project simmer before sifting out the business partners that will not be used for the final dish. Once you have the contents of your recipe condensed with only the most suitable business partner for the project being chosen by the Board of Directors, it's time to add the final pinch of communication. Call a special meeting for the entire community to attend and inform them of the finalized upcoming project. Include the business partner that will be doing the capital project work, let the residents know the processes that took place in order to get to the plans that are about to be executed and allow curious owners to ask questions regarding the project. Remember to continue communicating to all owners throughout the entire process by

sending eblasts and/or newsletters and always make certain to include completed work in future newsletters. It's always a great idea to let owners see the work that is being done by the Manager and the Board of Directors so they see where their dollars are being spent!

RESULTS

Enclave at Country Lakes continues to look beautiful and is successful in keeping the owners happy. Completing a full siding replacement capital project in the last few years, staying on point with future planning and funding for upcoming projects and building trusted business partner relationships has put the association in a great place. Also, by having excellent communications with the Board of Directors from their Community Association Manager, Marcia Caruso, as well as management and the Board of Directors providing frequent communications to the residents of the community, Enclave at Country lakes has cooked up a Recipe for Success! ■

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by David Savitt -KSN

Appealing to the Next Generation of Condo and HOA Unit Owners

Each new generation of home buyers brings with them new needs or desires that condominiums, homeowner (HOA), or townhome associations need to consider.

The newest generation of home buyers has shifted to the Millennial generation, with Gen Z not being far behind, and they come with their own list of values and desires when considering a home within an association.

Below are various considerations that revolve around the use of technology by associations and sustainability efforts.

Technology

Association documents - Both Millennials and Gen Z have been raised in the technology era and they will likely expect association related materials to be available digitally. This can include governing documents such as the Declaration of Covenants, Conditions and Restrictions (CC&Rs) along with the rules and regulations.

Online payments - Younger generations of owners may prefer to use less traditional means of payment, such as checks, to pay association assessments and fees. Being able to pay dues online could make your community more appealing to these potential buyers.

"ASSOCIATION WEBSITES CAN ACT AS A CENTRALIZED PORTAL FOR ASSOCIATION POLICY POSTING, DOCUMENT REQUESTS, ASSESSMENT PAYMENT, COMMUNITY NEWS, UPCOMING EVENTS, AND MORE."



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"IT'S CRITICAL THAT BOARD MEMBERS WORK WITH THE ASSOCIATION'S ATTORNEY TO ENSURE THAT THE ELECTRONIC VOTING PROCESS COMPLIES WITH THE ASSOCIATION'S GOVERNING DOCUMENTS AND STATE LAWS."

Virtual meetings - Living through lifestyle changes brought on from working at home, as well as having grown up with technology, Millennials are more accustomed to virtual meetings and may be more active participants in meetings held online. However, it may be necessary for board members to adopt new rules and regulations that consider how to address roll call, opting into online meetings, and accessibility issues. The association's legal counsel can provide specific guidance regarding the use of virtual meetings in your community association.

Electronic voting - This can make the voting process more efficient, faster, and more convenient for all members, particularly younger owners who may be accustomed to technology. Electronic voting software can also eliminate the need for manual counting of paper ballots, reducing the risk of errors and increasing the accuracy of the results. It's critical that board members work with the association's attorney to

ensure that the electronic voting process complies with the association's governing documents and state laws.

Social media - This can include creating an official association social media account (ex. Facebook, Instagram, Twitter) to share upcoming meetings and promote community events. Millennials are no stranger to the social media world and may use it as a primary method of learning about the association.

Association website - Millennials and Gen Z are known for their preference for technology and digital communication. Association websites can provide numerous benefits to both the members of the association and the association itself including convenience and transparency. It can act as a centralized portal for association policy posting, document requests, assessment payment, community news, upcoming events, and more.

Sustainability

A major shift among the younger home buying generation is the increased awareness for sustainability efforts. Millennials and Gen Z have been known for their support for green options including renewable energy resources, composting, and recycling programs. With an increased desire for alternative energy options, community associations may also need to update rules and regulations to allow for solar panel installation.

Additionally, associations should consider the rapid rise in the popularity of electric vehicles by reviewing association policies in relation to electric vehicle charging stations in an effort to attract new generations of home buyers.

