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NEWS & VIEWS

for Homeowner Associations

July 2021

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Community Association Living: Owner Satisfaction

By David Brock, PCAM

The decision to live in a common-interest-development is becoming increasingly the only choice for many buyers. This is predominantly due to economic factors and lifestyle choices. Purchasing a condominium is often the only available option for first-time buyers as it offers the required living space in a geographic area that is more desirable, such as proximity to shopping, dining and transportation.

Senior adults who no longer want to maintain the big house where they raised their families for years are looking to buy a condo so they can just lock the door and travel.



However, condo living does have a negative reputation. A *Wall Street Journal* editorial titled "Welcome to Homeowners Hell" (4/16/2021) is one glaring example. The writer compares living in a condo to living in "various circles of hell". Clearly, the author had a bad experience in the association she lived in, but she did acknowledge that being an HOA board member,

"Community Association Living..."; continued on page 3.

Understanding Reserves

Book by & Robert Nordlund, PE, RS & Kevin Leonard, RS



the concepts can be very simple.

There are some things that never change:

- Reserve expenses are inevitable
- The association board is responsible for ensuring those expenses are paid
- Delays usually get expensive
- Homeowners always get stuck paying the bill

The overall concept of a reserve study is to identify an association's predictable expenses and put together a responsible funding plan so that homeowners pay their fair share-no more, no less.

Expenses an association will incur over time can generally be split into two types: Operating and Reserves.

Operating Account

Funds used to pay for day-to-day functions of the association.

Reserve Account

Funds set aside for the replacement of major components the association is responsible to maintain.

On one hand, there will be routine costs paid for on a daily, weekly, or monthly basis (e.g., management fees, insurance payments, and routine maintenance). These types of operating expenses do not vary greatly from year to year, which makes them simple to plan for in the annual operating budget.

Alternatively, reserves are commonly used for large,

"Understanding Reserves - Chapter 1"; continued on page 2.

Association Reserves, Inc., based in Calabasas, CA has been the nation's leading provider of accurate and understandable reserve studies for over thirty years. We are pleased to announce the release of their recently published book, "Understanding Reserves", authored by Kevin Leonard, RS and Robert Nordlund, PE, RS. This excellent resource is available for purchase on Amazon for 24.99 in paperback, and \$9.99 for the Kindle. By special permission, we are providing you the first chapter of the book here. The Amazon link to purchase the book is at the end of the first chapter.

WHY RESERVE FUNDS?

Chapter I

Reserve funding is multi-faceted and brings to mind a famous Arnold Palmer quote: "Golf is deceptively simple and endlessly complicated." We want to help you understand the "complicated" part of reserves, but

infrequent projects such as painting building exteriors or replacing perimeter fencing. It is money that an association saves over a long period of time to replace roads, roofs, or the rusted twenty-year-old boiler that has been making a strange groaning sound for the last three months.

Reserves are treated differently than operating funds because these expenses do not occur on a regular basis. Most operating budgets would not be able to absorb a

\$100,000 expense that pops up. This is why saving money over time is the ideal method for funding infrequent reserve projects.

Not only does it make sense to set aside reserve funds from a budgeting perspective, it is also the most equitable approach for any community. Remember, the key for community associations is that all owners (both current and future) pay their fair share of expenses. Over time, homeowners will come and go. Some will stay at their home for thirty years, others three years, but the common area components will be there indefinitely. Without adequately funded reserves and advance planning, only the owners living in the community at the time the roof inevitably fails would be responsible for the total cost. This is inherently unfair. The roof had lasted twenty years, so each owner who benefitted from the roof over those twenty years should be responsible to pay his or her fair share.

The good news is that, while infrequent, reserve projects are very predictable. Reserve expenses do not pop up "randomly," they gradually deteriorate and fail on a predictable schedule. The useful life of the roof in this example is twenty years. As soon as the roof is installed, it begins to steadily deteriorate, shingle by shingle. As the roof ages, the reserve fund should grow proportionally so that, after twenty years, the association has enough money to pay for a new roof.

Let's say the roof replacement costs \$200,000. Ideally, the association should collect and

set aside approximately \$10,000/year (\$200,000 divided by twenty years). Done this way, after twenty years, when the roof's useful life has been "used up," they will have the money to pay for the full replacement. A steady contribution rate would ensure that all owners pay their fair share.

If homeowners in years one through ten do not foresee the need for the eventual replacement and do not set aside any money (granted, it is hard to see anything when their heads are buried in the sand), then homeowners in years eleven through twenty would only have ten years to collect enough money for replacement. They would need \$20,000 per year-double their fair share!

