



How To Deal With Your HOA Board!

By David Brock, PCAM

(Editorial note: While articles in this newsletter are generally written to help board members in their role as board members, this article is unique as it is written to owners.)

Almost seventy million Americans live in 340,000 common-interest communities, from city-sized, master-planned communities and multi-building condominium complexes to urban cooperatives and small HOA's.



According to CAI Chief Executive Officer Thomas Skiba, CAE. "A large majority of Americans who live in community associations are happy and satisfied in their communities. However, unfortunately, there are owners who feel their board doesn't represent them.

Living in a common-interest-development can lead to issues for a few owners that often rise to a level of frustration and sometimes, anger. A disagreement with your board can escalate easily into a major issue and can become very annoying, and expensive. Furthermore, disagreements with neighbors, or HOA boards, do not go away easily.

It is important for owners who do not serve on the board to understand how best to work with their board of directors so that disagreements don't develop into much greater problems.

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continued on page 6.*

October 13, 2016 Seminar Best Practices from HOA Vendors

This seminar will be a first in over ten years of Beven & Brock HOA Seminars. We have invited 16 of our top service vendors to speak for five minutes each as to the most important aspects of their service that HOA Boards need to know. You will gain a great amount of information on the following topics in a very short time frame: plumbing, insurance, reserves, painting, consulting, and more.

Plan to attend on the evening of October 13, 2016 at 6:30 PM for this very informative and important seminar.

You may register by emailing: HOASeminars@bevenandbrock.com or call the seminar reservation line at (626) 795-3282, ext. 886.

Watch for more information, but it is always best to register early.

Budget Planning for 2017

By David Brock, PCAM

It's that time of year that most HOA boards address the next year's budget and the level of regular assessments. The budget, along with approximately twenty additional disclosure items is due out by the end of November providing you operate on a calendar year.

Most every board struggles with the budget as it forces a discussion as to whether there will be an increase, or not, in the monthly assessment for the next year. Understandably, many board members and owners want no increase. Some board members will argue that the costs are rising each year, and the property is continuing to deteriorate. An effort may be made to trim costs, and while that may appear to be the right approach, it will not likely net much of a reduction due to increasing costs and underfunded reserves. Approximately 70% of all

common interest developments are underfunded.

There are many board members (and owners) who adamantly oppose any increase based on strongly held convictions that the assessments are already high enough and if increased no one will be able to sell. Anyone who disagrees with that position might wonder what the "right" level is and how did it get determined that the assessments are too high?

To my knowledge, there is no study that has been done as to the proper level of HOA assessments and perhaps for good reason. How effective is a study that compares very different associations and attempts to determine what the "right" number is? Associations are all unique and attempting to find a number that applies to every association is impossible. Why?

There are many reasons why the comparison of assessments

Budget Planning for 2017: continued on page 6.

ANNUAL DISCLOSURE REQUIREMENT CHANGES

Every common-interest-development in California must provide disclosures to their members every year, at least 30 days prior to the start of the new year. In January 1, 2014, a major revision of the Davis-Stirling law became effective. One of the most important changes in the law concerns the annual required disclosures that every common interest development (i.e. HOA) must provide to each owner every year. The disclosures that were required in the past have now been placed into two different reports. They are now called the "Annual Budget Report" and the "Annual Policy Statement". Effective in July 2016, another change took place, which requires another disclosure pertaining to whether or not the association is FHA and VA approved.

The law requires the disclosures to be divided into two sections, the Annual Budget Report, and the Annual Policy Statement. It is anticipated that the Annual Policy Statements section will change less frequently, and the Annual Budget Report will change every year.

ANNUAL BUDGET REPORT

1. Approved operating budget and reserve allocation for the next fiscal year.
2. The most current Reserve Study which contains the following information:
 - a) The Executive Summary from the most recently updated Reserve Study.

- b) Reserve Funding Disclosure Form/ Table
- c) Board statements regarding the reserve study. See article in this newsletter.

3. Master Policy Insurance and information regarding other policies.
4. Insurance disclaimer language verbatim from Civil Code
5. Association Loan Statement (if applicable)
6. FHA certification - The statement shall be in at least 10-point font on a separate piece of paper and in the following form:
"Certification by the Federal Housing Administration may provide benefits to members of an association, including an improvement in an owner's ability to refinance a mortgage or obtain secondary financing and an increase in the pool of potential buyers of the separate interest.