Conclusion

While the next generation of home buyers offer their own slew of challenges and rewards, they should always be considered firstly as owners and part of the association. Embracing and preparing for ownership shifts can bring new skills and perspectives to community associations. ■

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by Michael Kreibich – KSN

Understanding Condo and HOA Insurance: Coverage Types and Key Considerations for Community Associations

Condominium, homeowner (HOA), and townhome associations carry insurance coverage designed to protect the common areas and shared spaces of the community.

While individual homeowners are responsible for purchasing their own insurance to protect their personal property and dwelling, the association's insurance policy may cover:

- Damage to the common areas caused by events or weather (ex. fire, frozen plumbing, smoke, theft, vandalism, water damage, wind)
- Accidents that occur on the common areas (ex. slip and fall)
- Liability coverage in the event of a lawsuit, judgments, settlements, or other legal claims for bodily harm or property damage

The association's governing documents and the terms of the insurance policy will define the specific types of property that are covered.

The specific types of association insurance that board members should consider depends on various factors, including the size of the association, the types of amenities offered, and potential association risks.

Types of Community Association Insurance

Property insurance - This type of insurance covers damage to common areas, buildings, and structures, within the community.

Types of property covered under this insurance can include clubhouses, playgrounds, swimming pools, and parking garages.

Liability insurance - This type of insurance covers the association in the event someone is injured or their property is damaged while on the association's property.

Directors and Officers (D&O) insurance - This type of insurance covers the board members in the event of legal claims related to their decisions or actions while serving on the board. Claims may include alleged breach of fiduciary duty, errors, mismanagement of funds, negligence, omissions, or wrongful acts while acting in their capacity as association directors or officers.

Umbrella insurance - Also known as "excess liability insurance," this type of policy provides additional coverage beyond the limits of the association's primary liability.

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ity insurance. It can also provide additional coverage to help cover the costs of judgments, legal fees, or settlements. Umbrella insurance is designed to provide an extra layer of protection against catastrophic events or large lawsuits, protecting the association's assets and mitigating against catastrophic financial risk.

Workers' compensation insurance – This type of insurance policy provides benefits to association employees who sustain a work-related injury or illness. Workers' compensation insurance can provide benefits such as lost wages, medical expenses, and rehabilitation costs. Most states require this insurance for businesses that have employees, including community associations. It's important to note that workers' compensation insurance typically only covers employees of the association and may not provide coverage for independent contractors or volunteers.

Navigating Community Association Insurance

Being underinsured, missing coverage, or violating insurance provisions outlined in the association's governing documents can open the community to potential issues.

Working with an insurance agent - It's important for property managers, board members, and community leaders to work with an experienced insurance professional that can:

- Identify the specific coverage needs, liabilities, and risks of their association,
- Obtain appropriate insurance coverage, and
- Adjust insurance coverage mid-policy when appropriate.

Appropriate coverage - After the tragic Champlain Towers South condominium collapse in Surfside, FL, there has been higher scrutiny of community association deferred maintenance, financial stability, and construction projects. Additionally, appropriate insurance coverage has come under review as insurers evaluate risks and potential pay outs in the event of liability exposure.

What is additionally insured? - The association might require a contractor to provide proof of insurance and to name the association as an additionally insured on the contractor's liability insurance policy. In the event the contractor causes property damage or injury while working on association property, the association would be covered under

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the contractor's liability insurance policy as an additionally insured.

Buying, selling, and refinancing – Mortgage lenders including Fannie Mae and Freddie Mac review the association's finances before they approve a loan to a new buyer, a unit sale, or refinance within the community. Insurance coverage red flags can potentially impact lending and financing, impacting property values and potentially constraining or preventing owners from selling their units.

Governing documents – The association's governing documents may outline insurance provisions and requirements including coverage types and minimum coverage amounts. The association's attorney can assist in drafting or revising governing documents to ensure insurance language is not only compliant with the law but also easy to understand. Vague and unclear language can cause confusion leading to potential disputes or legal issues.

Insurance Coverage and State Laws

States have different legal constraints regarding the association's insurance versus homeowner insurance.

For example, Section 12 of the Illinois Condominium Property Act (ICPA) clarifies the requirements for insurance coverage in condominium associations, including:

- The condominium association must maintain insurance on the common elements and any other areas or property that the association is required to insure by the declaration.
- The insurance must include property damage and liability coverage.
- The insurance must cover the full replacement cost of the insured property unless the declaration provides for a different valuation method.
- The insurance policy must name the association as the insured party and must require that the insurer give the association notice of any cancellation or non-renewal.
- Unit owners are responsible for insuring their own units and personal property, unless the declaration provides otherwise.
- The association's insurance coverage does not affect the unit owner's insurance obligations.
- The association must provide an annual insurance summary to unit owners, which includes the types and amounts of insurance coverage maintained by the association.

