



WHY SHOULD AN ASSOCIATION FILE A CONSTRUCTION DEFECT CLAIM?

By Michael Hearn

I have been an attorney specializing in representing property owners concerning construction defect claims for more than 30 years. I have never met any Board members or homeowners that are excited to make a construction defect claim against the original builder, however, reality often times requires the claim to be made to protect their rights and the rights of their members. This article quickly summarizes why it is important to timely and accurately file construction defect claims.



1. FIDUCIARY RESPONSIBILITY:

The law is clear that the Board of Directors of multi-family communities have a fiduciary responsibility to the members of the Association to comply with the governing documents. Those responsibilities include identifying negligent construction in the common areas and making sure the original builder is properly notified of those concerns. To fail to identify the problems and timely place the builder on notice of those issues often times is considered to be a breach of the fiduciary duties of the Board of Directors.

2. PROTECT THE MEMBERS OF

Why Should An Association File A Construction Defect Claim?: continued on page 6.

HOA HOMEFRONT - TEN TIPS FOR SHORTER MEETINGS

By Kelly G. Richardson, Esq. CCAL

Board meetings require balance. While nobody appreciates a meeting in which brevity is the only value, unduly lengthy meetings discourage and exhaust everybody - directors, audience and manager. After about 3 hours, good concentration and judgment is hard to come by. A length of 60-90 minutes is a very reasonable and achievable goal for most board meetings. Try these tips to get there.



1. Come prepared. Good managers provide boards with "board packets" in advance, helping directors come to the meeting prepared, avoiding time wasted as directors "get up to speed" about items set forth in the packet. Prepared directors are more efficient - read your packet.

2. Avoid overly ambitious agendas. Watch out for the overly loaded agenda. Some issues can dominate a meeting, requiring thirty minutes or more. Try to handle only one such issue per meeting, if you can. Sometimes a board needs to meet more frequently, as there is too much to be done in one meeting.

3. Set the room up for a board meeting (not a town hall meeting). A board which sits facing the audience (and not each other) invites audience participation, but the audience was not elected to serve. The semicircle is the best shape, so the audience can hear as the directors talk - to the other directors.

4. Use open forum properly. Many meetings are too long because both board and audience fail to respect open forum. During open forum the board should not interrupt, and during the rest of the meeting the audience should not interrupt.

5. Use consent calendars. Most routine decisions should be handled via consent calendar. Assessment liens, routine bills, and other non-controversial matters can then be passed with no discussion and one vote. Any director desiring discussion can pull an item from the consent calendar.

6. Don't force unanimity. Some excessive deliberation results from over-emphasis upon unanimity. Unanimity is not legally necessary, and puts too much pressure on directors who wish to disagree. Disagreement is not disloyal. Unanimity is important only on very important subjects on which the community needs to be shown strong board support.

7. It's okay NOT to speak. Part of the art of being a great board Chair is recognizing when there is a consensus and it is time to vote. Part of the

HOA Homefront - Ten Tips For Shorter Meetings: continued on page 3.

FHA AND VA CERTIFICATION NEW DISCLOSURE REQUIREMENTS

By Natalie Stewart

California AB 596 is a bill that was passed in 2015 to ensure that condominium owners are aware of their current FHA and VA status of their community. Beginning July 2016, all condo projects in California must disclose the current FHA and VA status in their Annual Budget Report. The goal of the new disclosures is to increase awareness, due to the increasing importance of these certifications.

Since the changes to the FHA certification process in 2011, the topic of FHA and VA condominium certification has been at the forefront of many condominium discussions. In a response to many board members and Association Managers questions, this article includes things to know about the FHA and VA, Certification, the importance, and answers to the most frequently asked questions.

As of March 30, 2016 - only 1,691 condominium associations in California are FHA certified (480 of which are in LA County). VA numbers are virtually impossible to gather due to the lack of information available, however there are considerably more VA Certified communities than FHA.

If an Association is NOT FHA certified it is imperative that the Board consider obtaining it. Without FHA certification, no FHA Insured loans can be used on the property. This includes FHA refinances and reverse mortgages. A lack of FHA certification can have a very negative impact on property values, and make it extremely difficult to sell or refinance.