This common interest development [is/is not (circle one)] a condominium project. The association of this common interest development [is/is not (circle one)] certified by the Federal Housing Administration."

7. VA certification
When the common interest development is a condominium project, a statement describing the status of the common interest development as a federal Department of Veterans Affairs (VA)-approved condominium project pursuant to VA guidelines, including whether the common

interest development is a VA-approved condominium project. The statement shall be in at least 10-point font on a separate piece of paper and in the following form:

"Certification by the federal Department of Veterans Affairs may provide benefits to members of an association, including an improvement in an owner's ability to refinance a mortgage or obtain secondary financing and an increase in the pool of potential buyers of the separate interest.

This common interest development [is/is not (circle one)] a condominium project. The association of this common interest development [is/is not (circle one)] certified by the Federal Department of Veterans Affairs."

ANNUAL POLICY STATEMENT

1. Communication with the Association statement
2. Overnight Mailing Address statement
3. Secondary Address statement
4. General Notices statement
5. Association Minutes statement
6. Assessment Collection Policies statement
7. Collection Policy
8. Association Rules and Regulations including Fine Policy, if any
9. Dispute Resolution Procedures (ADR/IDR Rules)
10. Architectural change rules and procedures

Consumer Warning: Underfunded Homeowners Associations

By Joseph Aiu (Statewide Subdivisions Compliance)
California Department of Real Estate

The California Department of Real Estate (DRE) has issued this warning as a result of the growing number of homeowner's associations (HOAs) that do not have sufficient funds or reserves to adequately maintain the common areas in the housing developments for which the HOA is responsible. This warning will explain the negative effects and impacts of an underfunded HOA,

offer suggestions on how to gauge the financial health of an HOA, and discuss some typical causes of an underfunded HOA.

Negative Effects of an Underfunded HOA: An underfunded budget may cause unexpected expenses for the owners living in a CID and/or have a deleterious affect on the value or condition of an owner's property. If the HOA cannot properly maintain

the common areas due to budget constraints, roads, pools, exterior paint, and roofs may fall into disrepair. Moreover, underfunded HOA budgets may create pitfalls for homebuyers who do not investigate the financial health of the HOA prior to buying into a CID. HOAs facing severely

Consumer Warning: Underfunded Homeowners Associations: continued on page 3.

underfunded budgets often must resort to levying special assessments on the owners living within the CID in order to pay for needed repairs or maintenance. Special assessments can run into the tens of thousands of dollars so owners and buyers would be wise to look into the financial health of the HOA to ensure they aren't exposing themselves to unexpected expenditures and financial problems.

How to know if the HOA is Financially Healthy:

HOAs are required to produce a yearly budget and to furnish it to the owners in the association. In addition, at least once every three years, the HOA is required to review the major components of the CID that the association is obligated to repair, replace, restore, or maintain, as part of a study of the reserve account requirements, to ensure sufficient funds are, or will be, available to adequately maintain the common areas. Included in the budget documents, the HOA is required to provide a summary of its reserves and whether the reserves are adequate to maintain all the major components of the CID. This summary disclosure document is an excellent tool to determine the long term financial health of any HOA.

In addition, the law affords a potential buyer or an owner in an association the opportunity to review the HOA's financial documents. For a potential buyer, the financial documents may be requested from the seller. For an owner in the association, the financials should be received from the HOA at least annually.

Typical Causes of HOA Underfunding: Foreclosures are a significant cause of underfunded HOA budgets. Homeowners in foreclosure often do not make their assessment payments. Due to the length of the foreclosure process, the non-payment of assessments may cover a period of 90 days to a few years. Although HOAs have the ability to place a lien against a homeowner's property for non-

payment of assessments, HOA liens are often extinguished at the foreclosure sale because the value of the property is insufficient to pay off all the liens against the property. This is especially true in cases where the value of the property is less than the mortgage. The end result is the HOA ends up with less than the projected assessment income, which leads to an underfunded budget.

