



# BEVEN & BROCK NEWS AND VIEWS

DAVID BROCK, PCAM



## FHA APPROVAL – IS IT REALLY NECESSARY?

More and more associations are being asked whether they are “FHA approved”. It is certainly true that FHA insured lending has skyrocketed of late, and now almost half of all new mortgages are FHA. In response to this surge, the Department of Housing and Urban Development (HUD) now requires that an entire association obtain FHA approval before a buyer may use an FHA loan to purchase within a given association or before an existing owner can refinance into an FHA loan.

If an association is not approved, for most associations a large percentage of the buyers in

See “There” on Page Four

## *HOA Policies Don't Cover Everything*

### Unit Owner Insurance is Important

Condominium owners will often rely on the association’s master policy to protect them on any potential loss they might have. Unfortunately, owners who do this may be disappointed to learn, after it’s too late, that the HOA master policy does not cover quite everything. It is true that the “unit owner policy”, also known as an “HO-6” policy is a great value, but is often not purchased.

Suppose you are having a party in your own condominium, and one of the guests falls on the stairs inside your unit. The liability resulting from an injury occurring within an individual unit is NOT covered under the master policy of the association.

If there is a plumbing leak within the building and damage is caused to your unit interior, and assuming it is a covered loss, the association master policy will likely pay for this. However, there may be a large deductible of \$1,000 to \$5,000. It is common practice for associations to require the affected owners whose interior was damaged to pay the deductible. It would be best if the association has this policy stated in writing. The unit owner policy will pick up the deductible expense, after a typically much smaller deductible of \$500 is met on the unit owner policy.

Or, if there is a roof leak, and it is a covered loss, your personal effects, (such as furniture

or clothing) will only be covered by the unit owner policy. There is no coverage under the master policy.

The individual policy will provide coverage for you to live elsewhere should your unit become uninhabitable from a covered loss. This is referred to as “loss of use” and is not included in the master policy.

Finally, if a loss occurs that exceeds the limits of the master policy, there may be a special assessment from the board to you. The HO-

6 loss assessments coverage will provide protection up to the limits of coverage in your policy. The need for an assessment could also occur

in the event of major damage to commonly owned buildings or a liability loss in the common area not fully covered by insurance.

For board members and owners, it is also important to realize that not ALL losses are covered by insurance. If there is a loss that is due to inadequate maintenance there is no insurance available. It is important to be diligent as a board to repair, replace or maintain at the first indication of a problem so that future losses will be minimized.

*John Sinner, of State Farm Insurance, consulted on the writing of this article. He may be contacted at 626-576-1078.*

---

*Individual Coverage Can  
Help Pay Association Master  
Policy Deductible Costs*

---

Contractor and Manufacturer Guarantees are Needed

# Rains Bring Need for Good Roofing – and Good Warranties

By Sandra L. Gottlieb, Esq. and  
Stephanie Rohde, Esq.

Now that the rainy season is upon us, many associations have been scrambling to get their association roofs repaired or replaced to avoid water intrusion issues (leaks). In every roofing contract that we have prepared or reviewed, the most important issue is the warranty.

A roofing contract should include two types of warranties, the manufacturer's warranty and the roofing contractor's warranty. Typically, the manufacturer's warranty will cover a long period of time (10-20 years), and may include materials and possibly workmanship, but generally excludes "incidental and consequential damages." This means if something goes wrong (and the new roof leaks), the manufacturer will cover the work that was performed under the contract (*i.e.*, it will pay to replace the roof, but not the cost of labor) but will not do anything about the resulting damage from the leaks, like the damaged ceiling, walls, furniture, carpet, etc. This is an especially important consideration and issue in a roofing contract, where poor workmanship can result in extensive water damage and/or mold intrusion throughout both the common area and individual units. In our experience,

workmanship is usually the source of the leaks, not the material.

To cover consequential damages, the association should usually look to the contractor's warranty. Typically, the contractor's warranty will be for a shorter period of time (one to five years), but will be more comprehensive. As the manufacturer's warranty is not negotiable, the association should expect the contractor's warranty to cover those costs that the manufacturer's warranty doesn't, including cost of labor, and incidental and consequential damages. Although this warranty usually has a shorter term, if a roof is not installed correctly, problems will typically become evident during the first rainy winter, meaning even a one-year warranty is valuable.