THINGS TO KNOW

FHA vs. Conventional Loans:

- **FHA Loans** are insured by the federal government against default, which makes them more appealing to lenders. The lower risk profile of the loan means that FHA loans generally have lower interest rates than conventional loans.

- **Conventional or traditional home loans**, on the other hand, have no guarantees other than the borrowers credit and financial

record to repay the loan. The higher risk means banks want more assurances and greater down payment for these types of loans.

The FHA is not a lender.

"FHA," the Federal Housing Administration, is a government agency within the U.S. Department of Housing and Urban Development (HUD).

The FHA provides mortgage insurance to banks, credit unions, and other lenders. In turn, these lenders make loans that meet FHA insurance standards. If the loan defaults, the FHA reimburses the lenders for a portion. The FHA does not "approve the buyer." This is still done by the lender/bank, just like conventional loans.

To use an FHA Insured Mortgage, there is a minimum set of standards that must be met by a potential mortgagee. However, each lender enforces additional requirements based on their own best practice. These requirements include FHA mortgage score, credit history, bankruptcy and foreclosure/short sale history, and employment verification.

FREQUENTLY ASKED QUESTIONS

Does a Board have a legal obligation to become FHA Certified?

No. There is no law that mandates an association to obtain FHA certification. Many of the requirements set forth by the FHA are out of the board's control. A board can work towards meeting the requirements, but many of them cannot be changed overnight. For example: one major issue that precludes an association from becoming FHA approved is the amount of renters in the community. FHA criteria states that at least 50% of the units must be owner occupied. If the association is over this limit, they have to wait until owner's move back into their units OR rental units are sold to owner occupants. The VA does not allow rental caps or limiting the ability of an owner to

rent.

The FHA sets requirements to mitigate losses in case of a default. They are not simply looking to approve the most condominium associations that they can. FHA Certification is a privilege - not a right or requirement.

My Board refuses to become FHA Certified. They "don't want FHA financing in the community"

First, Board approval is not required for FHA certification. Any owner is legally entitled to all documentation and information necessary to obtain FHA certification. However, there may be issues that require Board intervention during the process. For example, increasing the HOA insurance to meet FHA guidelines.

Secondly, by refusing to become FHA certified, the board is intentionally limiting financing options for current and future owners. This decision will have negative consequences and could potentially open the Board to a lawsuit. The Board of Directors has a fiduciary duty to act with the best interest of all owners by preserving and protecting property values. Making blanket statements on what type of financing the Board deems acceptable is a decision that the Board will have a difficult time defending without using personal judgments.

Didn't FHA Loans cause the housing crisis?

No. The FHA does not lend money. It insures loans that meet their standards. Sub-prime loans are what caused the mortgage crisis. FHA Insured loans are a big part of how the housing market came back. The following is what "caused" the foreclosures and defaults stemming from the 2008 real estate fall-out:

- Sub-Prime Mortgages
- Interest-Only Payment Options
- Negative Amortization Loans
- Housing Speculators

FHA and VA Certification New Disclosure Requirements: continued on page 5.

HOA BOARD QUICK TUTORIAL

Following is a quick summary of the important aspects of serving as Board member of your HOA. For more detail on any topic below, feel free to contact Beven & Brock.

OPERATING AS A BOARD MEMBER

How to think like a Board member: as a Board member you are a fiduciary, which requires thinking and deciding issues on behalf of what is best for the entire association. This may conflict with your personal preferences at times, but operating this way is essential.

2) Volunteers - As a volunteer, you should only do what is essential, and not feel like you are the "onsite manager" which entails daily involvement potentially.

3) Team work: as a Board member, you don't carry the burden alone. Decisions should be made in the context of the team (i.e. Board) and never less than that. Insist on a full and active board.

4) Board roles: every board member should have a specific job to do, and be accountable to the rest of the board. The role of Secretary and Treasurer are clear as to their roles, however the other positions can fill a variety of important tasks: maintenance liaison, community relations, management liaison,

5) Decisions - make them ONLY at meetings, not by email or casual conversation. Decide as much by "policy" as possible, so that you

only have to make the decision once, and your manager can carry out the policy.