Inadequate planning on behalf of an HOA board can also lead to an underfunded budget. In instances where a CID or HOA is facing dire economic conditions, an HOA board may succumb to the pressure of its association members and not increase assessments or even reduce assessments and forego on-going maintenance. These types of bad decisions inevitably result in the HOA levying special assessments against the owners to address health and safety issues that arise from neglect. In addition, reduced care and upkeep of a CID's common areas result in the inability to sell or secure financing because of the dilapidated condition of the property. HOAs that rely on inadequate assessment collection procedures usually suffer from insufficient funding to satisfy their financial obligations. For example, homeowners who are not in foreclosure but refuse to pay their assessments may rely on the association's poor collection process as a way to delay making their assessment payments. This may result in a "domino effect" where other members stop paying their assessments under the rationale that since others are not paying, why should they.

What to be Aware of when a CID has an Underfunded Budget: Special assessments. Inevitably, underfunded budgets lead to special assessments as mentioned above. This is the common method HOAs use to satisfy financial obligations. While an HOA is limited on how much it can increase assessments - typically 5% per year - a special assessment can be assessed in order to resolve a health and safety issue. This means the entire cost to make a repair can be levied against all its members, or members who are paying assessments. Special



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assessments can be tens of thousands of dollars. Inability to sell or declining property values. It can be very difficult to sell a home if the HOA's assets are inadequate to satisfy its financial obligations. Buyers will be leery of special assessments and/or increased monthly assessments. Moreover, property values may depreciate dramatically because of deferred maintenance and inadequate funds to satisfy financial obligations. Inability to secure financing. Lenders (subject to underwriting guidelines from Fannie Mae or Freddie Mac) may deny funding loans whenever an association funds less than 10% of its operating funds into its reserves. In addition, lenders are reluctant to fund loans when an association cannot meet its financial obligations.

Quick Tips for Evaluating the Financial Health of an HOA: If you are a buyer, demand that the seller provide you with copies of the most current financials for your review. If you are an owner, make sure that you are given annual financial reports, especially the delinquency report and those pertaining to the adequacy of the reserve account. If you are a buyer, do a physical review of the property and observe how the common areas are maintained. For example, assess the condition of exterior paint, amenities, roads, roofs, drives, fencing, etc. If you are an owner, be involved with the board and its decisions, especially when you see deferred maintenance of common areas or are subject to special assessments.



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Why Contribute to Reserves?

By Robert M. Nordlund, PE, RS, Association Reserves, Inc.

Boardmembers and Managers often get themselves into a situation where they need to “sell” the value of regular Reserve contributions to their homeowners. It’s often a simple matter of fighting for budget dollars... Reserve contributions don’t keep the lights on, they don’t keep the Association properly insured, and they don’t pay the Management company’s bill. They are often perceived as funds for “far out in the future, when I might not live there”. So what are the main arguments to incorporate regular Reserve Contributions into the budget?

• **Fairness.** While the repair or replacement expense of a Reserve component may only occur every few years, the deterioration that

causes the expense happens every day. An expensive roofing project is the culmination of years of advance warning and daily deterioration. Each day brought the association a little bit closer to that roofing expense! It is not fair to enjoy years of service of a watertight roof (or good paint, or smooth asphalt, or a functioning elevator) without setting aside funds to cover the ongoing deterioration of that asset. Future owners should not be forced to pay for something current owners “used up”.

• **Responsibility.** The primary job of a Board member is to maintain and protect the assets of the corporation. With deterioration occurring on a daily basis, the corporation’s assets are dropping in value if offsetting contributions to Reserves are not being set aside. expose themselves to serious liability when they failing to act in the Association’s best interests.

• **Investment.** One of the fundamental investment rules is to “pay yourself first”, meaning to make it a priority to set aside a small amount of savings on an ongoing basis. This applies directly to Reserves. Adequate Reserve contributions are generally not a substantial amount of cash. They amount to just a few dollars a day per unit, typically less than a

premium coffee. But accumulating month after month, year after year, with compounding interest earnings, they grow big enough to pay for the Association’s major repair &

replacement expenses in a timely manner. And this is not money that is “spent and gone”. Reserve expenditures support your own property values. And some projects, like exterior repaint, are estimated to improve home value by one to three times the cost of the project! Missing an opportunity to maximize your home value through timely Reserve projects is just plain foolish.