Conclusion

Appropriate insurance coverage is as unique as each community association. Board members and property managers need to be proactive, consult with professionals, balance potential liabilities, and evaluate protection against unexpected events.

Insurance can help cover the costs of property damage, personal injury, and legal expenses related to disputes or lawsuits. Without insurance or the correct types and levels of coverage, associations may have to bear these costs themselves, potentially resulting in significant financial losses. ❏

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by Jeffrey S. Youngerman Esq. - FLAHERTY & YOUNGERMAN, P.C.

A New Day in Illinois: Insurance Coverage for Construction Defect Damage Claims

On November 30, 2023, the Illinois Supreme Court decided an insurance coverage case involving standard liability insurance policies carried by most developers and contractors.

The ruling will help building owners obtain recoveries from developers and contractors whose shoddy work causes damage to their buildings. The type of insurance involved is referred to as CGL (Comprehensive General Liability) coverage. It typically covers costs associated with repair or replacement of property damage, legal defense expenses, and potential settlement amounts. Historically, this coverage was intended to allow developers and contractors to fulfill their contractual obligations to their clients and maintain their financial stability. Previously, Illinois courts would not require insurers to pay for defense costs or property damage unless it was to something other than the building itself. Not anymore.

Considering the recent Illinois Supreme Court ruling, if you bring a claim for damage caused by defective construction work, the allegations contained in the Complaint prepared by your lawyer will determine if

coverage will be afforded to the contractor or developer, and ultimately to you. Judges can only look to the four corners of the construction defect Complaint to determine if there is coverage for the claim. I was the plaintiff lawyer in the underlying construction defect case out of which the recent Illinois Supreme Court insurance coverage ruling arose. In ruling to join the majority view in the country covering construction defect damages to the building itself, the Court relied on the detailed allegations in the Complaint I prepared that triggered coverage. Now, more than ever, an understanding of insurance coverage law is important when bringing construction defect damage cases.

Like never before, Illinois insurance carriers now face paying for defense costs and property damages resulting from construction defects. As a practical matter, in the past, all too often property owners were unable to obtain a

meaningful remedy for their losses. Things are going to change now that insurance companies are on the hook. In many situations the potential insolvency of developers and contractors will no longer be the daunting obstacle it was in the past. This does not mean insurance companies will necessarily be on the hook for all types of damage. Coverage extends to the damage caused by the defective work, not the defective work itself. That will be substantial sums of money, warranting owners to consider or reconsider bringing claims they may not have brought in the past.

Another takeaway. Building owners should require their contractors to carry the type of insurance that will cover building damage they cause long after they complete their work. This will require special attention to the details of the insurance policies carried by contractors. This is something owners should address before entering any contract with contractors.

The Supreme Court took a bold step aligning Illinois insurance coverage law with the rest of the country. It will benefit savvy consumers of construction services for years to come. ■



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by Salvatore Sciacca – Chicago Property Services

How to Increase Association Revenues Without Increasing Assessments

As a board member of a community association, it is important to find ways to limit the increases in assessments.

Although assessment increases are inevitable, the amount of increases can be moderated by finding additional sources of income for the community association. Larger communities have more ways to increase non-assessment income however even smaller associations have many ways to increase non-assessment income.

1. Add a vending machine to the lobby.

Find a suitable space for a vending machine in the lobby or laundry room area and strike a deal with a vending machine service provider.

2. Install an advertisement sign on the outside of the building. Does your association have a lot of wall space? Contact an advertisement company and have them install a digital billboard or another type of advertisement that pays a monthly revenue sharing fee to the association.

3. Strike a revenue sharing agreement with the management company for bulk cable or internet throughout the community association. This would work for larger scale communities. And is a great way to

increase the non-assessment income of the association.

4. Install a cell phone or wireless communication tower on the roof of the building. Does the association have a taller profile? Is the building at least 80 feet. Contact a wireless or cellular carrier and see if they would be interested in installing an antenna on your roof and start collecting a monthly fee.