What if the roofing contractor is not willing to provide a contractor's warranty? This should immediately set off an alarm bell for the board, as you should expect a reputable contractor to warrant its work. Unfortunately, these contracts can be tempting, as contractors who don't provide a warranty can significantly underbid their competitors. The truth is that just because the contractor does not provide a warranty does not mean that the association has

no recourse against the contractor. Absent a written warranty, the association still has the right to sue the roofer for negligence and/or breach of contract. However, prevailing in such a lawsuit is more difficult, because the association has to prove that the roofer did something wrong, which is more difficult than just proving that the roof leaked and there were damages.

We strongly advise our clients against entering into a contract without, at the minimum, a contractor's warranty of at least one to five years, depending on the components and the work performed. Protecting the association's investment and ensuring that the association gets what it paid for is an important part of the board's fiduciary obligations to the association. However, ultimately this is a business decision for the board. Before entering into a roofing agreement provided by the roofer, we strongly encourage boards to have association legal counsel review the contract, as usually it is one-sided and only protects the contractor. In addition to making boards aware of the risks and potential liabilities, counsel can maximize protection, even if a contractor's warranty is lacking, by clarifying the standards for performance and making

*See "Roofing" on Page Four*



Of Arcadia and Pasadena North  
Office: (626) 447-4111 Toll: (888) 600-4411  
Fire & Water – Cleanup & Restoration  
Mold Remediation  
Soot and Smoke Removal  
Packout & Storage  
Repairs after Damage  
**24 Hour Emergency Live Response**  
**WE SERVICE ALL OF L.A. COUNTY**

## RB JOHNSON CLEANING SERVICES

Truckmount Carpet Cleaning - Tile & Grout Cleaning  
Emergency Water Extraction & Dehumidification Control  
Hi-Pressure Washing for Walkways, Garages & Patios  
☎ (626) 444-8933  
✉ rbjcleanscarpet@aol.com  
Urgent or Emergency (626) 437-4100



## GARDEN VIEW INC.

High Quality Gardening Services  
'Specializing in HOA Landscape  
Maintenance'  
(626) 303-4043  
www.garden-view.com  
email: Blake@garden-view.com



**JOHN R. SINNER**  
**INSURANCE AGENCY INC.**  
1230 E. Main St. Alhambra, CA 91801  
Toll Free (800) 516-1078  
Fax (626) 576-8049  
www.johnsinner.com License # 0589670



**FERRIS PAINTING**  
Commercial & Residential Painting  
Specializing in HOA's  
Greg Lewis (818) 951-3207  
www.ferrispainting.com  
License #872494

# A Few Guidelines for an Effective HOA Presidency

The position of association president is clearly the most important one on the board. For that reason, many board members are not willing to serve as president. For those that do, some presidents do very well, as they are skilled administrators and have functioned in managerial roles or served on boards in the past.

We have observed how great presidents operate, and have compiled this list. The job of president doesn't have to be difficult if these ideas are followed:

- As a board, discuss the board's style of leadership: is the board going to be a "policy and decision making" board which relies on its vendors to accomplish the goals and needs of the association? Or will it be a board that operates like an on-site manager, in which issues are primarily addressed by board members who are living on the premises?
- Meetings should be held according to your documents, which are open to all members, and the agenda is posted in advance in the common area. Always encourage full participation of board members in discussions, especially if the issue is complicated or contentious. Minutes should always be taken and maintained by the secretary, with a copy provided to the association manager as

soon as possible after the meeting.

- Appreciation and kindness to vendors and fellow board members really helps to accomplish more for the association. Vendors and board members will work harder if treated with respect. Most vendors will give you hard work for a fair price.
- Operate with a full board, with each board member responsible for specific tasks. Make sure that the board members are operating within their authority and skill set.
- If any board member doesn't know what they should be doing, or how they should be doing their job, ask for help from your management firm.
- Make sure that all board members operate objectively in their role as board members. Conflicts of interest can arise easily and should be identified and avoided. Board members are fiduciaries to the association and are required to make decisions that are for the best of the association and not any individual owner.
- Be diligent to make sure that the treasurer is reading and understanding the financial reports, and is reporting to the board on the following issues:

1) delinquent owners 2) over-expenditures per the budget. The full board should review reconciled financial statements at least once per quarter. Financial decisions should be made for the benefit of all owners. Handling of the association's finances may be different than your own financial management.

- Provide one point of contact on the board for communication with the association manager. The property manager should be the point of contact with other vendors unless instructed differently. A successful working relationship of teamwork consists of great and focused communication which in turn will lead to the smooth operation of your association.
- It is best to obtain all the facts on an issue prior to forming an opinion or making a decision. If a problem is discovered, ask questions before deciding on a course of action. The reality is often different than the first impression.
- Realize that board members aren't expected to be experts, and that it is necessary from time to time to hire professional outside help, such as attorneys, engineers, architects, CPAs. Be aware of the business judgment rule.



