

BEVEN & BROCK

NEWS AND VIEWS

for Homeowners Associations

DAVID BROCK, PCAM



CARBON MONOXIDE DETECTOR: A NEW REQUIREMENT

The Carbon Monoxide Poisoning Prevention Act of 2010 became a law this year. This new law requires carbon monoxide detectors to be installed in every "dwelling unit intended for human occupancy." Carbon monoxide is a gas produced whenever any fuel, such as gas, oil, kerosene, wood, or charcoal, is burned. A person cannot see or smell carbon monoxide. However, at high levels carbon monoxide can kill a person in minutes. In addition, there are well-documented chronic health effects of acute carbon monoxide poisoning from exposure to carbon monoxide, such as lethargy, ...

(continued on page 2)

Disclosures: FAQ's

by Sandra L. Gottlieb, Esq.
Senior Partner at SwedelsonGottlieb

This article is intended to answer frequently asked questions ("FAQs") with regard to an Association's disclosure responsibilities under the Davis-Stirling Common Interest Development Act ("Act"). All citations are to the Civil Code unless otherwise noted.



What disclosures are required to be sent to the members not less than 30 days nor more than 90 days prior to the beginning of the fiscal year ("60-day window")?

Pro forma operating budget or summary of same: The Association must distribute its pro forma operating budget (or summary of same) within the 60-day window to retain its ability to unilaterally increase assessments within the limits imposed by §1366. If this requirement is not met, the members must approve any increase to the regular assessments. (§§1365(a) and (d); 1366(a) and (b).)

Secondary addresses provided by owners: The Association shall notify owners, at the time the Association issues the pro forma operating budget, of their right to submit secondary addresses to the Association for purposes of collection notices. (§1367.1(k).)

Assessment and reserve funding disclosure summary: This must be distributed in the form prescribed by §1365.2. (§§1365(a) and (b) and 1365.2.)

Assessment collection policy: Members must receive a description of the policies and practices which the Association will apply to enforce payment of assessments within the 60-day window unless the Association's governing documents require a narrower window. The failure to adopt and distribute this assessment collection policy may affect an Association's ability to collect delinquent assessments. (§1365(e).)

Insurance coverages: Within the 60-day window, unless the governing documents require a narrower window, the Association must distribute to the members a summary of its property, general liability, earthquake, flood, and fidelity insurance policies. (§1365(f).)

What disclosure is required to be sent to the members during the sixty days prior to the beginning of the fiscal year?

1. **Notice of right to minutes of board meetings:** On an annual basis, the Association must notify members of their right to receive copies of the minutes from board of directors' meetings (which does not include executive session meeting minutes). (§1363.05(e).)

2. **Arbitration/mediation of CC&R disputes:** Annually, the Association must distribute a summary of §1369.590 to its members.

(continued on page 2)

Carbon Monoxide Detector: A New Requirement, continued...

... headaches, concentration problems, amnesia, psychosis, Parkinson's disease, memory impairment, and personality alterations.

A carbon monoxide detector is a relatively inexpensive device similar to a smoke detector that signals detection of carbon monoxide in the air. Under the law, a carbon monoxide device is "designed to detect carbon monoxide and produce a distinct audible alarm." It can be battery powered, a plug-in device with battery backup, or a device installed as recommended by Standard 720 of the National Fire Protection Association that is either wired into the alternating current power line of the dwelling unit with a

secondary battery backup or connected to a system via a panel.

How does a homeowner comply with this law? Every owner of a "dwelling unit intended for human occupancy" must install an approved carbon monoxide device in each existing dwelling unit having a fossil fuel burning heater or appliance, fireplace, or an attached garage. The timeline for installation in condominium units (including PUD units) is on or before January 1, 2013.

For minimum security, a CO Alarm should be centrally located outside of each separate sleeping area in the immediate vicinity of the bedrooms. The alarm should be located at least 6 inches from all exterior walls and at

least 3 feet from supply or return vents.

Some local municipalities require more stringent standards for carbon monoxide detectors. Pasadena appears to be requiring detectors regardless of whether or not there is an attached garage or a fireplace.

The question has been asked as to what responsibility Associations or Boards have regarding this new legal requirement. One HOA attorney consulted on this issue indicated that he does not believe HOA's have the responsibility to ensure compliance, but that it would be good for Boards to remind individual owners of THEIR responsibility.