5. Rent out meeting spaces or other amenities such as a party room. Does your community have a party room or a meeting room? Does it have a clubhouse? These are all spaces that can be rented out to the public that can increase non-assessment income for associations.

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6. Install a digital billboard inside the lobby of the building and sell advertising space to vendors. Does your association have a lot of foot traffic through your lobby? Install a digital advertising monitor in your lobby that displays advertisements and start to increase your association revenues.

7. Partner with dogwalkers or other service providers and sign a revenue sharing agreement. This would work for any size association and would not require a lot of effort to initiate and manage.

8. Increase the fees in the rules and regulations. For example, institute a late fee policy of \$25 if there is not one already. Otherwise, raise the late fee amount from \$25 to \$50 for example. This one is probably the easiest to institute and the association will recognize increases in non-assessment revenues almost immediately.

9. Rent out the interior of the association for movie production companies. Is your association located in a high-profile neighborhood? Is there something special or particular about the interior of the association or the history of the association? Have you seen movies filmed in the vicinity of your association? This might be an opportunity for the association to increase non-assessment revenues.

10. Rent out storage space or build new storage spaces and charge a monthly fee for the storage space. Does your association own storage spaces? Does your association have basements with lots of extra space? Consider building new storage spaces and charging monthly fees for the storage spaces or start charging fees for the storage spaces.

SUMMARY

Whether your association is a large-scale community or a small 10-unit condo association or somewhere in between, there are many ways to increase non-assessment revenue. Furthermore, whether you have a management company or not, these suggestions would apply. The homeowners would greatly appreciate lower assessment increases in the future with the institution of some or all of these ideas. ■■



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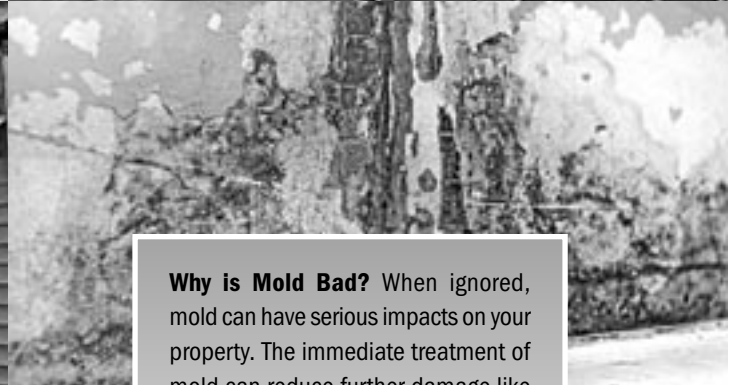
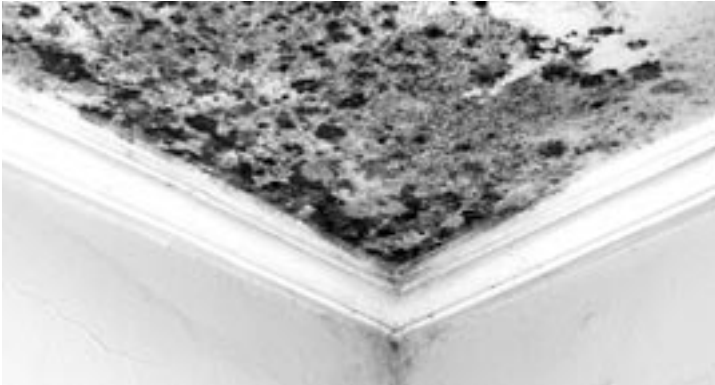
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Condo Lifestyles attempts to provide its readership with a wide range of information on community associations, and when appropriate, differing opinions on community association issues.

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From the Editor

While this past winter was generally mild, we did have a blast of bitter cold and big snow storms in mid-January. While we can still get some cold weather in April and May,

we typically enjoy more pleasant temperatures and sunshine that allows for much more outdoor activity. Not only does nice weather help put people in a generally better mindset, but we need good weather to perform exterior maintenance, repair, and restoration projects that properties all over Chicagoland are ready to undertake.

Economic conditions have remained reasonably good despite elevated interest rates. Unemployment remains low and people are still spending on desired goods and services. Prices for many commodities have come down from their peak, but are still higher than we would like. Hopefully, inflation will continue to decline and interest rates will be lowered at some point before too long.