MEETINGS

Have them on a regular basis, same date, time and place and have 4-10 a year, subject to your by-laws. Meetings should not last more than 60-90 minutes. This will encourage attendance.

2) Preparation: every board should have material in advance of the meeting and review it, so that the meetings can be about brief discussion and a decision. Come to meetings with an objective mind, ready to consider all sides of an issue prior to voting.

3) Agenda and minutes: this doesn't have to be complicated. The Secretary is responsible for preparation and the Beven & Brock web-site has templates for both. Minutes are to be brief, not a narrative. Agenda must be posted in the common area four days prior to the meeting. Minutes to be available to owners 30 days after the meeting.

4) Communicate the action list from the meeting to the manager as soon as possible after the meeting if the manager does not attend.

5) Open Forum - a portion of every open meeting where owners can address the Board for a specified period (i.e. 3-5 minutes). It is required, and the Board doesn't have to respond to the owner.

6) Executive Session - a meeting where the board can meet privately, however should not be over used, it is only for specified purposes: contract negotiation, member disciplinary hearing, litigation. Do as much in the open as possible.

FINANCIAL

Review monthly financials and they don't have to be complicated. Most important items: owner delinquencies, and budget comparison report. The Treasurer should lead the way in this, and the Beven & Brock web-site has a tutorial.

2) Be consistent with collections - treat every owner the same even if they are on the Board.

3) Reserves - engage a professional to obtain/update the study annually and complete the required annual disclosures.

4) Follow the recommendations of the reserve study, but if you choose not to, at a minimum fund the reserves at 10% of the budget. This is required by lenders.

MAINTENANCE

All vendors should have license and insurance (liability and workers comp, if they have employees). A W-9 form is also required. Don't hire a vendor on your own without making sure that these items are completed. It will delay payment.

HOA Board Quick Tutorial: continued on page 7.

HOA Homefront - Ten Tips For Shorter Meetings: *continued from page 1.*

art of being a great director is recognizing when a motion is clearly on its way to passage so no further remarks are necessary.

8. Use committees. Major topics can be researched, analyzed and discussed in committees or task forces which then recommend action to the board. Committees are also a great place for members to become involved, and to identify potential directors.

9. Keep on track. The Open

Meeting Act requires that the board only discuss items which were disclosed on its agenda. Other spinoff discussions are often tempting, but that is not fair to the members who did not know it would be discussed and distracts from the agenda at hand. Stay on target.

10. Adopt meeting rules. Meeting rules educate members regarding meeting procedures, set behavior boundaries, and help curb disruptive behavior. Adopt meeting rules (and follow them!).

A one hour meeting is a good goal. Try hard to avoid exhausting three hour meetings. Efficient meetings are worthwhile, and will encourage others to take their turn at future board service.

Kelly G. Richardson CCAL is Managing Partner of Richardson Harman Ober PC, a law firm known for community association advice. Send questions to KRichardson@RHOpC.com. Past columns at www.HOAHomefront.com. All rights reserved®.

HOW TO AVOID FINANCIAL SURPRISES!

By David Brock, PCAM

Surprises are fun for birthdays, but never for your finances. Being caught off guard without funds to pay your bills makes for a horrible day. This is true not only in our personal finances, but also much more with the HOA's finances. In the world of HOA finances, there are several ways that nasty financial surprises can arise, and it is best to know how they occur so that you can avoid them with a vengeance.

There are two primary ways that the financial surprise can become part of your story as an association, and the good news is, they are both avoidable. To successfully avoid the surprise, it requires the board, and especially the Treasurer, to focus on a couple of issues each month. To make this

subject uncomplicated there is a task that should be completed each month, perhaps taking 15-20 minutes of time, and there is an annual function that will required 1-2 hours, once per year.

Also, if you are not a financial whiz, don't worry. The process isn't complicated, it is actually based on common sense. At the other end of the spectrum, board members who are very qualified in the financial arena are over-qualified for the job and can easily make it more complicated than it needs to be.

What are the two primary areas that need to be reviewed to avoid the "bad surprise"?

report takes the current month expenditures and compares them to the budget, but more importantly, it also does this on a year-to-date basis.

A "budget comparison report" will let you know the differences, both on a dollar and percentage variance basis. It is very simple then to review the "percentage variance" column and look for the items in the budget that are significantly over spent. In doing this you may also find areas that are underspent, which may help to off-set the over-spent areas.