• **Legislative Requirements.** Most Governing Documents give Board members the responsibility to collect an appropriate amount of Reserves to maintain the common areas. And 30 states now have some form of Reserve funding legislation. The bottom line is that at your Association, there is a good chance that collecting appropriate Reserve contributions is not an option. It’s a legal requirement.

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ELECTION LAW UPDATE: AB 1799 on Community Association Elections Halted

A potentially great law that would have been a great benefit to many associations won't be passed this year. Assembly Member Mayes (R-Yucca Valley) pulled AB 1799 from committee. This means the bill is no longer active and halts the progress of the bill into law for this session.

This bill would have corrected an illogical and expensive process in an uncontested community association board election where there is no contest to vote on, yet a ballot is required. It also clarified the eligibility process for

office on boards and specified the notification process to members. AB 1799 would have improved the voting process for all community association members.

Unfortunately, this clear and practical bill won't be enacted this session, however this bill was widely support with many owners and HOA leaders who energetically supported the bill with calls and letters to their representatives at the Capitol.

For more information about AB 1799 or CAI-CLAC you can visit the website at www.caiclac.com.

2017 HOA Budget Forecast: Insurance

By Timothy Cline, CIRMS



Increased competition combined with the reduced frequency of natural and manmade catastrophes has resulted in relatively “flat” pricing for most commercial insurance renewals. This is good news for condominium associations, co-op’s and planned developments.

• **Master Policies (Package Property & Liability Coverage):**

A few new insurance company entrants into an already-crowded marketplace have resulted in increased competition. Rates remain flat (and in some cases decreased) while some carriers are offering broader terms (improved coverage extensions) to retain market share. While the large direct writers (State Farm, Farmers & Allstate) have formerly dominated this space, there are now a host of carriers offered by the independent agency system that are now competing toe-to-toe on many renewals. Boards should be extraordinarily cautious, however, to make certain they are still have the broad protection their Association needs (and not simply paying less premium for sub-standard coverage). The overall premium, even on a flat renewal, will increase about 4% as a result of higher building values - to keep tabs with inflation.

• **Directors & Officers Liability Coverage:**

If the Association has had no claims in the last four years, the Board should expect a flat renewal, no increase. The only exception may be projects consisting of high value homes (homes with a market value of \$1 Million or more) where, because of loss activity, there are fewer carriers willing to write the Association’s coverage.

• **Fidelity/Crime Insurance:**

Despite the rash of embezzlement claims involving HOAs in California over the last four years, there has been no notable change in premiums. The upcoming renewal

should be flat. In light of the fact that we’re in the age of “computer banking,” HOA boards should be encouraged to make certain that the following insuring agreements have been included in their crime coverage: Funds Transfer Fraud, Computer Fraud, Forgery and Alteration.

• **Commercial Umbrellas:** Renewals have been generally flat. \$5 Million and \$10 Million umbrellas continue to provide excellent value for most HOAs.

• **Earthquake:** The lack of large natural disasters (earthquakes or hurricanes) since 2008 has continued to result in excess capacity which has driven earthquake rates lower. Whether the earthquake rates will continue to improve in 2017 is simply speculation. It would likely be prudent to budget based on the Association’s 2016 premium and, as in the example above, add a 4% cushion for higher building values as a result of construction and labor costs creeping higher.

• **Flood Insurance:** While there are private alternatives, most HOAs that maintain flood protection do so through the National Flood Insurance Program (NFIP) which is part of the Federal Emergency Management Agency (FEMA). FEMA is updating its Flood Insurance Rate Maps (FIRMs) in many communities, which could result in higher insurance rates for residents. We don’t expect sweeping changes, but properties that now fall into a “higher risk zone” when they previously didn’t could see hikes in insurance rates.

It is really a different article.... similar but different.

We have asked other HOA insurance experts for their thoughts on rates for 2017. Here is what they had to say:

Elliott Katzovitz; Elliot Katzovitz Insurance Agency Inc.

I anticipate earthquake insurance to continue decreasing assuming no hurricanes or earthquake occurring in the US.

2017 HOA Budget Forecast: Insurance: continued from page 8.

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First, as an owner with a problem with your board, it is important to realize that very few HOA board members want the job. They agreed to serve on the board because no one else would. Very few board members are on a “power-trip”, despite your perceptions. They are simply good people who stepped up to serve their community, including you, out of a desire to help operate the association and because the prospects of “no board” outweighed the issue of serving.