Our cover story is on the Enclave at Country Lakee, a community association in Naperville that has done a great job of funding their capital reserve account to pay for necessary property improvements. You can read about how they successfully blend communication, planning, business partner relationships and capital project funding to complete the installation of new siding on all their buildings and are making plans to undertake other capital projects soon.

An article in our Engineering Inspirations column discusses how to engage a professional engineer. Our Board Basics column offers an understanding of condo and HOA insurance coverage types and key considerations. Another board basics article deals with the subject of appealing to the next generation of condo and HOA unit owners.

In our Money Matters column, we feature an article on how to increase association revenues without increasing assessments as well as an article on ways for community associations to slash expenses.

We have several legal update articles in this edition. One article provides insight on how to avoid potential issues with social media and intellectual property laws while another article covers an Illinois Supreme Court ruling that involves insurance coverage for construction defect damage claims.

Our industry happenings column and event highlights can also be found in this issue.

Upcoming MCD Media Events

We are pleased to offer upcoming MCD special events including our annual golf & bocce outing, which will be held on July 19 at Eaglewood Resort in Itasca and our Meet Me at Rivers Casino event on August 29. You can find more information on these events by contacting our office.

In closing, I would like to encourage you to make your association and your community all it can be. If you have an idea that would benefit other Community Associations, a story to share, or some advice on how to avoid a problem or failure, please call our office at 630-932-5551 or send us an e-mail (mdavids@condolifestyles.net) ■

Michael C. Davids
Editor and Publisher



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INDUSTRY HAPPENINGS

PBG FINANCIAL SERVICES PLLC

Chris Nyborg of Nyborg & Company, Ltd. has joined Steve Silberman's team at PBG Financial Services PLLC. Nyborg & Company, Ltd. Certified Public Accountants merged into PBG Financial Services PLLC on January 1, 2024 to combine their talents and provide superior audit, accounting, tax and consulting services to the Common Interest Realty Association Industry (CIRAS).

Chris Nyborg, CPA has been providing services to CIRA entities for over 35 years and has been very involved in the industry with speaking engagements, education seminars and authoring articles. **Brad Kovach, CPA** has also just recently joined PBG. Brad Kovach has over 35 years of experience in public accounting and over 20 years of experience servicing CIRA entities.

Chris Nyborg and Brad Kovach decided to join PBG because of Steve Silberman's team and their outstanding service, dedicated personalized attention and proactive team approach. Mr. Silberman's team, which includes John Balzanto, is thrilled to have two such respected and talented individuals join PBG.



➤ Shown here is Chris Nyborg and Steve Silberman

Retro Community Management

Retro Community Management held an open house on February 28th and announced the opening of their offices located at 3755 E. Main Street in St Charles, IL.

Retro is a boutique property management company that has extensive experience managing a variety of communities and specializes in working with community associations in Northwest and Western Chicago.

According to **Melissa Khan, CMCA, PCAM, MBA**, who is President of Retro, "we aim to team up with you in managing your property's administration, finances, and upkeep to enhance its appeal, worth, and financial stability. We believe in offering personalized attention and care that only a locally owned company can provide." She continued, "Retro places great importance on our relationships with homeowners, boards, vendors, and other professionals who assist our clients. We prioritize open communication and strong collaboration between your community manager and the board of your community association."



➤ Shown above is (L to R) Christa Walsh, Melissa Khan, Mylene Simmons, Janice Subasic, Thomas Skweres, Daria Pienkowska. (Sarah Krause - not pictured)

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by Laura L. Marinelli and Marc E. Fineman – Levenfeld-Pearlstein, LLC

What Community Associations Need to Know to Avoid Common Social Media and Intellectual Property Pitfalls

We know that community associations, their managers, and boards, are busy trying to run the day-to-day operations of their buildings and communities. With that responsibility comes the need to adapt to ever-changing technologies and the impact of social media on our world.

In recent years, we have seen our association clients and their residents utilize social media and the internet for multiple purposes, including communications with residents and owners, notice of community events, discussion boards for residents and owners, promotion of the community and building for potential buyers, and on and on. While this technology and the ability to

reach large amounts of individuals with the stroke of a key has created some efficiencies for our associations, it has also opened the door to potential liability for improper use of materials protected by intellectual property. Nearly every creative work is automatically protected by intellectual property—photos, stories, graphics, social media posts, etc. So, the potential risk can be significant.

