



BEVEN & BROCK

NEWS & VIEWS

for Homeowners Associations

January 2016

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UPCOMING HOA LAW SEMINAR

Hold the date:
Thursday, April 7, 2016;
Pasadena; 6:30 PM

We will resume our HOA Board seminar in 2016 which will feature Matt Ober of Richardson Harmon Ober, PC. The seminar will focus on legal issues that impact you for the new year. You won't want to miss this important night.

MORE INFORMATION TO COME IN MARCH 2016

NOAA PREDICTS GREATER THAN 90% CHANCE FOR EL NINO ... IS YOUR ASSOCIATION READY?

by Candice Solarz

It Never Rains in Sunny California -dry conditions are nothing new to us. In fact, we Californians are mostly unfazed by the four year drought and the Governor's 2015 State of Emergency conservation measures. To many, it's just another day in paradise, with bright blue skies, a moderate climate and plenty of sunshine to go around. Even so, most agree that "The Golden State" is in desperate need of a wet winter to extinguish wildfires and replace water in our reservoirs. Enter "Godzilla". Scientists predict a significant and strengthening El Niño weather pattern that could

bring once-in-a-generation storms to California this winter. Bill Patzert, a climatologist with NASA's Jet Propulsion Laboratory, said the system has the possibility of becoming the "Godzilla El Niño". Its ocean signal, he said, is stronger than in 1997, when the most powerful El Niño on record developed. "If this lives up to its potential, this thing can bring a lot of floods, mudslides and mayhem", Patzert said.

Is Your Association Prepared for El Niño Rain Storms?

1. Drains and Gutters: Have you made sure all drains and gutters are cleared of debris and functioning properly before the

storm season?

2. Roofs: Did you hire a roofing contractor to check for loose tiles, holes, trouble signs?

3. Balconies and Retaining Walls: Have you inspected all retaining drains, culverts, ditches, etc. for obstructions or other signs of malfunction?



4. Windows: Have you asked owners to check all windows for gaps in caulking or gaps in frames?

5. Insurance:
• Backup & Sewers and Drains Did you confirm the HOA Master Fire/Package Policy has a minimum of \$50,000 Backup & Sewers and Drains coverage

• Equipment Breakdown Have you checked for a minimum \$100,000 Equipment Breakdown coverage on Package or Stand-alone policy (especially important if you have lower parking or

NOAA Predicts greater than 90% chance for El Nino: continued on page 7.

PREPARING YOUR PROPERTY LANDSCAPE FOR EL NIÑO

By Mark Meahl, Garden View Landscaping, Nursery & Pools

Just because your property is on a relatively flat area doesn't mean that it is not subject to some kind of flood damage. Actually, properties on flat land are often much harder to have good functioning drainage installed because the property does not provide adequate fall for the water to flow downstream into drains or naturally. We should all be taking a look at our properties and getting prepared prior to a devastating storm.

Check your trees

With the drought taking a toll on trees it is a good time to do a health check and risk assessment. Trees weigh less now because they have less moisture in them. Often, they are weaker as well. Sudden, high volume, moisture may be too much weight for some branches or trees to bear.

Heavy, unhealthy and unbalanced trees are a lot more likely to fall over from saturated soil and wind. Roots can break sprinkler lines when trees fall creating more problems. Falling trees can also potentially break drains and redirect water flow making issues even worse.

Hillside Rodents, ground squirrels, rabbits and animals

Eliminate burrowing animals and bury their burrows. Water can go down the burrows and create an "underground dam" that can burst causing major problems. Check for rodent holes in lawn areas or flat areas above a slope as these areas have the biggest potential for collecting large amounts of water. Foraging animals can also cause major problems by denuding the plant material that protects slopes.

V-Ditches on Slopes (concrete drainage swales)

The obvious point is to keep the V-ditch clean and the "daylighting" spot open. It is wise to remove

loose dirt that is likely to wash into the ditch. Also look for areas where the soil has eroded or is well below the edge of the V-ditch. If the water cannot roll into the V-ditch and pools or worse, starts to erode below the V-ditch, the whole ditch can be washed away or broken; this potentially creates a domino effect when the water in the V-ditch does not go to the designated location.