Some owners who don't serve on the Board have the impression that the board is their on-site manager, and that they should be available to them as needed. It is important to know that board members are volunteers, and have lives outside of the association. Boards can only decide issues at meetings, so expecting them to be available to resolve your issue on a moment's notice is unrealistic.

Any owner can serve on the board, and the reasons why more owners don't choose to is the subject of another article. But for now, when an owner is not happy with the board due to decisions that the current board or a prior board made in the past, the normal reaction is to take out your hostility on the current board. The response can easily take the form

of vitriolic emails or letters, or possibly an angry appearance at a board meeting. Sometimes the negative reaction to the board can be considered “passive aggressive” which means owners don't choose to participate in annual meetings or other events, and they disregard anything the board decides. Clearly, apathy in the community is a result. No one wins from this scenario. What is the solution?

Board members often feel unappreciated for what they do, and may be a bit upset, because they are doing work that no one else is willing to do. It is understandable to see how board members may be frustrated and feel very challenged in their role. When a board is approached by an angry owner, whether at a meeting or in an email or letter, the understandable reaction by the Board is to become more reclusive and less available to the owners who clearly is not a great solution. When approached in a hostile manner from owners, it may cause the board to dig their heels in and refuse to reconsider their position. Again, not a great solution for the community.

So how does a frustrated owner deal with their association board? Great question!

First, when approaching your board, either in writing or at a meeting, it may be a good idea to start the conversation with how much you appreciate them doing the work they do as a board member.

You don't have to agree with them; it's just that you appreciate their service. Starting the conversation like this may be the best way to begin the dialogue.

Secondly, it's now time to bring up your concerns. Before you go to the position of assuming that your understanding is correct, ask the board if what you perceive to be the case is, in fact, true? Perhaps, you have come to the wrong understanding based on some misinformation provided to you. It happens. Allow the board to explain their position on the issue before you confirm your feelings about it.

If you do these two steps, you will greatly increase your chances of actually having some good healthy communication on the issue that concerns you. This approach has benefits for everyone involved. You will gain an understanding of the issue that you are concerned about without it going to an unhealthy place. You will also help to ensure that the current board will choose to stay in their position longer. Remember, there aren't many in the association who are willing to do what they do.

Healthy communication and dialogue is the best answer for creating community in every association. Your efforts to contribute to that will greatly benefit you and your association.

between associations is NOT a productive use of time. Most importantly, the financial needs, quality of prior maintenance repairs and level of reserve funding is different in every association. There could be two identical association's next door to each other, and if one has a fully funded reserve account and the other one doesn't, the first association should have lower assessments. Another point of comparison is the quality of prior repairs. If an association has utilized Band-Aid repairs over the years vs. proper long-term fixes, then the assessments will

vary. Delinquencies and the board's actions will also dictate the level of assessments.

Other differences between assessments between associations pertain to services that some associations offer that are greater or less than other associations. Some associations, such as Planned Unit Developments, do not maintain some aspects of the structures, such as roofs, so their assessments should be lower. There are also associations that have master- metered utilities such as water or electricity. Some very old associations may have a master electric meter. Sub-metering for water does remove that expense

from the association directly as owners are billed separately for their usage.

Provided that associations occasionally shop and compare services occasionally, shows that they are doing the best they can as fiduciaries to direct the association properly. Some board members don't realize that the following statements are true:

1) Costs increase over time- this is both good and bad. What was your condo worth when you purchased, compared to now? Real estate ownership is an investment that

increases in value over time. The increase in the statewide median home price in May of 2016 was \$518,760, up 1.8 percent from April, and a 6.3% increase since May 2015. At the same time, costs have increased for many of the services associations require.

2) Taking care of your investment is important for future value increases. Yes, you can fire the gardener, take on management duties, and make only minimal repairs, but all of these will impact values eventually. The major objective of the board is to protect the assets. Reducing services or not funding reserves will eventually take its' toll.

3) A portion of the annual budget is spent on maintaining an aging building. Plumbing, elevators, paint, roofs, and pool equipment don't live forever. Every year, the building infrastructure gets older.

4) Operational costs increase over time. It is not unlikely that utilities will go up every year, along with refuse disposal.