In addition to being the most equitable way to fund capital replacement projects, making regular reserve contributions is the least expensive as well. Let us explain.

There are essentially four ways to pay for a reserve expense. First, associations can make regular budgeted contributions. This money is put into an interest-earning account until the time comes to replace the component. With the supplemental interest income, this method will cost the association less than the total replacement amount. Any dollar that can be contributed by an outside organization, such as a bank, means one less dollar the homeowners will have to pay.

Special Assessment

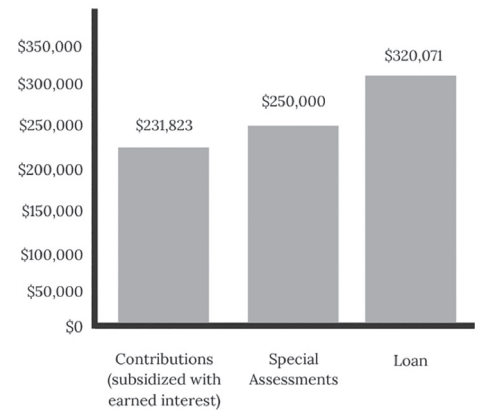
"A temporary assessment levied on the members of an association in addition to regular assessments. Note that special assessments are often regulated by governing documents or local statutes."
- National Reserve Study Standards

The second way is when the board is forced to pass a special assessment for the total amount of the roof. This method ends up costing the association the exact amount for the replacement but is unfair to the current owners.

In some cases, the board may not be able to pass a special assessment and they need to apply for a loan (paying interest to the

bank, the opposite of the bank paying interest to the association). These second and third methods show a lack of foresight that hurts the association financially.

Why Not Special Assess or Loan?
Cost of \$250,000, 15 year roof



And lastly, the fourth way to "pay" for this roofing expense is to defer the replacement. This is possibly the most expensive option. It saves money in the short term, but damage due to deferred maintenance makes the project more costly, and the need to replace the roof never goes away. The community will eventually begin to look run-down with poor curbside appeal, leading to lower property values.

Boards have governing documents that define their responsibilities to preserve, maintain and enhance the common areas of the association. They also have the authority to collect funds to perform these duties. The only choice they have is how to pay for long-term, significant expenses. This decision affects when payments are made, how much is paid at a time, who pays, and additions or offsets to the cost.

A loan is paid on a regular basis in the future, it is paid over a certain term, it affects current and future owners, and interest will add to the cost.

A special assessment is paid today, it is paid in a lump sum, it affects only the current owners, and there is no addition or offset to the cost.

Regular contributions are paid

*"Understanding Reserves - Chapter 1":
continued from page 2.*

on a regular basis, it is paid a little at a time, it affects all owners, and earned interest offsets some of the cost, making this option the fairest and lowest cost for an association.

Why reserve funds? Because expenses are inevitable and predictable. The board is responsible to maintain the common areas. Delaying major projects will usually compound expenses, and the homeowners always get stuck paying the bill. So, reserving

funds on a regular basis is not only the most equitable approach for community associations, it is the most financially sound option as well.

To purchase this book, search: Amazon.com for the name of the book: "Understanding Reserves" or visit https://www.amazon.com/Understanding-Reserves-Guide-Associations-Reserve/dp/B08SH89NNW/ref=sr_1_1?d-child=1&keywords=understanding+reserves&qid=1621359310&sr=8-1 ❖

*"Community Association Living...":
continued from page 1.*

"is one of the most thankless roles that has ever existed".

While this may be the opinion of the writer, it does not bear out with reality. According to a recent 2020 Zogby Analytics study for the Foundation for Community Association Research, the results are quite different. For the eighth time in 15 years, Americans living in homeowner associations rate their overall experience as very good (70%) or neutral (19%). Also, the recent study indicated that 89% say that their elected governing board "absolutely" or "for the most part" serves the best interests of their communities.

The author seemed to be most upset with the **rules and regulations** that come with living in a community. It is difficult to imagine a common-interest-development community with no rules, as clearly there is a need for at least some rules. The governing documents are usually general in nature and not specific enough to address most issues. Generally, rules are necessary to maintain a level of fairness on issues like guest parking, and architectural standards to preserve a uniform exterior appearance. The Zogby survey reported that 94% respondents stated their association's rules protect and enhance property values or have a neutral effect. Only 4% said their rules harm property values.

