



MAR
2014

BEVEN & BROCK NEWS AND VIEWS

for Homeowners Associations

EARTHQUAKE COVERAGE? FAILURE TO MAINTAIN!

By Timothy Cline, CIRMS,
Timothy Cline Insurance Agency, Inc.

According to the Los Angeles Times, foreclosures in California are dropping to pre-2008 levels. While that's encouraging news, some HOAs are still experiencing unit owner delinquencies. While the average HOA budget may contain dozens of discretionary expenses, it's not uncommon to mistakenly believe that a quick fix for the HOA's immediate financial challenges is in paring-back, their earthquake protection. Some HOAs have gone bare for years hoping that geologist's predictions will bypass their project and they will be spared any significant earthquake damage.

While the majority of CC&Rs are silent on carrying earthquake coverage, going without earthquake insurance can truly have catastrophic consequences. If there is a major earthquake in the community, having no earthquake insurance means owners who have worked a lifetime to pay off their mortgages will have to walk away from their home and their equity. Maintaining earthquake insurance may be one of the board's most important fiduciary decisions since it's the #1 goal for any HOA board of directors to maintain the

Earthquake coverage? continued on page 3.

RULES: LIARS, LAWYERS & LUNACY!

THURSDAY, MARCH 27, 2014

6:30 TO 8:30 PM!

Beven & Brock Property Management Company is pleased to announce the first of the 2014 FREE HOA BOARD MEMBER SEMINAR series.

This seminar will address the subject of RULES & ENFORCEMENT.

- Creating rules that can be enforced.
- What is the legally correct method to adopt rules?
- How to establish a fine policy that achieves the desired results.
- How boards can stay out of hot water when it comes to rules enforcement.
- How to keep lawyers out of the process.

Adrian Adams, Esq., has an amazing ability to educate and entertain through his presentations. Mr. Adams is the founding partner of Adams-Kessler and creator of the much loved web-site www.davisstirling.com. With an extensive background in the community association industry, Adrian Adams is one of the leading attorneys in California specializing in common interest developments. Although serving primarily as corporate counsel to boards of directors, Adrian has litigated a wide range of issues through the courts, including the Court of Appeals. At the request of U.C.L.A., Adrian Adams created and taught one of their highest rated Extension courses for ten years, a popular course on "Association Management and Law." In addition to teaching, Adrian has been a panelist in many continuing education programs for other attorneys, has been a guest speaker for the California State Bar, and regularly speaks at HOA related events throughout California.

The seminar is free, and you will also have the opportunity to meet HOA vendors who offer their services to homeowner associations. In addition, there are always great desserts, beverages, and an opportunity to win door prizes.

Reservations are required and can be made for this evening by calling (626) 795-3282, ext. 886 or by email at HOASeminars@bevenandbrock.com. The location will be provided upon registration.

BOARD MEETINGS: IMPORTANT FOR VALUE!

By Dave Brock, PCAM



Anyone familiar with investing in mutual funds is aware of the Morningstar risk rating system that has been around for about thirty years. If you invest in mutual funds, you are likely concerned that you are making the best possible investment, with safety and growth being of paramount importance. The Morningstar system is a research tool that provides an analysis of publicly traded funds and there are five pillars by which stocks are evaluated: process, performance, people, parent, and price.

Ownership of a home in a common interest development (CID) is not only a place to live, but also an investment. Increase in value of any real estate depends, in part, on the decisions and actions of the owners. The board is responsible for representing the owners, thus the board plays an important role in the investment value of the property.

While there is no formal rating system for common interest developments there are definite factors that influence the value of the property that depend on the board meeting regularly and making good decisions. Board meetings, with one rare exception, are the only place where decisions can be made legally. Meetings are the proper place to make decisions for the benefit of your investment. Unfortunately, some board members believe that having no meetings or very few meetings is fine, and some board members

miss meetings, which keeps the board from taking action.

Let me ask you to consider the five "P's" of effective association leadership and productive board meetings: purpose, preparation, punctuality, patience and policy.