Check & clean drains, rain gutters and sumps.

Check where drains are "daylighting". Also, check how your neighbors' water flows because their water flow can impact your property.

Leaf guards can be put on rain



gutters to keep leaves from clogging them. Garden View designers believe that rain gutters that can potentially collect a lot of debris in them are better if they are not directly connected to the drain system. Instead, they should drop on the ground near a drain so the debris does not clog the drain line. If you have sump pumps, check to make sure they are clear of debris and are working correctly. If the sump pump is in a critical location, it may be advisable to have two sump pumps placed at different heights so that if one fails, the other works. Have a good understanding of where your water escapes. If the electricity goes out causing pump failure, you can take preventative measures to prepare for a worst case scenario.

Check water flow and do not bury the "Weep Screed" on the buildings

Make sure water flows away

from walls and into the drainage system. On stucco buildings, make sure you do not bury the "weep screed" near the bottom of the wall; this is the point where water that hits the stucco wall and is absorbed by the stucco is drained. If it is blocked, water can build up and go through the wall.

Some older buildings do not have a weep screed, but the same principal applies - do not bury above the footing.

Turn Irrigation Timers off and know where to turn the main line off.

We do not want to make the situation worse, so turn your irrigation timers off once storms are forecasted. Most Garden View Accounts have rain sensors that turn off the controllers automatically. Make sure sensors are functioning and turned on prior to storm season. We should also know where to turn off the main water supply line (especially for the irrigation system); an emergency is not the time to try and find the location.

Protecting Slopes

Planting slopes with deep rooted plants has historically been the best approach to minimizing slope slippage. But, with the drought a lot of slope plantings have been allowed to perish or weaken. Also because the drought continues, planting by Hydroseed or other methods is difficult as we are not allowed to water enough to

PREPARING YOUR PROPERTY LANDSCAPE FOR EL NIÑO: continued on page 3.

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INCREASED MAINTENANCE REQUIREMENTS FOR HOA POOLS IN CALIFORNIA

by Steven J. Tinnelly, Esq.

The requirements for operating and maintaining “public pools” have been subject to regulatory changes in recent years. Those changes have impacted pools within private homeowners associations (HOAs), as the California Legislature and Department of Health have defined the term “public pools” to include those located within private HOAs and residential developments. (Health & Safety Code §§ 116049.1(a), 116064.2(a)(4)(B); 22 CCR § 65503(a)(9).) The more notable changes include those which mandate (1) new parameters for water characteristics, (2) strict monitoring of pool facilities and requirements for written records, (3) enforcement of specific safety and first aid equipment, (4) requirements that newly constructed public pool enclosures have at least one keyless exit and self closing latches, and (5) the imposition of health restrictions for employees or pool users. Some of these changes are discussed below.

Daily Testing

The most significant change is that which requires HOAs with twenty-five (25) or more separate interests to test pool and spa water chemical composition and temperature on a daily basis, and to keep a daily log

of the testing. (22 CCR § 65523(a).) Daily testing may be performed “using a properly calibrated automatic chemical monitoring and control system” if allowed by local enforcing authorities. (22 CCR § 65523(a).) For HOAs with less than 25 separate interests, testing must be performed and documented “at least two times per week and at intervals no greater than four days apart.” (Health & Safety Code § 116048(a).)

Safety Equipment

Another notable changes deal with the installation/maintenance of safety and first aid equipment. For example, that equipment must include a 12’ minimum length rescue pole and a 17” minimum (exterior diameter) life ring with an attached throw rope having a minimum of 3/16” diameter. (22 CCR § 65540(a).)

Health Restrictions

Previous regulations prohibited persons with diarrhea from using the pool. Now, pool access must be denied to any person, including pool monitors, that have symptoms “such as a cough, cold sore, or nasal or ear discharge or when wearing bandages.” (22 CCR § 65541(b).)