License #650883

## CLS LANDSCAPE MANAGEMENT

Phone (909) 628-3005  
Toll Free (800) 894-9696  
Fax (909) 464-1021

Email [info@clslandscape.com](mailto:info@clslandscape.com)



## MERRY PLUMBING HEATING & AIR

(626) 796-4307  
[www.merryplumbing.com](http://www.merryplumbing.com)  
License # 860445



## STEVEN G. SEGAL INSURANCE AGENCY, INC.

Over 30 Years experience specializing in:

- Condominium Associations
- Planned Unit Developments
- Earthquake Coverage
- Workers Compensation

Toll Free: 800-345-8866 Fax: 800-262-0973

Email: [steve@segalins.com](mailto:steve@segalins.com)

Web: [www.farmersagent.com/ssegal](http://www.farmersagent.com/ssegal)

CA License # OE24660

## TO ADVERTISE HERE

Contact Roman Esparza at  
Beven & Brock

(626) 243-4158

email: [roman@bevenandbrock.com](mailto:roman@bevenandbrock.com)



## NICK GERIS & SONS PAINTING, INC.

Association Painting Specialists

Dial (714) 639-1510 Cell (714) 325-1511

[www.nickgerisandsonspainting.com](http://www.nickgerisandsonspainting.com)

Lic. #836127

# There are Several Methods to Obtain FHA Financing

*Continued from Page One*

the marketplace would be eliminated. This results in less competition between buyers, fewer sales, more time on the market and ultimately lower sales prices and lower appraised values for all units. Since everyone is concerned about market value, there are reasons why being FHA approved is a good thing. Some people associate FHA loans with people who are low-income and for that reason they decide that they might not be a good thing for them. The reality is that FHA is the only current financing alternative where a buyer can put down less than 10 %, specifically 3 to 4 % down. Even buyers with 10 % or more in cash to put down might choose FHA financing just so they can maximize their cash, and use their funds for other investments or improvements to the property. The other great aspect of FHA financing for the association is that it can only be used by owner occupants. Investors cannot obtain FHA financing.

There are several ways to obtain FHA approval. There are companies that specialize in providing this service to associations, and the cost is between \$1,200 and \$1,500. It also appears that some lenders who handle purchase loans for buyers coordinate this process as well as a part of their service.

The approval takes about four to eight weeks, lengthens the escrow period, and is good for two years. There are some criteria that dictate whether an association can be approved. This is not intended to be a complete list, but those items may include the following:

- The budget includes a line item (10%) for funding replacement reserves for capital expenditures and deferred maintenance;
- At least 50% of the owners occupy the property;
- No more than 15% of the total units can be in arrears (more than 30 days past due) in their condominium association fee payments;
- A restriction on the number of rental units, or restrictions on the length of the lease may cause problems in obtaining approval.

While a case could be made as to why having FHA approval is important, the question remains as to whether this should be the responsibility of the owners who may want to sell, or the association taking this action on behalf of the entire association.

If the association elects to obtain FHA approval, it is best to utilize the services of companies that specialize in performing this service. For a list of

companies that provide a FHA approval program email  
dave@bevenandbrock.com.

---

## Roofing Warranties

*Continued from Page Two*

sure that the manufacturer's warranty is adequate. If a board is going to take a contract risk, it should prepare itself for homeowner challenge by documenting its decision-making process.

*Sandra L. Gottlieb, Esq. is a partner in the Common Interest Development Law Firm of Swedelson & Gottlieb and a principal of Association Lien Services. Stephanie Rohde, Esq. is a transactional Associate Attorney at Swedelson & Gottlieb. They may be contacted at 800-372-2207 or at [www.hoalawblog.com](http://www.hoalawblog.com).*

---

## NEWS & VIEWS

This Newsletter is circulated for general informational purposes as a public service and promotion by the Beven & Brock Property Management Company. The contents are opinions of the firm, not intended to constitute legal advice, and should not be relied upon for that purpose. If you have a legal issue related to a subject of this newsletter, you should consult the California Civil Code and your attorney. Editing & Layout by PM Enterprises, 626-799-5985.

---

The paid advertising in this newsletter is provided as a courtesy to our readers and does not constitute any endorsement by Beven & Brock. The vendors do work with HOAs and have provided services to Beven & Brock's HOA clients in the past.

---