Certainly, some associations

may go overboard in their desire to create and enforce rules. The law provides some very specific guidance on how associations should engage in drafting rules and approving them, which provides for owner input. Rules can be changed within a 60-day period, if a prior board has adopted unreasonable rules. Enforcing the rules is best done by having the manager send letters to owners who violate the rules. It is not recommended that board members engage in this process directly. Keep in mind that the association is a "community" and great care should be exercised with rule enforcement issues. Many owners or tenants who violate the rules have no intention of disrespect towards the community, rather they may not be unaware of the rules. A courtesy reminder will usually resolve the issue. If the association utilizes an approach where the initial contact is with a board member approaching the resident casually, it will be very important to keep the conversation neighborly and friendly. This may not always be the best approach, but it does have some value, as opposed to receiving a "warning notice" from the management company.

The rules should be provided each year to all owners with the annual policy statement distribution. In addition, any owner who rents should provide them to their tenants upon move-in.

As always, the goal is to have a harmonious community whenever possible. ❖



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Roof Maintenance: Why You Should Not Skip It

By Kat Williams, Dan Huertas / Adco Roofing and Waterproofing

Every year many people ask us why they need roof maintenance since it does not rain in Los Angeles. Every year many also skip roof maintenance only to find that the very next rain they had a leak. This is an all-too-common occurrence across Southern California.

What is roof maintenance and why is it important?

Roof maintenance can be compared to an oil change for your car. Just like the oil and filter in your car have a limited lifespan and need to be replaced every few thousand miles, all the various roofing systems have various sealants and components that need periodic replacement. You may not realize it, but the average residence has in the realm of 5 to 10 penetrations that stick through the roof. Take a 100-unit HOA building and that has hundreds of pipes, vents, A/C ducts, satellite wires, etc. sticking out of the roof. Each of these items uses sealant to properly seal it with the roofing system.

Another important item that is addressed during maintenance is cleaning. I am sure you have seen a car that has been sitting for a few weeks without a car wash. Just a few weeks and you probably will not be able to see through the windshield well enough to drive without cleaning it. Now imagine

your roof after a year or two.

When should roof maintenance be done?

Just before the “rainy season” is the perfect time for maintenance because the roof will be fresh and ready for rain. Roofing manufacturers recommend maintenance annually. Unfortunately, many wait years between maintenance services to try and save money. This usually backfires. If maintenance is not done annually, services tend to get more expensive because more work needs to be done. Wait 3 years and there will be 3 times the debris on the roof, and all the penetrations will need to be completely resealed as opposed to just having to touch up sealant.

Maintenance increases roof lifespan. Just like doing regular oil changes will ensure your car lasts as long as possible, roof maintenance preserves the lifespan of your roof. One or two years of debris buildup and sealant aging may not cause serious harm, but the effects are cumulative. Over time these items can lead to premature failure of the roofing system and roof leaks. The cost associated with the roof leaks include the cost of the repair but also the cost to repair damages inside the homes. Is it worth saving a few dollars today or postponing maintenance that is needed? ❖



2021 Mid-year Legislative Update

By David Brock, PCAM

Every year we work to understand the current legislation working through the California State Senate and Assembly in an effort to help bring about better laws for common interest developments. We do this by working to actively support or oppose current bills, or by working to modify them so that they are less onerous for what does becomes law.

This year, there are four bills that we believe will have a significant impact and hopefully you will find some good news here.

AB502 (Davies) – The industry supports this legislation as it will save money and make board elections easier. This bill will allow “election by acclamation” for all associations when the number of candidates is equal to, or less than, the number of open board seats. The current version of the bill as amended does require a standard election to occur at least once every four years. This bill does not pertain to other elections that common-interest-developments are required to hold, such as for assessments and governing document changes. The bill currently proposed does add some new requirements which will lengthen the timeline for elections. For example, it will require an initial notice be sent to all owners 90 days before the deadline for submitting nominations, and that a reminder notice be sent at least 30 days prior. It appears that Assemblyperson Davies believes that if more notices are sent, this may encourage more people to run for the board. That would be great, if true.