Pool Enclosures; Gates & Doors

Finally, there are specific requirements in Section 3119B of the California Building Code for at least one gate/door into the pool enclosure to allow for egress, without a key, for emergency purposes. If all gates/doors allow for keyless exit, no special signage is necessary, otherwise the keyless exit(s) must have signage stating “EMERGENCY EXIT” in at least 4” high lettering.

The requirements and technicalities governing pool use and maintenance are numerous and complex. Now, more than ever, HOAs should ensure that their pool maintenance vendors are aware of these requirements and understand the need for strict compliance.

Editorial comment: We have learned that as of this time (December 2015), the law regarding daily testing is not yet being enforced by the local Health Departments. Prior to implementing any change to your current program it would be best to verify this with the Health Department that has jurisdiction in your area.

Steven J. Tinnelly is an attorney with the Tinnelly Law Group. Their

PREPARING YOUR PROPERTY LANDSCAPE FOR EL NIÑO: *continued from page 2.*

get established roots or even germination of seedlings.

Mulching has been shown to be effective in many situations. The theory is that during a heavy down pour the mulch slows and absorbs more of the water flow. The mulch also swells up when wet causing the water to run off the top like plastic sheeting.

Other products available to slow down or redirect water flow are sand bags, straw waddles, jute netting, plastic sheeting, gabions, silt fencing, mulch blankets and hydroseed applied polymers.

Have Emergency Materials on

hand

We recommend our clients have an emergency package put in a dry place in case it is needed.



Garden View’s standard package includes, plastic sheeting, at least 50 sand bags, rope to tie to sand bags to hold the plastic down on the slope, stakes, a sledge hammer for the stakes, a

shovel, water diversion tubes and an extra sump pump with extension cords.

Every situation is different, look for cause and effect scenarios, use common sense to evaluate your property and needs. In some cases you may have to make a decision on how much you are willing to invest to reduce your exposure to future losses. Let’s hope we get enough rain to ease our drought without causing devastating damage.

Mark Meahl is *President of Garden View Landscaping, Nursery & Pools*, and can be reached at (626) 303-4043 or by email at mark@garden-view.com.

CALIFORNIA EARTHQUAKE AUTHORITY ANNOUNCES MAJOR IMPROVEMENTS FOR CONDOMINIUM UNIT OWNERS IN 2016

By Timothy Cline, CIRMS, Timothy Cline Insurance Agency, Inc.

Starting January 1, 2016, the California Earthquake Authority (CEA) will be rolling out some great new features for California consumers. The coverage, benefits and affordability of earthquake insurance in California will return close to the state-of-the-

marketplace prior to the 1994 Northridge Earthquake - a catastrophic, market-shaping event which occurred nearly 22 years ago - with an average rate reduction of 10%, new expanded coverages and more flexible deductibles.

New Deductible Options: Formerly, the CEA only offered condominium unit owners a single deductible option: 15%. Effective January 1, 2016, CEA policyholders will be offered 5%, 10%, 15%, 20% and 25% deductible options!

Personal Property (Contents) Coverage: Prior to January 1st, condominium owners couldn't purchase more than \$100,000 of contents coverage. After the New Year, the CEA will have expanded Personal Property limits up to \$200,000 - and a new optional coverage will be available to cover breakage of previously-excluded fragile personal property such as dishes, artwork, and collectibles.

Loss of Use (Additional Living Expense): What if your unit is rendered uninhabitable as a result of an earthquake and you have to live elsewhere? Currently, the maximum Loss of Use limit offered to condominium residents is \$25,000. In a post-catastrophe environment, that's an insufficient limit to address the minimum eight to 12 month reconstruction window the Association may face after an earthquake. In 2016, residents will be able to purchase as much as \$100,000 of Loss of Use coverage.

