

Association of Condominium,
Townhouse, and
Homeowners Associations



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September 2010

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Upcoming ACTHA Events

Learn and Lead kicks-off Thurs., Sept. 9 for six consecutive weeks in Chicago

“How to Conduct a One-Hour Board Meeting”: Sept. 11 in Alsip and Sept. 28 in Wheeling

Sept. 25 is ACTHA’s SOUTH EXPO in Tinley Park

For details: www.actha.org

LEAVE IT TO THE PROFESSIONALS

By Ron Katz

Some Community Associations believe that they can calculate their own reserve study without spending money for the services of a professional engineer. Board members often think, “Why should I pay someone else when I can do it for free?” What these board members and associations do not realize is how complex and important a reserve document is.

What is a Reserve Study: A reserve study is a budgetary tool that includes an inventory of all the components or common elements that the association is responsible for maintaining, repairing and replacing. In addition, a reserve study includes an assessment of the physical condition of those common elements and an estimated remaining useful life. Replacement costs must be researched for each line item and an annual budget created. The study should recommend an amount of money to be contributed to reserves each year so that when common element items need to be replaced, the funds are already in the reserve account to cover each expense. According to national standards of the Community Associations Institute (CAI), the study should encompass a 30 year time period.

Although the basic concept is simple, preparing an accurate and useful reserve study requires a lot of technical expertise. Just reading through the community’s documentation and identifying what are and are not the association’s responsibility can be arduous. There are common elements and limited common elements and many grey areas to be careful of.

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Don't let FHA mortgages elude your grasp.

New federal regulations have made FHA spot financing obsolete. Your condominium, townhouse or homeowners association must become FHA-certified for any new purchasers to qualify for FHA financing.

New rules trigger lengthy delays.

As of February 1, 2010, new HUD regulations went into effect, requiring associations to certify with the FHA. There may be months-long delays in HUD processing of applications for certification for those associations which don't act quickly. Buyers of properties in those associations will be unable to acquire mortgages.

847-537-0500 www.ksnlaw.com

What can you do?

The attorneys at Kovitz Shifrin Nesbit can find out if your association is FHA-certified, and, if not, we can assist your board in expediting the complex certification process.

Don't let time run out and cause your property value to depreciate.

Contact the professionals at Kovitz Shifrin Nesbit at ksnlaw.com — or call 847-537-0500 today.

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TIP OF THE MONTH

Stay Up-to-Date!

The Governor recently signed into law changes to the Illinois Condominium Property Act. When legislation is signed into law, it sometimes takes effect immediately; other times there will be an effective date in the future. Regardless, you want to make sure you are referring to the most up-to-date version. You can do this by going to ACTHA's web site (www.actha.org) where you will find links to the ICPA and other Acts or go directly to the State's web site (www.ilga.gov). Among the bills which passed and were signed into law:

PA 96-1045 Provides that the notice of a judicial sale of a unit of a common interest community must contain a statement concerning liability for common expenses. ACTHA supported.

PA 96-0977 When 30% or fewer units, by number, possess over 50% of the votes in the association, any percentage vote of members specified in the Act or in the condo instruments shall require the specified percentage by number of units rather than by percentage of interest in the common elements allocated to units; a unit shall not include a garage or storage unit and a vote in the association in the percentage or number count. ACTHA supported.

PA 96-0993 Under the Manager Licensing Act, the Dept. of Professional Regulation may take into account whether the applicant has engaged in conduct or activities that would constitute disciplinary action under the Act. ACTHA supported

PA 96-0994 Allows a vote of members without holding a meeting as long as the members have agreed to do so in writing by all members entitled to vote under the General-Not-for-Profit Act. ACTHA did not take a position

PA96-1400 Creates the Common Interest Community Association Act (applicable to non-condo properties). ACTHA supported.



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Physical Analysis: Quantifying common elements may appear easier than it actually is. As a DIY (Do-It-Yourself) Association, will you be able to calculate the square footage of the community's sidewalks and roadways? Will you be able to calculate the surface area of all the roofs? Will you know what material the roofs are made from? What about light fixtures, carpeting, doors, tile and most importantly mechanical equipment? Can you read architectural drawings or will you hand measure the balconies and curbs?

With some time and effort, a DIY Association could identify and quantify their common elements. However, determining the useful life of each item is a skill that takes years of experience and construction expertise. For this reason, the CAI developed a Reserve Specialist designation for professional engineers who have proven their experience and expertise. Professional Reserve Specialists are able to accurately calculate how long an EPDM membrane roof will last and can inspect siding to determine out how many years it will provide adequate protection for the home or building. These specialists understand how to deal with limited common elements and maintenance issues. In addition, Reserve Specialists have prepared numerous reports and are familiar with the common pitfalls and overlooked problems associations often run into.