First, what is the **purpose** of CID meetings? The primary purpose of the board is to make the best possible decisions for the entire community. Decision making is the primary function of the board meeting, and a sound process for making good decisions is crucial. In order to do this effectively, the board must learn the art of healthy deliberation and discussion. The President must not allow one board member (including the President) to dominate the discussion. The quiet board member should have an opportunity to express their opinion. It is important that each board member approach every issue with an open mind. The best decisions are those that are made by a group that has healthy disagreement and discussion. This process should also include input from outside experts as well as your constituency, the owners. Owners who want to voice their opinion should have the opportunity to do so.

The second important "P" is **preparation**. The President should insist that the information for board members to make informed decisions is in the board members hands at least four days prior to the meeting. This will

mean that you will have to establish deadlines with your vendors, especially the association manager, who submits information for the meeting. It seems obvious, but it must be said, that board members should actually read the material prior to the meeting. The meeting itself is not the time to get up to speed on the issues, unless of course you particularly enjoy long meetings. Posting the Agenda four days in advance of the meeting, which is required legally, helps to keep the meeting focused. The board cannot discuss anything that is not on the Agenda. Once the meeting begins, any conversation among board members which does not pertain to the Agenda items and related decisions should be deferred until after the meeting adjourns. The President or Chair of the meeting is responsible to make sure the meeting stays on track.

Punctuality and consistency are important factors for the success of board meetings. Meetings lose effectiveness after sixty to ninety minutes. Meetings should begin on time, providing you have a quorum, and not drag past ninety minutes. Do you ever wonder why owners don't want to serve on the Board? Perhaps the meetings are

Board Meetings: Important for Value! continued on page 4.

Since 1985

TARBET

LANDSCAPE

TARBETLANDSCAPE.COM
California Contractor License # C27-660820

FREE
LANDSCAPE CONSULTATION
For Beven and Brock Managed Properties

262-578-1945

Contractor
#955785 B1, C39

DKH

CONSTRUCTION & ROOFING

Full Service Roofing Tile, Shingle, and Hot Mop

Contracting All Phases: Designing, Fencing, Concrete, Remodels, Windows, Doors, Decking, Wrought Iron

562.927.8045

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

Earthquake coverage? continued from front page.

community and the owner's property values. The CC&Rs make it clear the Association has the sole responsibility to repair and maintain the damaged Common Area as defined by the governing documents. Earthquake insurance simply helps "fund" the repair obligations that already exist.

If the large catastrophes of the last two decades are any indication, the state and federal governments will not offer bailouts. In fact, HOAs who had earthquake damage in the Northridge event and had approached the Federal Emergency Management Agency (FEMA), were instead, redirected to the Small Business Administration (SBA). After a lengthy SBA loan process, if an Association qualified they could obtain a loan of not more than \$1.5 million - and that loan limit was inclusive of any special assessment the Board may have already levied or anticipated levying. In other words, if the Association had already special assessed for \$300,000 to launch emergency repairs, hire an architect to prepare as-built plans and begin the bid process, the SBA would only loan that Association the remaining \$1.2 million balance.

Unfortunately individual unit owners cannot compensate for the board's failure to maintain earthquake coverage by simply buying more earthquake coverage. In fact, individual homeowners face considerable hurdles should the

Association not have earthquake coverage. For most homeowners, they will be offered earthquake coverage through the California Earthquake Authority, or "CEA." The unit owner can only purchase \$25,000 of real property coverage via the CEA to address earthquake damage within the interior of the unit.

Probably the most obvious hurdle for the unit owner is the viability of rebuilding in certain circumstances. An owner on the third floor, for example, may not have the opportunity to reconstruct their unit without the common areas restored regardless of how much coverage they purchase - unless the HOA has the wherewithal to fund the repairs of the infrastructure. Because they have no insurable interest in property they do not own, owners are unable to purchase insurance for the earthquake damaged common areas that must be restored in order for them to be able to rebuild.

Living in a condominium association also presents some other unique responsibilities. For example, since each unit owner owns their pro-rata share of Common Area they face large potential special assessments.

Depending on the amount of damage these special assessments could easily be \$100,000, \$125,000 or more. If levied, these special assessments will be in a size or amount much larger than the maximum offered by the CEA of \$50,000 and \$75,000. Unpaid special assessments which could

result from owners walking away may equate to an even larger financial burden for the poor owners left behind - which is another reason why maintaining a master earthquake policy makes the most sense.