Earthquake Loss Assessment Coverage: Probably the MOST important earthquake coverage for condominium residents (particularly if your Association has no earthquake insurance), this coverage protects against the special assessment the Board of Directors may be forced to levy against all owners to address earthquake damage to the Common Area. Of course, if the HOA has no coverage the special assessment will be very high. Formerly, the maximum Earthquake Loss Assessment limit offered was \$75,000. As of 1/1/2016, a higher \$100,000 limit is being offered (still likely woefully inadequate if the Association has no coverage).

Higher Building (Real Property) Coverage Limits: This coverage is

written to address damage to the interior of the unit and to cover such things as damage to built-in cabinets, electrical fixtures, plumbing fixtures and permanently- attached building elements which are the owner's responsibility to fix, repair and maintain per the association's governing documents. Prior to January 1, 2016, the maximum limit available is only \$25,000. After the New Year, the owner can select between \$25,000, \$50,000, \$75,000 and \$100,000 options.


Somewhat obscure, but interesting coverage changes: Few HOA's out there have masonry chimneys, but according to the CEA, the chimney limit has been increased from \$5,000 to \$10,000, and the CEA policy now includes \$10,000 for Energy Efficiency and Environmental Safety Replacement Upgrades.

Board Members should not be lulled into a false sense of security: Despite these welcomed improvements to the CEA, according to the statistics published by the California Department of Insurance, only 15.39% of California condominium unit owners who purchased HO-6's (condominium unit owner policies) purchased earthquake protection for their private residences in 2014. That means 84.61% of condo owners failed to buy any individual earthquake protection whatsoever. And, that "uninsured" percentage is potentially even higher since previous studies show that 25% of condo owners are going completely bare (fail to even buy an underlying HO-6) which means they aren't offered the opportunity to buy earthquake protection.

The Bottom Line? While we certainly welcome the exciting new limits and deductible options being offered by the CEA in the New Year, board members need to remember that despite the improvements, the vast majority of individual unit owners will not avail themselves of this opportunity to protect their investment. For owners in your project who have equity and want to protect against catastrophic loss, a well-written master earthquake policy will remain the only way to protect each owner's investment.

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MANAGER CERTIFICATION: The Annual Disclosure

By David Brock, PCAM

Certification of CID Managers has been a law now for 13 years. The intended purpose of the law is "DISCLOSURE". Boards should know if the management company they are hiring (or has hired) has certified managers on their staff. Surprisingly, there is no requirement that CID managers be certified however the law requires that managers or management companies disclose that they are certified (or not) prior to entering a contract and annually thereafter. Given the fact that for most people, their home represents their most important financial asset, it would make sense to not allow your investment to be managed by a manager who is not certified. This is why the California legislature made this disclosure law a reality in 2003.

Boards should find out if their property supervisor (or manager) is certified, and additionally if the company is insured. Boards should look for professional designations when hiring a manager. Working with a certified manager affords the best protection for associations as knowledgeable and certified managers help steer their associations through the maze of regulatory compliance thereby reducing potential liability and making it easier for volunteer directors to meet their fiduciary duties.

What does certification involve? To become a certified manager the process takes about two years or longer depending on the designation, to complete the required courses and receive the experience necessary to become approved. There are continuing educational requirements as well, and re-certification must be completed every three years. Certification indicates that a manager has achieved certain levels of training in the management of common interest developments.

On a practical level, a manager who makes the investment of time and money to become certified is clearly committed to this industry and plans to stay in this industry for an extended period of time. This isn't a career that they are trying out to see if it works. Managers who are in this industry for the long term are the kind of managers that you want to have working for you, and not someone who has applied for a position because of an economic downturn in another field.

Certified managers will work harder for their Association clients as they value their reputation and they don't intend on changing careers. A requirement of certification is membership in a industry related trade organization, of which there are two: the California Association of Community Managers (CACM) and the Community Associations Institute (CAI). CACM is a California specific organization and CAI is a national level organization with many chapters around the country. Both organizations have "codes of ethics" and "standards of practice".