Financial Analysis: Once the physical analysis is complete, the financial portion of the report is prepared. A replacement cost must be assigned to each common element. These approximations can be researched in construction cost estimate books or through contractor bids. Next, these future expenses are analyzed along with each item's assigned remaining useful life to determine how much money the association needs to put aside each year to have the appropriate funds when needed. The simple multiplication and division becomes complex when dealing with hundreds of items throughout a community. One of the last steps is to calculate an annual contribution amount, factoring in the percentage association fees will be raised as well as the type of funding plan chosen.

Funding Plan: Professional Reserve Specialists are knowledgeable about the types of funding plans available and can work with the board to decide how much risk the association is willing to take. There are three types of funding plans accepted by CAI's National Reserve Study Standards: full, threshold and baseline funding.

Full funding, the most conservative budgeting plan, divides the replacement cost of a component by its estimated remaining life to determine the annual contri-

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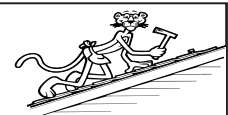
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tion for that component. Fully funded associations often hold significant amounts of money for long periods of time.

Threshold funding, the most commonly used funding plan, establishes a minimum amount of money for the association to keep in its reserve account. This number varies according to the community and not only minimizes the potential for a deficit but also prevents the association from keeping excessive funds in the reserve account for long periods of time.

Baseline funding, the most risky funding plan, reduces the annual contributions to the point where the reserve fund drops to zero periodically. If a component needs to be replaced a year sooner than expected or costs more than anticipated, a baseline funded association will run into a deficit.

Liability: Having a reserve study prepared by a professional will allow the association to know all of its options and choose the funding plan that works best for its specific situation. It also protects the board from liability. Association board members have a fiduciary responsibility to maintain the assets of the community. In Illinois, the Condominium Act directs association board members to maintain "reasonable and adequate reserves." In defining this term, the Condominium Act directly suggests meeting this requirement with a professionally prepared reserve study. With a professional engineering report, no homeowner will be able to

attack the board should the association run into a deficit.

Loans and Financing: Even with a professionally prepared reserve study, a common element may need to be replaced before it was scheduled. Sinkholes unexpectedly form, harsh winters can reduce the useful life of roof tops and other unforeseen accidents could cause damage that needs immediate attention. If the association needs a bank loan or wants to apply for FHA financing, a professionally prepared reserve study is often required.

Penny Wise and Dollar Foolish: Overall, the construction expertise necessary to prepare an accurate physical analysis, the complexity of creating a community's financial strategy and the legal liability of the board may answer the commonly asked, "Why should I pay a professional when I can do it myself" question. The "key" word is professional. You can fix your own car or write your own will, but without a professional mechanic or lawyer, will you feel comfortable that your car will stop on time or that your estate will be distributed properly?

The Community Association industry has spent years creating standards and procedures for the process of providing proper reserve studies. And now that the information provided by reserve studies is required for FHA financing and many bank loans, reserve studies are even less of a DIY project.

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FALL EXPO PROGRAM INFO

Sat., Sept. 25: Tinley Park Convention Center

Sat., Oct. 9: Lincolnshire Marriott

Both Expo's feature a trade show and interactive demonstrations from 8—noon.

Over 60 exhibitors are expected at each Expo!

FREE Trade Show! FREE Parking!!! FREE Breakfast!!!

Registration form for Educational Seminars on page 7 or register online at www.actha.org

Tinley Park Educational Programs

9:30—10:30 a.m. Choose from one of two choices:

FHA & Financing Issues—*Speakers: Keith Jones of Keay and Costello & Belinda Robinson, Housing Specialist, U. S. Dept. of Housing & Urban Development*

What you will learn:

- ⇒ *Changes to the law*
- ⇒ *What associations will need to do to qualify*
- ⇒ *The pro's and con's for seeking certification*

Financial Mismanagement— *Speakers: Lara Andersen of Tressler, LLC and Mike Majewski of Seldon Fox*

What you will learn:

- ⇒ *Key "red-alert" areas to watch for*
- ⇒ *Strategies for corrective measures*
- ⇒ *Legal remedies*

Noon—1 p.m. Choose from one of two choices

Applying a Collection Policy— *Speakers: Dawn Moody of Keough & Moody and Martin Stone of HSR Property Services*

What you will learn:

- ⇒ *How to establish an enforceable policy*
- ⇒ *Practical steps to consider when enforcing*
- ⇒ *Legal remedies*