Since no Directors & Officers Liability policy will protect a board for a post-earthquake suit which might arise relating to the earthquake purchase decision Boards need to proceed very carefully, especially before rejecting earthquake coverage. While the decision to drop earthquake insurance may be non-delegable (deemed too complex and too important to delegate to the general membership), many boards have elected to poll the general membership, to determine whether or not the homeowners could support the costs commensurate with maintaining the coverage. Even if individual board members are personally against maintaining the coverage, the Board should present a united front. Being careful to provide all the supporting reasons maintaining earthquake insurance is important - and the consequences.

Like the network for earthquake faults which crisscross Southern California, the issues surrounding earthquake insurance are numerous and complex. Careful, thoughtful consideration should be taken - both as board members and as individual owners.

Timothy Cline, CIRMS is a pioneer in the common interest development community, and he has written insurance coverage for condominium associations, planned unit developments for over 30 years. You can reach Mr. Cline at (800) 966-9566, or by email at tim@timothycline.com.

Western Rooter

24/7 Emergency Plumbing Service

\$175 Sewer Video Camera Inspection

\$99 Main Line Drain cleaning

• **Free Plumbing Estimates** •

(626)448.6455

www.westernrooter.com

Licensed & Insured

Family Owned for over 30 years

WHAT HAPPENS UNDER YOUR ROOF IS YOUR BUSINESS. MAKE WHAT HAPPENS ON IT OURS.

McCormack
Roofing, Construction & Energy Solutions



Lic#643700

ROOF INSTALLATION & WATERPROOFING
EXPERT EMERGENCY REPAIRS
AUTHORIZED INSTALLER FOR ALL TYPES OF ROOFING
FULLY STAFFED OFFICE & CONSTRUCTION MANAGEMENT
ROOF RESTORATION, MAINTENANCE & CLEANING
COMPLETE LEAK INSURANCE PROGRAMS

community
ASSOCIATIONS INSTITUTE



OFFICE: 714-777-1258 EMERGENCY: 714-777-6099 FAX: 714-276-0692
WWW.MCCORMACKROOFING.COM



**TIMOTHY CLINE
INSURANCE
AGENCY, INC.**

Specializing in Association Master and Earthquake Policies

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

*Board Meetings: Important for Value!
continued from page 2.*

too long and wander off subject easily.

The governing documents of your association may specify a certain number of meetings that you should have, whether monthly or quarterly. But if not, in order for a board to function effectively it is recommended that you have ten meetings a year. A board may elect to not meet in one month of the summer, and during the month of December. If the Association is smaller, and there are no major issues, meeting quarterly may be adequate providing the governing documents allow this. It is best to set a specific day of the month for your meetings. At the first meeting of a new board, establish the best day or evening in the month that works for everyone. The board members can then set other regularly scheduled events around

this meeting, thus increasing the likelihood that all members will be present.

Patience is a virtue especially with Board meetings and decisions. The best decisions by groups always take longer, but groups generally make better decisions. Don't be frustrated by the process involved, rather let your desire for the best result for your community and your investment win. It takes time for all Board members to deliberate and voice their opinions, but that should be worth the wait.

Finally, a **policy** making board is the best kind of volunteer board. Boards who develop policy as opposed to deciding every similar issue separately are able to operate more efficiently over time. Simply, once you have decided how you operate with a given set of facts, there is no future discussion unless you believe your policy is flawed. It also helps those who work with you, such as the Association

manager, help you by having the ability to speak on the Board's behalf and not come to the Board each time a similar issue arises.

Board members should recognize the importance of their role as decision makers and how good decisions impact the investment value of the property. The likely combined value of the units in your association is easily in the millions so it is important to take a business-like posture in your meetings. If you view the decision making process in the proper ways you will help to enhance value in your association. Regularly held and properly managed meetings may also motivate some owners to be more willing to serve, if only to protect their investment. Finally, remember the following primary principles of meetings: purpose, preparation, punctuality, patience and policy.

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.



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



Greg Lewis
P. (818) 951-3207
F. (818) 951-5279
www.ferrispainting.com

FREE* Inspections!
Accurate
TERMITE•PEST CONTROL
310.TERMITE