By way of disclosure all but one of the Beven & Brock Association Managers, and Principals of the firm are Certified common interest development managers. Each of the following have met the requirements of the Business and Professions code, section 11502. The following managers are certifications are current and are certified by CACM, which is located at 23461 So. Pointe Dr., Suite 200, Laguna Hills, CA 92653. The phone number is (949) 916-2226. All of the names listed below have been actively managing associations prior to the dates indicated, but have been certified with CACM from these dates until now.

MANAGER CERTIFICATION: *continued on page 8.*



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2016: NEW YEAR'S RESOLUTIONS FOR HOA'S

About 45% of Americans make New Year's resolutions, about 8% feel they succeed. A New Year represents new beginnings. In the Chinese calendar, 2016 is the year of the monkey. A few of the symbols that relate to monkeys are honor, community and action or energy. There is little doubt that Associations could improve life in their association by adopting these three qualities: honor, community and action.

Despite the lack of success in New Year's resolutions for individuals it is possible that common-interest developments can have a different result, assuming that the President of the Board proactively leads the board in the first meeting of the year to discuss goals and objectives for the new year.

Since it is now 2016, let's consider 16 possible resolutions for your association this year. Consider these as a board, and maybe three or four of them would be worth pursuing this year.

For purposes of simplicity, let's look at these possible resolutions in four categories: financial, maintenance, the board, and community.

Financial

1. Resolve to make significant progress toward compliance on both obtaining a reserve study or update every year, and accepting the recommendations of the reserve study provider.
2. Resolve to take prompt action

on delinquent owners. Associations who wait longer than six months to take proper action stand to lose the most.

3. Resolve to review the monthly financial statements regularly, and watch the "budget comparison" report. It's not as scary as it looks. Wait! You're not getting a "budget comparison" report? It's essential to understanding how you are performing monthly on your budget projections.

4. Resolve to review your insurance coverage annually with your agent at a meeting.

Maintenance

5. Resolve to work with licensed vendors, whenever possible.

6. Resolve to work with insured vendors, which includes not only liability insurance but also Worker's Comp if they have employees.

7. Resolve to fully understand the difference between bidders on proposed work and understand that the selection criteria should include more than just the dollar cost of the job.

8. Resolve to clarify maintenance responsibilities for your Association as to whether the owners or the Association is responsible for certain repairs, such as plumbing and exclusive use common areas.

The Board

9. Resolve to hold regular board meetings, at least four per year.

10. Resolve to run efficient meetings where proposed motions

are included on the Agenda that is posted in advance of the meeting.

11. Resolve to operate with a full board and a fully employed board, with all of the members doing their part.

12. Resolve to function as board members as fiduciaries with decisions and discussions focused on the best interests of all owners.

Community

13. Resolve to address apathy in the community by creative means to engage owners in the life of the Association. Don't laugh, it's possible.

14. Resolve to listen to owners at the Open Forum portion of the Board meeting without interruption or defensive posturing.

15. Resolve to utilize special interest committees to help lighten the load of the board.

16. Resolve to hold two social events during the year, once in summer and once during the holidays to connect owners.

There is no need to adopt all of these sixteen resolutions, but consider adopting one from each section. There is no doubt that if you do, you will make progress toward making your association a better place in which to live and own.

Happy New Year, 2016.



ANNOUNCEMENT OF NEWLY CERTIFIED MANAGER!



Beven & Brock is pleased to announce that Laura Aguilar has recently become a Certified Manager of Community Associations, as awarded by the

Community Association Managers International Certification Board.

A certified manager is one who has demonstrated competency as a community association manager by passing an examination, fulfilling professional development requirements and adhering to standards of professional and ethical conduct. Ms. Aguilar

joined Beven & Brock in 2014 and has been working with associations in a supportive role as well as an Association Manager. Prior to joining Beven & Brock, Ms. Aguilar

was employed at two other management companies where she managed homeowner associations. While certification is not a requirement in the industry, it is strongly encouraged and supported at Beven & Brock.