5) Boards sometimes believe that they can benefit their owners by keeping assessments at the same level each year or even lowering them. Boards that take this view should be careful to realize that helping owners will likely damage the association, which in the end doesn't benefit the owners.

6) Funding reserves, while not mandatory, is a requirement of lenders who must review and approve the association's financial position. If owners can't refinance or sell, the value of units will be negatively impacted.

All of that said, people are still curious about how their assessments compare to other associations. It would be good for owners who think their assessments are too high to know for a fact that they are. Chances are they may think the assessments are too high, when in fact, they are not. After making a study, boards may discover that, in fact, the assessments are higher than the average. In this case,

asking questions as to why they are is completely appropriate. Perhaps it would be discovered that the association is putting more into reserves to make up for prior years, or a serious collection issue impacts the budget negatively. Or it's possible that there have been some unexpected and large maintenance expenditures recently. There is usually always a reason as to why the assessments may be high and sometimes; it is temporary and necessary.

It is not considered a fiduciary responsibility to have the assessments as low as possible.

Hopefully, you have survived the reading of this article to this point, and you are ready for some great information that you may at least find interesting and helpful.

We undertook a review of over 250 HOA's to determine some interesting financial facts. Again, all associations are different, so the value of this information, while it may be interesting, may or may not, suggest any change in your finances. Here it is:

First, the average monthly assessment fee of the associations surveyed is \$350.00.

Most budgets and financial reports break down into several categories: contract services, administrative, utilities, maintenance, also called "variables" and reserves.

Out of 250 associations, the average expenditure, compared to the total budget, for each category is as follows:

- a. Contract services (includes insurance): 36%; insurance makes up 13% of the 36%.
- b. Administrative: 6%
- c. Utilities: 17%
- d. Variables/Maintenance: 16%
- e. Reserves: 25%

It is most interesting to note that the board's ability to lower assessments is fairly limited. The only areas at play are the "variables", reserves and a small portion of the contract services. Associations

who want to lower assessments to the greatest degree face the challenge of causing property values to deteriorate based on there being no, or declining reserves, and services that cannot properly maintain the common areas.

About 39% of the operating budget could possibly be negotiated. It would involve a great deal of work by the board to find suitable replacement vendors and shave costs on repair work but let's suppose that cuts could be made in the "negotiable" categories of contracts and maintenance of 10%. The money saved represents about \$14.00 per owner, per month, or 4% of the monthly assessment. The board who wants to lower assessments at all costs should weigh the cost of the effort compared to the savings per owner. It is likely not a hard choice. As volunteer board members, consider the value of your time. It is not considered a fiduciary responsibility to have the assessments as low as possible. It may be the most important goal to the board, but making choices to reduce services or find vendors who will work for less may not be worth \$14.00 per month. You decide.



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I expect package rates to stay level at this point as there are new players in the marketplace and that is not going to allow carriers to increase rates generally.

Steve Segal; Farmers Insurance

Barring any major catastrophes, I believe the earthquake premiums will remain level (they've come down significantly over the last few years) and property/liability premiums should remain level as well. I don't foresee any increase in Property/liability.

John Sinner; State Farm

It's already the first part of September and summer is rapidly drifting into fall. Fall brings children back to school, a change in weather (hopefully) and for many of the Associations....it's budget time!

I was asked to look in my crystal ball to determine what the anticipated insurance rates are for 2017. Of course, I have to put in a disclaimer stating my opinion is based upon August 2016 in 95 degree weather. Assuming nothing drastic changes in the next few months, I do see the following:

Master Insurance Policies -

Premiums relatively flat perhaps a small change due to an increase in coverage on the Policy. Liability coverage will also stay relatively flat on the contract as well. Budgets should stay pretty much in line from 2016.

Stand-alone Earthquake Policies

- In speaking with brokers in this market, I was told that the rates currently are "soft". Meaning that budgets should stay the same as 2016 but more coverage and deductible changes will be available. So the contract potentially can be enhanced for the same premium paid in 2016.

Directors and Officers Liability -

once again relatively flat from 2016.

Fidelity Bonds - No major changes in premium from 2016.

Based upon experience, the insurance market for Homeowners Associations is stable from 2016. So this portion of your budget should be relatively easy to plug in the numbers.

It's September, but we all know the holidays will be here in a blink of an eye. Enjoy the rest of 2016 and stay safe.



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