Remember, the budget is just an educated guess about the future and if it was developed properly, you will have both over and under-spent in multiple areas.

It is very important that this process be done in a calm and



business-like fashion, as it will be easy to become very concerned about an over-expenditure. This process has to be taken in stride, since the reasons behind over-expenditures may be justifiable and not a big concern.

First, the monthly financial statements will provide a preview of coming attractions, and there is a great report that makes the analysis manageable, and the second will be determined by the annual reserve study process.

Let's take a closer look at both of these scenarios.

Whether your association is managed by a management company, or you are "self-managed" the report called the "Budget Comparison Report" is essential to review every month. This may be the most important report in the arsenal of reports that you have available to you.

There is another important issue to remember. It is possible that some expenses should be considered as reserve expenses. If you have some expense that was paid that would have been included in the reserve study, then a transfer should be made for that expense. This is true even if you have funds to pay for it now. Later in the year, you may experience a shortfall.

What does this report do exactly? The purpose of the report is to compare the current expenditures and income against the budget. The budget, of course, is the guide for the year. At the beginning of the year, the Board establishes a balanced budget, at least, you are supposed to. The

Don't forget to look at the income side as well. Are your receivables for the "year-to-date" amount in line with what is budgeted? If not, why is that? Are appropriate steps being taken to collect delinquent balances?

*How To Avoid Financial Surprises!
continued on page 7.*

Western Rooter
24/7 Emergency Plumbing Service
\$175 Sewer Video Camera Inspection
\$99 Main Line Drain cleaning
• Free Plumbing Estimates •
(626)448.6455
www.westernrooter.com
Licensed & Insured
Family Owned for over 30 years

www.HOAinsurance.com/bookrequest
Insider's Guide to HOA Insurance
by Elliot Katzovitz
Free of Charge
\$14.95 value
for News and News readers
QR Code

Since 1975
Fully Licensed and Insured
Lic. #872494
Ferris Painting™
"Painting Southern California One Building at a Time"
Call for a FREE estimate!
Greg Lewis
O. (818) 951-3207
F. (818) 951-5279
greg@ferrispainting.com
www.FerrisPainting.com

- Faulty Appraisals
- Limited Underwriting

FHA Loans require a lower down payment, so buyers are more likely to default, right?

No. There are many different factors that come into play during a foreclosure. If the down payments were the key to borrower default, banks and lenders would be able to predict all foreclosures. Many conventional lenders allow down payments as low as FHA.

Not all FHA borrowers are only putting only 3.5% down. Some FHA borrowers need FHA loans for other reasons, and will put significantly larger amounts as a down payment. The lower down payment is only an option if your credit score is high enough. If a potential buyer has a lower credit score, the minimum down payment goes up to a minimum of 10%.

If we become FHA Certified, will the FHA have control over our community?

The FHA will not have any "control" over the governing of the community. An FHA certified community has no obligation to maintain its certification, and the FHA does not monitor the association. They are simply certifying that the Association meets requirements set forth in the FHA Handbook, and put on the FHA connection list.

Does the FHA require a minimum percentage of units to be FHA Loans?

No. In fact, the FHA limits the amount of FHA insured loans within condominium associations. The FHA cannot require any association (regardless of FHA Certification status) to carry a minimum amount of FHA Loans.

Who has to disclose the FHA and VA Status per AB 596?

The language in the bill is not clear about PUD's, however all condominiums must include the

disclosure in the Annual Budget report. It is considered best practice to include the disclosures in all communities with attached units. While PUD's do not need FHA or VA Certification, including the disclosures will benefit all owners and real estate professionals.

If a community is seeking FHA or VA certification, it is best to do so before the next annual budget disclosure. Property managers and board members seeking to limit their liability can outsource their FHA and VA disclosures to FHA Review, or a similar company.

What if we disclose AB 596 incorrectly?