We congratulate Ms. Aguilar on this fine achievement in the industry of common-interest-development management.

basement levels)

• Flood Has the HOA considered adding Flood coverage to your Package or Earthquake Policy or buying a stand-alone Flood Policy (Note: Typically, there's a 30-day waiting period from date of purchase before your policy goes into effect)

Back Up and Sewers & Drain Coverage: Water damage from water backing up from sewers and drains would not be covered under a Flood Policy and is usually excluded from Fire/Package policies (unless your agent has added it as an endorsement). Given that these drains have not had much water running through them in the last 5 years; it goes without saying there will be items stuck in some drains which will cause backups and challenges for city drainage systems that were not built to handle significant amounts of rain to begin with.

Equipment Breakdown Coverage: Properties with subterranean parking typically have sump pumps which help remove water from lower parking and/or basement levels. Sometimes these pumps get overwhelmed or break. Should your pump break, and the damages are a result of the broken sump pump, your association must have Equipment Breakdown coverage to cover the loss.

Flood Coverage: Losses as a result of runoff of surface water, mudflow, and subsidence of land along the shore of a body of water or overflow from tidal waves (tsunami) are covered on Flood Policies but excluded on most Master Fire Packages. If your property is located in a high-risk flood zone you may already have a Flood Policy due to lending requirements.

Buying Options for Flood Coverage

1. Add Flood coverage to your Package Policy Most carriers do not offer Flood endorsements, but there is one A-rated insurance carrier offering a Flood endorsement with \$250,000 limit

for only about \$750.00. Check with our office, or your agent and either add the endorsement or discuss whether a better suited package would be an option for your association

2. Add Flood coverage to your Earthquake Policy We can often add "Flood" coverage as an additional peril. The upside is that it is an affordable way to get coverage. The downside is larger deductibles. Check with your agent to see if your policy includes Flood coverage, and if not, how much it will be to add the endorsement?

3. Buy Stand-alone Flood Policy Flood policies are written through the National Flood Insurance Program (NFIP). The benefit of the NFIP Policy over adding flood coverage to your Earthquake policy is that there is a much smaller deductible with the NFIP policy compared to the Earthquake. Since it is a federally facilitated program, the quoting process takes longer and the 30 day wait means you need to call ASAP for a quote.

Flood coverage is also important for anyone who is living in a city with aging infrastructure. In the past two years, we've seen main pipe breaks resulting in massive amounts of water flowing down our streets in Los Angeles and San Diego. This rush of water coming towards your property has the potential to cause serious damage that would not be covered on your fire policy. The water is considered "runoff" of surface water and would be covered under a Flood Policy. Although the City might be liable for the damage, it is a given that it won't be easy getting reconstruction funds from cash-strapped cities that could not afford upgrading aging pipes in the first place. A Flood Policy provides peace of mind knowing your HOA is assured of timely claims processing.

Candice Solarz is an Account Executive with the Elliot Katzovitz Insurance Agency Inc. They can be reached at (310) 945-3000.

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MANAGER CERTIFICATION: continued from page 5.

- C. Finley Beven, since 1994, status is Emeritus
- Vianna Boettcher, since 2006
- Paul Cannings, since 2003
- Roman Esparza, since 2009
- Juanita Flores, since 2004
- Laura Garbo, since 2003
- Lori Lacher, since 2003
- Sue Threadgill, since 2003.

The following managers are certified with the Community Associations Institute, located at 6402 Arlington Blvd., Suite 500, Falls Church, VA 22042; Phone: (703) 970-9220 , and they are current:

- David Brock, PCAM designation, since 1990.
- Marilyn Howald, CCAM, CMCA designation through the National Board of Certification, since 1996.
- Laura Aguilar, CMCA, since 2015.
- Paul Cannings, CMCA and CCAM

Beven & Brock currently has one manager who is not certified. Tricia Ford, who joined Beven & Brock in 2014 and has been managing associations since 2003, is in the final stages of obtaining re-certification status. Tricia earned the CMCA credential in September of 2004, however it lapsed. The law also requires that the location of the manager's primary office be disclosed which is 99 S. Lake, Suite 100, Pasadena, CA. 91101.

If your Association is managed by another firm and you have not received the annual disclosure, you may want to ask for it.



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