"NEARLY EVERY CREATIVE WORK IS AUTOMATICALLY PROTECTED BY INTELLECTUAL PROPERTY... PHOTOS, STORIES, GRAPHICS, SOCIAL MEDIA POSTS, ETC. SO, THE POTENTIAL RISK CAN BE SIGNIFICANT."

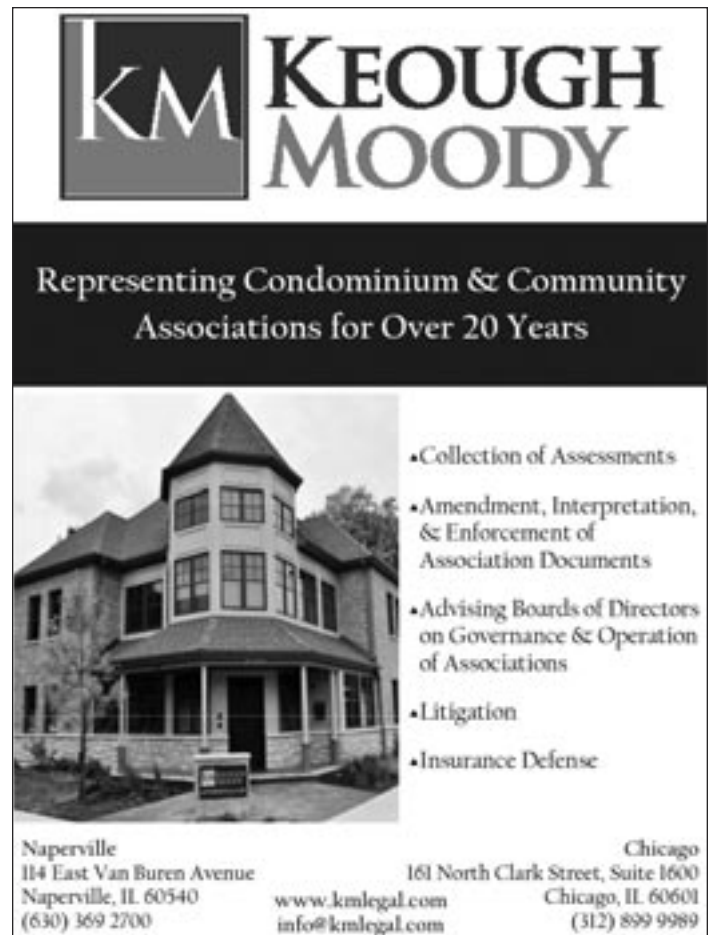


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Our Community Association Group partnered with our highly recognized Intellectual Property Group to consider the legal issues that community associations in Illinois may encounter and provide sound, easy-to-follow recommendations to avoid potential problems.

Below you will find some guidance for community associations to avoid common pitfalls:

“We found it on the internet (or we took it from a social media post), so it’s okay to use on our association’s website or in our newsletter.” In reality, that usually is not the case.

Putting content on the internet or social media does not dedicate it to the public domain, and the intellectual property rights in that content remain intact. This is a challenging concept in the social media age when there is so much sharing of content.

As a general rule, associations should not copy and reuse content found on the internet or social media. Copyright owners

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are getting more and more creative and hiring law firms and enforcement agents who use AI to search the internet for infringements. Associations have been a recent favorite target.

The best practice is to use original content (and get ownership assignments from the creators of such content) or to

license content from legitimate sources.

“We paid someone to create our website or to develop content for us, so the association owns it as a work made for hire.” This is one of the biggest intellectual property misconceptions.

The phrase “work made for hire” often is used colloquially to describe a situation when someone is retained to create or develop something. However, the phrase can be deceptive, even when used in legal agreements. If associations are not careful, they will not own the intellectual property rights to what is created for them.

“Work made for hire” has a relatively narrow application. First, it only covers works that are protected by copyright—that is, original works of authorship, such as those creative works mentioned above. It does not apply to other types of intellectual property, such as patents (for inventions), trademarks, or trade secrets.

Second, it applies only when (a) an employee creates an original work of author-

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ship within the scope of their employment, or (b) an original work of authorship is specially ordered or commissioned for use as one of a limited number of categories of works and the parties agree in writing that such work is a work made for hire.

The vast majority of works that typically are created for an association by outside contractors, consultants, designers, and even members will not satisfy the “work made for hire” test and, therefore, will not be owned by the association.