AB 1101 (Irwin) – This bill is sponsored by CLAC (California Legislative Action Committee) and its intent is to clean up AB2912 from 2018. AB1101 provides clarity on existing financial requirements and provides protection to homeowners of HOAs from fraudulent activities by those entrusted with managing the finances of HOAs. AB1101

clarifies existing law in the following ways:

1. It clarifies the types of coverage an HOA must maintain to be in compliance.
2. Establishing a clear threshold before board approval is required for the transfer of funds. AB2912 provided a process by which CID's should approve major expenses, but the process to calculate the threshold was somewhat complicated and would change based on the amount of money the association was holding. Now AB1101 seeks to make this easier to understand. For CID's of 51 or more units, transfers of \$10,000.00 must be approved by written approval of the board, and the threshold for transfers for 50 or fewer units must be approved at a dollar amount of \$5,000.00 or greater.
3. Specifies that HOA funds shall be deposited into accounts insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Insurance Fund.

SB 391 (Min) – This bill will allow for common interest developments throughout California to conduct meetings via teleconference during a state of emergency. Governor Newsom issued Executive Order N-25-20, authorizing a local legislative body or state body to hold public meetings via teleconference or otherwise electronically during the COVID-19 pandemic. No such authority was extended to community associations, which are required to provide a physical location for board and member meetings under the Davis-Stirling Act.

During the pandemic, most boards that met conducted their meetings via Zoom, or a similar platform. Technically, this practice was in violation of Civil Code 4090 which requires that there be one

*“2021 Mid-year Legislative Update”:
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Effective Board Leadership Traits!

Serving on a HOA Board can be both rewarding and challenging experience. Some board members have natural abilities and the seemingly the *perfect personality* for the role, and some people serve on the board and “learn on the job” as they go amidst great struggle. Both are certainly fine. It is true that many board members serve out of necessity, as no one else will serve. The board members who serve successfully and find a certain level of satisfaction exhibit certain personalities and traits that make them naturally suited for the role of a board member. We have seen many board members come and go over the years and we have assembled a list of the qualities that make for great HOA Board members.

This list is not intended to discourage anyone from serving. The qualities and traits of successful board members are also the ones that also make people successful and productive in other areas of life.

1. **The Multi-tasker** - HOA's often may have multiple issues occurring simultaneously. Having the ability to balance several items at once is important, so that all issues progress forward. It is important to realize that asking for help is to be encouraged, either from other board members, interested owners, or vendors.
2. **The Leader** - Leadership skills are particularly important for the president who should be something like a “conductor”. In a properly functioning board, the President must have the ability to both see the big picture as well as the process to get there is critical. Leading by delegation is important. The President is not expected to be the one to do everything.
3. **The People Person** - makes relationships happen very easily. This trait is important for communication on a variety of levels, and in pulling the community together. Having a party (event) planner on board

is very helpful. Many boards operate in a disconnected way from the members, and finding the connection points is good for everyone.

4. **The Creative Thinker** - is the person who likes to challenge the thinking that says, “we have always done it this way.” It is important to have someone on the board who thinks outside the box, but at the same time is not rigid and inflexible such that they never will agree with the board majority. Adaptability is a great quality, and some long-standing practices may be due for review and change.
5. **Consistency and Fairness** - Board members should be consistent in enforcing the association rules, especially when it comes to themselves. No one in the association should receive preferential treatment. Board members need to set aside any personal relationships and biases while serving on the Board.
6. **Conscientious** - Board members should operate with integrity. They must abide by laws and association governing documents and not take great risks for the association.
7. **Detail-oriented** - Board members should understand how to understand financial reports and recognize important trends. This is most important for the Treasurer.
8. **Cooperative** - No HOA is a monarchy. Resolving issues successfully requires cooperation, not that every decision must be unanimous. Listening and understanding is as important as speaking. Quiet board members may need to be called on, and the out-spoken board member may need to realize that others have opinions as well.
9. **Transparency** - There is very little information that owners are not able to know. Boards should not

*“Effective Board Leadership Traits”:
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Calendar Reminder - Time to begin Reserve Study for 2022 Budget Preparation



July marks the beginning of the annual budget preparation season for calendar-year common interest developments. The reserve study, either full study, or update, can take thirty to ninety days to complete. The full site Reserve Study is required to be completed every third year, and an “update” is required in the years in-between. Some of the reserve study companies offer a three year relationship, and will spread the cost out over the three

years, so that board members don't have to figure out how to do an update themselves. Risk avoidance for volunteer board members is a key factor in engaging your reserve study provider for a three year engagement. Board members shouldn't have to directly engage in work when there are professionals to rely on.

Beginning this process in August, will ensure that your study or update is ready when it is time

to discuss and approve the budget in October and November. Delaying the start of the reserve study may cost you more to get a “rush” study.