Since AB 596 has not come into effect yet, the liabilities associated with disclosing FHA and VA incorrectly are yet unknown. However, it is anticipated that Realtors and lenders will be using these disclosures to determine whether a sale is feasible. If a disclosure is prepared incorrectly, it can result in potential buyers to not make offers, sales can fall through, and owners may have to lower asking prices to conform to non-FHA or non-VA buyers. There are issues with the website where the names of cities are spelled incorrectly, which could lead to liability for the person completing the disclosure. There is potential that the Board or management company preparing the disclosures could be liable in this situation.

In summary, with the heightened sensitivity regarding the current state of the housing market, it is no longer possible for condominium communities to ignore FHA and VA certifications. The Board of Directors should be knowledgeable when it comes to these certifications, their disclosures, and plan for FHA and VA approval in the future.

Article by Natalie Stewart, President, FHA Review. For more information or a list of basic eligibility criteria visit our website: www.fhareview.com. Natalie can be reached at (714) 536-6500 or natalie@fhareview.com.



TIMOTHY CLINE
INSURANCE AGENCY, INC.
Specializing in Association Master and Earthquake Policies
www.timothycline.com
(310) 260-2900 ext. 25
CA License #0C10844



John R Sinner Ins Agcy Inc
John Sinner, Agent
Insurance Lic#: 0589670
Bus: 626-576-1078 Toll Free: 800-516-1078
www.johnsinner.com



Richardson•Harman•Ober, Inc.

ASSESSMENT COLLECTION
CC&RS AMENDMENT, INTERPRETATION & ENFORCEMENT
CONTRACT DRAFTING & PERFORMANCE
LITIGATION & DISPUTE RESOLUTION
MAINTENANCE & REPAIR RESPONSIBILITY

Pasadena Orange County Riverside


1 (877) 4HOA-LAW
1 (877) 446-2529 www.RHOPC.com

Advertise Here

If Your Company can provide excellent customer service and specializes in HOAs contact

Roman Esparza
at (626) 243-4158
roman@bevenandbrock.com

Reserve Studies for Community Associations



ASSOCIATION RESERVES
Est. 1986
Over 30,000 Reserve Studies nationwide

- Save money with our 3-year plan
- Access your Reserve Study online
- Video explanation of results
- Free Disclosure Form preparation



Request a Proposal Today!
www.reservestudy.com | (800) 733-1365



the path to **BETTER PAINTING**
COMMERCIAL SERVICES

- HOA community specialists
- Excellent customer service for a painless experience
- Proven painting processes to make projects quick and efficient
- Complimentary color consultations
- All size jobs • Exterior, Interior and Common Areas

certapro.com/pasadena | bmauser@certapro.com
866-591-9270
Each CertaPro Painters® business is independently owned and operated.

THE ASSOCIATION: Pursuant to virtually all governing documents (aka CC&Rs), the Board of Director of a multi-family community is the only entity that has the standing or legal position to make these claims. As a result, the Board of Directors needs to timely and correctly move forward with a Notice of Claim concerning construction defects in order to protect the members of the Association and perfect their rights to ask the original builders to make the appropriate repairs.

3. PREVENT SPECIAL ASSESSMENTS: If the Board of Directors identifies construction deficiencies in the common areas in the project, and do not notify the builder of those issues, that does not make the deficiencies go away. At some point in time, the deficiencies will require repairs to

be accomplished which maybe incredibly expensive. Typically, there is no money in the reserves to address those issues, and therefore, special assessments may have to be issued to all the members of the Association to address construction defects that were caused by the original builder.

4. BUILDER SHOULD BE HELD RESPONSIBLE: The person or entity that is responsible for construction deficiencies is the original builder. They should be held accountable for the product that they designed and built. They sold the units, made their profits, and should be required to stand behind their product and make the appropriate repairs.

5. THE CLAIM WILL GET THE PROBLEMS FIXED: The ultimate goal in filing a Notice of Claim of construction defects is to get the funds necessary for repairs or to

get the builder to come back and repair the project as it should have been built. The Notice of Claim process, as well as potential construction defect litigation, in a vast majority of cases, results in a settlement of sufficient funds for repairs or a repair based settlement where the builder comes back and makes the repairs.

The bottom line is that the original developer and builder were to build the project pursuant to the approved plans, specifications, applicable codes and manufacturer's installation instructions. If they fail to do so, they should be held accountable which requires a timely and appropriate Notice of Claim.