The best practice is to use written agreements with the creators of all content, and for those agreements to include an express assignment of intellectual property rights.

“We don’t need to conduct a trademark search or to protect the name of our association or building because our association is registered with the Secretary of State.” Again, this is a common misconception.

Successfully forming an association with a Secretary of State does not mean that the association’s name is cleared to use from a trademark perspective.

The Secretary of State standards for approving an association name differ from the standards used to determine trademark infringement. In many states, an association name will be approved by the Secretary of State if it is “distinguishable” from other names. Sometimes this means just being a letter or two different.

However, the standards for trademark infringement are significantly different and focus on whether two names are likely to create confusion. Additionally, associations or buildings in other states could have federal (nationwide) trademark protection for their names that may be infringed by using the same or similar name just in Illinois or any other state.

The best practice is to conduct trademark searches, especially if an association will be providing products and/or services to others using its name or the name of the building. Trademark registrations also should be considered, when appropriate, to protect the name of the association and/or the building. ■

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by Salvatore Sciacca – Chicago Property Services

Ten Ways for Community Associations to Slash Expenses

Best practices for condo, townhouse and HOA board members.

Now that we are well into 2024 and your budgets are set, Associations are undoubtedly looking for ways to save money and put larger amounts of money into the reserves. Here are 10 ways to help you accomplish these goals.

1. Reduce energy consumption: Utility prices have risen considerably over the last few years. As a result, a great way to slash common area expenses is to cut back on consumption of electricity, water and gas.

- *Switch to LED lighting: LED lights are 85% more efficient than incandescent bulbs and 10% more efficient than compact fluorescent bulbs. They are also long-lasting and require low or no maintenance.*

- *Install motion detection sensors in the common areas to reduce electricity usage.*
- *Upgrade your common area hot water tank or replace your air handler or boiler heating system to more efficient ones. These upgrades cost money upfront but can save thousands of dollars a year once they are paid off.*
- *Install smart water saver devices for the association irrigation system and inside all the units within the association.*
- *Ensure there are no leaking or running toilets. This can save the association thousands of dollars a year.*
- *Install drought resistant plants in the landscaping areas that will require less watering during the summer months.*

2. Renegotiate service contracts: This is one of the easiest ways to slash expenses. Contact all your contract service providers such as landscaping, janitorial, waste and snow removal and ask them to send new 3 year agreements with the understanding that the new prices will be lower than the current amount the association is paying. The contract service providers benefit as well as they get new agreements that ensure they retain the associations for several more years to come.

3. Review insurance policies: Insurance is one of the largest expenses for community associations. Review your association's insurance policies to ensure that you're getting the best coverage at the best price. Ask your broker to bid out the policy to other carriers. Contact a new broker and see if they can bid out the policy to other carriers that your current broker does not have relationships with.



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4. Consider alternative revenue streams: Does your association have a wall suitable for an advertisement sign? Does the association have a community room or a meeting room that can be rented out to generate additional income? Do you have a lobby or other area suitable for installing vending machines to generate additional revenue? Install monitors or kiosks inside the lobbies that provide advertisement and generate extra revenue for the association.

5. Reduce legal expenses: Consider hiring an attorney on a retainer basis to reduce legal expenses. Alternatively, if you don't need a lot of legal support and you are paying a monthly legal fee, cancel the legal services agreement to save thousands a year.

6. Hire/Upgrade your management company: Are you self-managed? Consider hiring a management company that can save you money while simplifying life for all the community homeowners. Make sure you hire a management company that has the latest technology which will maximize cost saving efficiencies for the homeowners and the association.

7. Prevent contamination or overflow of waste containers: One way to cut costs is to educate the homeowners and residents to ensure they don't overflow the waste containers. Some waste haulers charge over \$100 for overflowing containers or for contamination in the recycling containers.

8. Reduce printing costs: Encourage residents to opt for electronic communications instead of printed materials and consider using recycled paper for printed materials.



9. Get a Bank Loan and Save Money. How can getting a bank loan save you money? Very easily. Get a bank loan and complete all the short term and mid term capital projects on your list. With the way prices keep increasing these days, completing your capital projects now versus years from now will undoubtedly save the association tens of thousands of dollars.

10. Negotiate your contracts. Don't be afraid to ask for a lower price. Whether it is a large-scale project or a smaller scale project, go back to the vendor that the board has selected and ask them to sharpen their pencil. You might be surprised at what they say and do. You have nothing to lose and only to gain by asking. As the bible says, ask and you shall receive.