*Disclosures: FAQ's, continued...***What disclosure is required to be sent to the members during the sixty days prior to the beginning of the fiscal year?**

The Association must distribute the notice specified in §1365.1 pertaining to assessments, the Association's rights of foreclosure, payments of assessments and meetings and payment plans concerning delinquent assessments. To avoid double mailing costs coordinate this disclosure with the disclosures required in number 1 above.

What disclosures are required to be sent to the members within 120 days after the close of each fiscal year?

These additional disclosures may or may not apply based on the Association's gross income, gross revenues and other measures. See §1365(c), Corporations Code §§8321 and 8322.

Is an Association required to make disclosures to prospective buyers?

Civil Code 1368(b)(1) has been amended to read "Upon written request, the Association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest, or any other recipient authorized by the owner, with a copy of [the escrow documents listed under Section 1368(a)] [Emphasis added]. "Any other recipient" could include the buyer, if so authorized by the owner. If an Association does make disclosure to the buyer, and if the information is wrong, the Association could be held responsible. Case law establishes that there is no privity or relationship between the Association and a potential buyer. Providing information to buyers may obligate the Association to provide updates on the information provided.

We can't get the budget ready in time. What should we do?

Distribute it in the most accurate form possible, stating that revisions may be made. The Act does not prohibit revisions. When the budget is complete, redistribute it to the members. (*continued on page 4*)



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

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.



Association Vendors: Achieving Optimum Results!

By Roman Esparza, 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 con-

tractor 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 maintain 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 proving the service to your community. These service providers need leadership and strong guidance. Even though 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 liaison, 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 liaison 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 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 ... (continued on pg. 4)

F & M Plumbing
FMCO Haddad Construction Inc.

"The One Stop Shop" COMMERCIAL, RESIDENTIAL REPAIRS, REMODLING NEW CONSTRUCTION Free Estimates And Senior Citizen Discounts Specializing in Gravity Heaters

626-296-1060

LICENSED | INSURED
State licensed C-36 license B license

HCI-TheRestPros

TIMOTHY CLINE
INSURANCE AGENCY, INC.

Specializing in Association Master and Earthquake Policies

www.timothycline.com
(310) 260-2900 ext. 25
CA License #0C10844

Disclosures: FAQ's, continued...

How do we properly establish a summary of reserves if we are in the process of making substantial repairs, or in the middle of a construction defect lawsuit and we are not sure of the cost of repair?

Disclose to the owners that the reserve analysis you are providing may not be accurate. If your Association may need to levy a special assessment in order to make repairs, it is best to disclose that there may be a special assessment within the next year, and an estimated amount of that assessment. If a special assessment has been passed, or is even seriously contemplated, this must be disclosed somewhere in the Association's budget.

This FAQ list is informational in nature and does not constitute legal advice. Consult an attorney if you have questions regarding disclosures. Sandra L. Gottlieb, Esq. is a Senior Partner at the law firm of SwedelsonGottlieb. She may be contacted at 800-372-2207 or slg@sghoalaw.com.

Association Vendors: Achieving Optimum Results, continued...

... 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, or your community liason, will help keep the level of service to your community as high as possible. And will make the Board look great to their members, and will help to keep the community looking it's 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.

 <p>Garden View, Inc. High Quality Gardening Services 'Specializing in HOA Landscape Maintenance' (626) 303-4043 www.Garden-View.com email: info@garden-view.com</p>	 <p>Ferris Painting Inc. Greg Lewis P. (818) 951-3207 F. (818) 951-5279 www.ferrispainting.com</p>	  <p>State Farm® Providing Insurance and Financial Services Home Office, Bloomington, Illinois 61710</p> <p>John R Sinner Ins Agency Inc John Sinner, Agent Insurance Lic#: 0589670 Bus: 626-576-1078 Toll Free: 800-516-1078 john.sinner.bh85@statefarm.com</p>
---	--	--

BEVEN & BROCK
CONDOMINIUM ASSOCIATION MANAGEMENT
99 S. LAKE AVE, SUITE 100
PASADENA CA, 91101
PHONE: 626.795.3282 • FAX 626.236.4194
WWW.BEVENANDBROCK.COM

PRSRST STD
U.S. POSTAGE
PAID
PASADENA, CA.
PERMIT # 1155