Michael A. Hearn is an attorney who specializes in Construction Defect matters. Mr. Hearn can be reached at (949) 341-0030, or by email at info@mhearn.com

HOW TO GET THE MOST OUT OF YOUR ASSOCIATION'S VENDORS

By Roman Esparza, CAI & CCAM

Boards can often be at odds with their community's landscape company, roofing company, pool man, or lighting company, and the list can go on and on. Often times troublesome issues are a result of poor communication and knowledge, or lack of follow through with either the vendor, the management company, or even the Board.

In order to get the most out of your Association's vendors here are some tips your Board of Directors can use when dealing with some of the most important assets of your community:

- Be sure you're always working with licensed and insured vendors or contractors. There are over (43) different types of contractor's licenses required for businesses performing work over \$500 in the state of California. Contractors must have the proper type of license required for the work or trade in which they are doing business. For instance, a roofing company must have a (C39) License to do any roofing work in California. And a landscape company must have a (C27). And did you know there is a separate license required specifically for Tree Trimming (D49), and Pool &

Spa Maintenance (D35). Be sure your vendors are licensed for the specific work in which they're doing business. Problems can be avoided sooner if you are working with a vendor that has the proper license. The properly licensed contractor can usually be considered more of an expert in his field, and therefore his thoughts and opinions given more trust, than an un-licensed or wrongly licensed vendor. Of course, you need to keep in mind that the properly licensed contractor may not always be the lowest bid when pricing work from more than one vendor. Always make sure your licensed contractors maintains current liability and worker's compensation insurance.

- Build a relationship with your vendors. Boards can get more out of their vendors when there is a relationship in place with the actual person providing the service to your community. These service providers need leadership and strong guidance. Even know they know how to cut grass, trim trees and clean pools they still need your thoughts and questions about how these things are being done in order to better understand the quality of service expected and the

costs involved. Meeting with your vendor is usually much easier than making a change or receiving less than good quality service and performance.

Have only ONE person designated as your landscape liason, pool person, or roofing coordinator that the vendor can communicate directly with, and answers too on behalf of your community. Often times the vendor is being told

- different things, by different people within the community, and this leads to poor quality of service, long delays and bitter feelings by those whose instructions and expectations are not met. It's usually a good idea to have your manager be that lead person. But in some cases, it may work out better and be more time efficient, if the primary liason is an on-site Board member, or committee person designated by the Board to give instructions to the vendor on behalf of the Board and the Association.

- Always be upfront with your vendors. Tell them when they are

How To Get The Most Out Of Your Association's Vendors: continued on page 8.

- 2) Develop trusted vendor relationships so that obtaining bids for routine jobs are not necessary.
- 3) Avoid using vendors where Board members have a pre-existing relationship.
- 4) For major work such as roofing, water intrusion or painting, utilize a consultant to avoid liability.
- 5) For other work, the Board should prepare a job scope, or specifications, such that the manager can obtain bids that can be compared. This is best for work that is matching something that already exists.
- 6) For emergencies, manager has the ability to approve work regardless of cost. Board may specify a liaison to discuss with manager.
- 7) Small jobs (routine) under \$500.00, should be able to be approved by manager without entire Board involvement.

MANAGEMENT

Your manager is highly qualified, certified, and has many years of experience. Allow them to handle issues for the Board, without Board oversight between meetings except as manager may require to clarify an issue with a single board member between meetings.

- 2) The manager will provide a management report a few days prior to the Board meeting updating the board on all pending issues, and informing the Board of new issues that have come up between meetings. The manager will not be expected to update Board members between meetings, except for emergency situations as determined by the manager.
- 3) The Board should advise the manager immediately after each meeting as to the action items that require attention between meetings.

COMMUNITY

Find ways to engage the owners, such as a summer BBQ, community yard sales, or holiday

events. This increases community and helps to fight apathy which is a big problem in many associations.

- 2) Welcome new owners and make personal contact with them.
- 3) Be reasonable and sensitive to owners in developing and enforcing rules.
- 4) Violations and rules enforcement: allow the manager to guide you. Different issues require different approaches for resolution.