Also, beginning with reserve funding in 2021, you should begin reserving for balcony inspections and repairs so that a Special Assessment down the road can be avoided if at all possible. ❖

“2021 Mid-year Legislative Update”: continued from page 5.

physical location where members of the community may attend in person. While complaints regarding this issue were rare or non-existent, it would seem that some boards may want to continue the practice of meeting on-line as we move forward post-pandemic.

SB 391 addresses this issue by allowing associations to conduct meetings via teleconference during a state of emergency and provide clear guidance to all associations during these uncertain times and in the future. While many are saying HOA boards should be able to utilize teleconference options going forward regardless of whether an emergency exists, this bill is viewed as a first step towards that end. In reality, it is not uncommon for California to be in some state of emergency most of the time, whether due to Covid-19, drought,

fires or earthquakes. SB391 is a good beginning to the possibility of making digital board meetings an accepted way to meet in the future.

SB392 (Archuleta) - Currently, the association is required to deliver required documents to owners by first class mail. This bill would allow, as of January 1, 2023, an association to deliver those documents by email unless the member has not provided a valid email address to the association or has revoked consent to receiving documents by email. This bill unanimously passed the Senate in mid-May and is now in the Assembly. This bill makes great sense for associations as they would save significantly in postage and duplication expenses each year. It is great to finally see legislation keep up with technology.

The best source to obtain current information on any bill

pending in the legislature is through this site: <https://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>

We always encourage associations to support the California Legislative Action Committee (CLAC) and their lobbyist who is working on your behalf in Sacramento. A reasonable annual donation of \$1.00 per unit per year is suggested. CLAC is working to support your interests as CID owners in California. You can donate here: <https://caiclac.com/donate/>.

Finally, you are encouraged to let your legislators know how you feel about pending legislation. If you need an easy way to find your representatives, this site is great: <http://findyourrep.legislature.ca.gov/>

We will continue to update you on the status of these bills in future newsletters. ❖

“Effective Board Leadership Traits!”: continued from page 6.

engage in conducting business outside the view of the owners, whether that is closed board meetings or emails, unless an executive session is warranted.

10. **Thick-skinned** - it is important to not take things personally. Disagreements are inevitable and there is no place for board members to be vindictive and petty.
11. **Able to ask for help and**

delegate - Volunteer board members don't have to be their association's super-hero. As a volunteer, it is certainly acceptable to ask for additional support or time to complete a project.

12. Successful Board members have a proper view of their role. They are first to serve their fellow owners by representing the best interests of the community as a whole. Viewing the role as one of service can change your

entire outlook.

There is no such thing as a *perfect board member*, just as there are no *perfect managers*. View this list of qualities as gaining perspective on how you can grow, and become better.

We all have room to grow and improve and you and your community will benefit. ❖



BEVEN & BROCK NEWS & VIEWS for Homeowner Associations

HOA BOARD MEMBER EDUCATION

Education for volunteer HOA board members is essential for success as board members. Due to the ever-increasing complex and changing nature of the laws and regulations that impact common-interest-developments staying on top of these changes greatly increases a board's member ability to succeed in their role, and operate in confidence.

There are several ways for board members to be educated, and Beven & Brock offers two types of training for board members.

Upcoming events: None scheduled at this time.

Board Training (not currently scheduled)

Free three-hour training course for current and prospective HOA board members. A course syllabus, informational handouts, and Certificate of Completion are provided. This CAI-sanctioned class is taught by its co-creator Kelly Richardson, Esq. CCAL of Richardson Ober DeNichilo LLP, and is co-sponsored with the Community Associations Institute. Seating is limited, and reservations may be made by emailing: **BoardTraining@bevenandbrock.com**. Priority is given to current Beven & Brock managed associations due to space limitations. You may get on the waiting list and when we set new dates we can let you know.

We will provide updated class dates for 2021 when available.

A RESOURCE AVAILABLE FOR HOA BOARDS!

Beven & Brock is pleased to announce the availability of a new resource for Homeowner Association Boards to find information on topics of interest as needed on demand. Over 135 articles have been taken from prior newsletters and gathered in one place, located at **<http://www.bevenandbrock.com/topical-article-library/>**. The topics are organized into categories, such as Legal, Meetings, Board, Reserves, Insurance, Community, Elections, Maintenance, Management and other subjects.

This area of the website requires a simple one-time registration, and once that is completed, you can freely access a number of articles on a variety of topics that have appeared in *HOA News and Views* over the past eight years. This resource will help HOA Board members to become educated in an easy and accessible way. The goal is to help boards make well-informed decisions in a variety of challenges that they may encounter.



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