Conflict & Compromise— *Speaker: Tomi Wahlstrom of Otavala Consulting*

What you will learn:

- ⇒ *What causes major "conflicts" and how to avoid*
- ⇒ *Communication techniques*
- ⇒ *Steps when all else fails*

Lincolnshire Educational Programs

9:30—10:30 a.m. Choose from one of two choices:

The Property is Disintegrating—*Speakers: George Pilja & Doug Palandech of Foran Glennon Palandech Ponzi and Rudloff PC and Mark Waldman of Waldman Engineering Consultants*

What you will learn:

- ⇒ *Key physical aspects to monitor closely*
- ⇒ *Developer and contractor responsibilities*
- ⇒ *Legal remedies*

Insurance: Who Pays— *Speakers: Stuart Fullett of Fosco Fullett Rosenlund and Joel Davis of CAU*

What you will learn:

- ⇒ *Illinois law vs. insurance industry practices*
- ⇒ *Delineation of association vs. owner responsibility*
- ⇒ *The role of "negligence"*

Noon—1 p.m. Choose from one of two choices

FHA & Financing Issues— *Speakers: Don Kekstadt of Lieberman Management and Kerry Bartell of Kovitz Shifrin Nesbit*

What you will learn:

- ⇒ *Changes to the law*
- ⇒ *What associations will need to do to qualify*
- ⇒ *The pro's and con's for seeking certification*

Reserves & Investment Strategies— *Speakers: Craig Finck of Harris and Steve Silberman of Frost Ruttenberg Rothblatt*

What you will learn:

- ⇒ *Financial instruments to maximize income*
- ⇒ *Governing document restrictions*
- ⇒ *Reserves and its relationship to other asset items*

ACTHA NORTH & SOUTH EXPO REGISTRATION FORM

YES!! I want to register for the

_____ South Expo: Sept. 25, Tinley Park Convention Center _____ North Expo: Oct. 9, Lincolnshire Marriott

THERE IS NO CHARGE TO ATTEND THE EXPO OR VIEW INTERACTIVE DEMONSTRATIONS.

THE FEE TO ATTEND ANY OF THE EDUCATIONAL PROGRAMS is: ACTHA Member rate: \$ 25 or \$ 20 if sending 3 or more from the same association; Non-member rate: \$ 45 per person

Name of Association: _____

Address: _____ City/Zip: _____

Phone #: _____ Email Address: _____

Name(s) of Individual(s) Attending (please print): _____

AMOUNT ENCLOSED: _____ No amount enclosed as we are not attending the education portion.

Please make checks payable to ACTHA. Send to: 28 E. Jackson, Suite 910; Chicago, IL 60604 or you may register online using a credit card.

NOTE: Confirmations are not sent except upon request. For the South Expo: No refunds are given after Sept. 20 and there is an additional charge of \$ 15 per person for anyone registering after that date or at the door. For the North Expo: No refunds are given after Oct. 5 and there is an additional charge of \$ 15 per person for anyone registering or paying at the door. All other cancellations are subject to a 25% handling fee.



AL CHRISTOFFER

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Question of the Month



Q. Should a board use the "omnibus agenda" concept that many public boards do? If so, what kinds of business should be included?

A. Going to a City Council meeting, or a Village Hall meeting, is often quite different than attending your community association's meeting. Often, the use of an omnibus agenda does two things - it streamlines decision making but it also appears as if so little discussion is had on many items - so what IS an omnibus agenda and what are the pro's and con's to its use?

Honestly, it's difficult to find an actual definition of an omnibus agenda but it appears to be used in the following fashion - "All items listed on the Omnibus Agenda are considered to be routine by the Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member or citizen so requests in which event the item will be removed from the Omnibus (Consent) Agenda..." *Geneva City Council February 16, 2010 Agenda online*

In the case of City Councils, often the details of a particular motion have been "hashed out" at the Committee level, which are all public hearings and whether there is dissent on issues is known in advance. Furthermore, you'll often see motions made a couple of times - so, for instance, the first "reading" of a motion brings about questions, concerns, comments and once these issues are resolved, the actual adoption of the motion can be placed within the omnibus agenda for final decision.

Kara Rowell ^ Rowell Inc. ^ 2587 Millennium Dr., Elgin ^ 847-991-6000 ^ kara@rowellmanagement.com

ACTHA will conduct "How to Conduct a One-Hour Board Meeting on Sat., Sept. 11 at the Alsip Village Hall and at the Indian Trails Library in Wheeling on Tues., Sept. 28. To register call 312-987-1906 or email Kevin@actha.org