INSURANCE

- 1) Invite your insurance agent to a Board meeting once a year to review the policy and confirm that you have appropriate coverages in place.
- 2) It is advisable to carry Worker's Comp coverage, even though you don't have employees, since the determination of employees is very broad.

Thank you for serving your community. Beven and Brock is here as a resource for you and your Board.

How to avoid financial surprises: continued from page 4.

Secondly, the other area of concern pertains to the reserve fund. Every association is required to have a reserve study which assesses the long term reserve needs and determines the amount of funds needed to have adequate reserves in order to fund all major expenses over the next thirty years. Some people believe that you must do a reserve study only every three years, however, an on-site study must be done every three years, and the study must be updated annually. In addition, every year there are specific reserve disclosures that must be distributed to all owners. There are many diverse opinions about this issue in terms of what amount should be funded. The law does not require any specific funding levels, which leaves this issue to the board to determine during the budget process.

The problem arises when an association chooses to NOT fund reserves at all, or to fund them

significantly less than the recommendations of the reserve study preparer. The concern is that a special assessment will likely be in your future. Special assessments are not good, and should be avoided. They have to be approved by the membership, unless they can be considered an emergency. It is far better to obtain a study, and try to follow the recommendations of the study as best you can. Putting a small amount money away each year before the reserve components fail is less costly in the long run.

In order to avoid the surprise special assessment, always order a reserve study or update every year. It is best to do this in the seventh or eighth month of the year, so that the study is completed by the time the board approves the budget near the end of the year. Take the position on the board of advocating for funding the recommendations of the study.

In a future newsletter, we will address the steps the board must undertake if the "surprise" has hit you. There are some options, and

some are more desirable than others. This topic will be addressed in a future newsletter. But for now, try to do everything possible to avoid the bad surprise.



LAW OFFICES OF MICHAEL A. HEARN
CONSTRUCTION DEFECT SPECIALISTS

Over 35 years of Construction Defect experience
representing Associations and other Property Owners

FREE Initial Investigation Including:

- Site Inspection
- Document Review
- Full Report
- Consultation

949.341.0030 ∞ info@mhearn.com
www.michaelhearnlaw.com



STEVEN G. SEGAL INSURANCE AGENCY, INC.

Over 33 years of experience specializing in:
Condominium Associations • Planned Unit Developments
Hard to Place Associations • Earthquake Coverage
High Rise Condominiums • Workers Compensation

Toll Free 800-345-8866 • Toll Free Fax 800-262-0973
Email: SSegal@farmersagent.com
www.farmersagent.com/ssegal • License #0E24660

How To Get The Most Out Of Your Association's Vendors: continued from page 6.

doing a great job and they will appreciate your compliments and continue to work hard for you and will do their best to keep your trust and confidence in their work. And explain to them as soon as possible, whenever their services are not meeting the Board's expectations.

- Finally, after the vendor's services have been provided, be sure to pay your vendors promptly, and on time. Payment for services is usually expected right upon completion for most work. But, some contractors will allow up to (10) days for payment to be made after services have been provided. Your prompt payments will help to keep your vendor's business running as smooth as possible, and this in turn should help maintain their highest level of quality customer service for your community

Overall, Boards should always try to work with only qualified vendors they know and trust. Making sure your vendors

understand fully the level of quality service that is expected from them by the Association, and the Board, before they start any work will help to avoid problems later on. Ask your vendors to be proactive, and let the Board know of any potential problems before they happen. And ask them to assist the Board with any long range planning necessary for your community.

Good communication and instructions between the community manager and the board liason will help keep the level of service to your community as high as possible. The Board will look great to their members, and the community will also look its best!

Roman Esparza of Beven & Brock Property Management in Pasadena, CA is a member of CAI and CACM, and has been managing homeowners associations for over 20 years. He is a professional in the field of Homeowners Associations, Mixed Used Developments and Multi-Dwelling Units. He can be reached at Roman@bevenandbrock.com.



This Newsletter is circulated for general informational purposes as a public service and promotion by the Beven & Brock Property Management Company. The contents are the opinions of the firm, or the authors, and 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. The paid advertising in this newsletter is provided as a courtesy to our readers and does not constitute any endorsement by Beven & Brock. The advertisers provide their services to HOA's and some may have provided services to Beven & Brock's HOA clients in the past.