Conclusion

There are many ways to save money and slash expenses for community associations. The best way to start is to start today. The tasks listed above do take time but if your board members and management work as a team, it won't feel so overwhelming and it will pay major dividends in the end. ■



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by Trey Waldman - Waldman Engineering Consultants

A Blueprint for Engaging a Professional Engineer

In the realm of capital repair or replacement projects, the initial engagement of a structural engineer marks a pivotal step toward ensuring the project's success.

The conventional route often sees project boards directly soliciting bids from contractors, a method that can yield disparate scopes of work and varying solutions. The essence of involving a structural engineer early lies in their expertise to conduct comprehensive inspections and evaluations, thereby accurately defining the project scope through detailed specifications and drawings. This foundational work not only streamlines the bidding process by providing contractors with a clear set of criteria to bid on but also enhances the accuracy and competitiveness of the bids received.

The role of the structural engineer extends beyond the planning phase into construction monitoring, acting as an inde-

pendent third party on behalf of the project owners. This critical oversight includes regular site visits, progress reporting, and ensuring a transparent communication flow between the contractors executing the work and the project owners. Such rigorous monitoring underscores the importance of quality control throughout the project lifecycle and guards against the pitfalls of deferred issue resolution, which can prove both costly and time-consuming. By advocating for the involvement of structural engineers from the project's conception through to completion, the process not only fosters competitive pricing but also aligns closely with budget and time expectations, minimizing potential disruptions and elevating the project's overall success rate.

Capital Improvement Projects

The role of a structural engineer is paramount, especially when it comes to repair projects for condominiums or homeowner's associations (HOA). Their contribution not only ensures that the repair works are of high quality but also that the process remains transparent and in line with the expectations of the board members and stakeholders.

Site Visit and Development of Drawings and Specifications:

The first phase of a structural engineer's involvement begins with an on-site visit. This step is vital for several reasons:

» **Scope Definition:** Here, the engineer determines the precise scope of work for the project. This scope is what contractors will refer to when submitting their bids.

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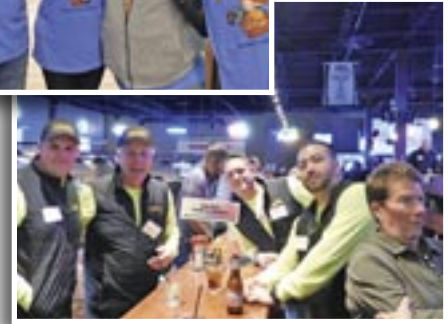
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- » **Ensuring Effective Bids:** By defining a clear scope of work, the association can be confident that they are receiving competitive bids.
- » **Addressing Core Issues:** The main objective is to ensure that the scope of work directly tackles the challenges or issues that the project aims to resolve. This preemptive approach can save a lot of time, money, and hassle in the long run.

Bid Review and Analysis:

Once the groundwork is laid out, the structural engineer aids the association in the bid process. This phase includes:

- » **Soliciting Bids:** The engineer helps the association reach out to contractors to garner bids.
- » **Pre-Bid Meeting:** A meeting is conducted with potential contractors, offering them an opportunity to raise questions related to the scope of work. This ensures clarity and sets the stage for a smooth project execution.

Construction Monitoring:

With a contractor chosen and the project in motion, the engineer's role does not end. They step into a crucial monitoring phase:

- » **Acting as Owner's Representative:** The engineer observes the ongoing work, ensuring the work aligns with the set standards, and keeps the board updated about the contractor's progress.
- » **Addressing On-Site Questions:** Throughout the project, challenges or questions may arise. The engineer is present to provide solutions, ensuring that the project remains on track.
- » **Adapting to Changes:** Sometimes, unexpected situations may call for a change in specifications. The engineer's expertise is vital in making necessary modifications without compromising the project's integrity.

One cannot emphasize enough the risks associated with bypassing the involvement of a licensed structural engineer in the early stages of a project. Without a clear, professionally-defined scope, the board might end up investing significant sums without resolving core issues. Comparing bids from different contractors who each have their unique scope of work, materials, and methods can also prove futile.

In conclusion, a structural engineer's role in condominium or HOA repair projects is indispensable. They ensure that the project stays on track, costs remain within budget, and the desired outcomes are achieved seamlessly. ■



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