

COMMUNITY ASSOCIATION CONNECTION

SPRING 2020

Was Your Board Prepared?

Disaster Plans and Emergency Preparedness During COVID-19

A homeowners' association exists to benefit the community and its members. The mission of most Boards is to increase property values and raise the standard of living within in their communities. In an emergency situation, though, a Board's role can take on an entirely new dimension including the protection of the health, safety, and welfare of the community.

Every community association needs a written disaster plan. Having a disaster plan in place, can't prevent natural disasters or emergencies, but it allows Boards and management to plan and document their preparations in ways that minimize the damage, time, and cost to recover.

A typical disaster plan consists of:

- Strategies for dealing with for each type of peril: hurricane, flood, fire and so on.
- Emergency contact information for Board members, management, insurance agents, and contractors that might be needed.
- Physical asset inventories, including documentation of brand, model, serial number, installation date and photos of all pumps, motors, association-owned or insured appliances, recreational equipment and furniture and clubhouse or lobby inventory.
- As-built schematics of buildings, including utility distribution lines (water, gas, electric and cable); utility cutoffs, valves and switches; and sanitation and storm drain systems.
- Emergency procedures for securing physical assets and equipment in case of a catastrophe.
- Disaster-related documents sent to residents, -policy statements, emergency preparedness in-structions, insurance provisions and other pertinent information.

During the emergency on everyone's minds at this time - the Corona-virus- boards of associations and condominiums throughout the country are altering their disaster plans to include pandemics. Boards must assess the effectiveness of their policies and procedures with regards to the closure and sanitation of communal areas, rescheduling, postponing, or holding video and teleconference board and member meetings, the ability to access emergency reserve funds, and assisting at risk residents.

As Western New York reopens, and your communities move forward, take time to revise your disaster plan. "An ounce of prevention is worth a pound of cure!"



CAI Issues Guidelines on Opening Pools



CAI has released recommended guidelines on opening pools that communities can follow while balancing what residents want and what government officials allow.

On May 7th, they also hosted a live Q&A forum, Community Associations: Pools and Covid-19, where more than 1,000 community association leaders asked questions and gathered essential information from industry attorneys, community managers, and business partners. This is available for viewing on YouTube.

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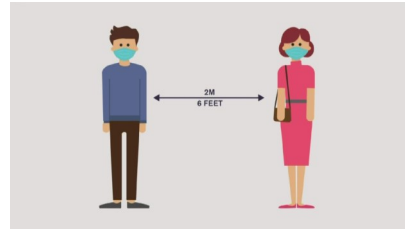
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President's Corner



The New Normal

Bonnie Gionta, Chapter President



We have been busy adjusting our practices at CAI WNY, as we learn to adapt to the challenges of COVID-19. I am sure many of you have been doing the same within your communities and businesses, whether it be attending Zoom meetings, practicing social distancing, or closely monitoring state and CDC guidelines regarding your communal areas. We are all learning to adapt to the “new normal.”

In mid-March we made the decision to cancel our spring events. It was hard to know at that time if we were doing the right thing. We had been looking forward to spending time with our members, learning, laughing and reconnecting with one another. When the stay-at-home order was announced, our choice had been confirmed. By that time, our Executive Director, Kris Fulmer, was busy posting COVID-19 information and resources to our website and social media accounts. She attended CAI webinars on COVID-19 for chapter leaders and began to plan our first virtual event.

On April 23rd we hosted “Ask the Experts: Virtual Legal Panel”, a webinar for CAI members and non-members. Our panelists were CAI WNY Board Member Corey Auerbach, Esq., Partner with Barclay Damon LLP, Ronald Shubert, Esq., Partner with Phillips Lytle LLP. And Patrick Quigley, Esq., Partner with Harter Secrest & Emery LLP. The webinar was a 90 minute question and answer session, filled with valuable information on community association and condominium practices and law. It was a huge success! We have other webinars in the works for the coming months and fall in the event we cannot hold group gatherings.

In addition to webinars, we have started CAI WNY Exchange on our website as a place for members to ask questions, share ideas, and post policies. More information can be found on page 6. We are continuing to explore ways we can provide resources, training, and information to our members during this time. If you have any suggestions, please email them to Kris Fulmer at cai.wny@gmail.com. Stay safe and healthy!

Welcome!



We are pleased to welcome the following new members to CAI WNY:

Jane Sullivan, Cross Creek Homeowners Association
West Henrietta, NY

Linda Grant, River Mist Homeowners Association
Buffalo, NY

Rebecca Buell, Unionville Station Condominium
Hilton, NY

Wendy Burke, Robinson Paving, Inc.
East Aurora, NY



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Reasonable Accommodations & Rental Policies

Ronald Shubert, Esq.

QUESTION:

I am the President of a Condominium Board of Managers and am concerned about compliance by our Condominium with the Fair Housing Amendments Act of 1988. It has been suggested that our Board adopt a reasonable accommodation policy, as well as, forms to be given to Owners and Tenants who wish to apply to the Board for a reasonable accommodation due to a disability. Is this advisable?

ANSWER:

Yes. On April 11, 1968, President Lyndon B. Johnson signed the Civil Rights Act of 1968, Federal Fair Housing Act ("Act"). The Act expanded on the Civil Rights Act of 1964, which prohibited discrimination regarding the sale, rental and financing of housing based on race, color, religion or national origin.

The Act was amended in 1974 to prohibit sex-based discrimination. The 1988 Amendment to the Act provided the opportunity for Congress to further expand the Act's protections, this time prohibiting discrimination based on familial status or disability.

Common now, are requests from Owners and Tenants applying for a "reasonable accommodation" for "disabilities". Community Associations are required to make reasonable accommodations in rules, policies, practice and services when, such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. To show that a requested accommodation may be necessary, there must be an identifiable relationship between the requested accommodation and the individual's disability.

To prove a case that a Condominium or Homeowners Association failed to provide a reasonable accommodation, the Unit Owner or Tenant must show that (1) the complainant is disabled; (2) the Condominium or Homeowners Association knows of the disability or should be reasonably expected to know of it; (3) modification of the existing premises or accommodation of the disability may be necessary to afford the complainant an equal opportunity to use and enjoy the dwelling; and (4) the respondent refused permission for such modifications or refused to make the accommodation.

Such accommodations can take the form of a request to house an emotional support animal in violation of the No Pet Policy, request for special parking arrangements, etc. After a request for reasonable accommodation is made, the burden shifts to the Condominium or Homeowners Association to propose solutions. The Condominium or Homeowners Association need not honor an accommodation that would be unduly burdensome or require a fundamental alteration of the existing physical structure.

Accordingly, as the cases develop, and more requests for accommodations are being made, it is reasonable and necessary for a Condominium and Association to develop a policy approved by the Board and an application for a reasonable accommodation to be completed by not only the Unit Owner or tenant, but a medical doctor, or in the care of an emotional support animal, a mental health professional.



Each and every Condominium and Association should be prepared for requests for a reasonable accommodation and for this reason should have the appropriate policy and documents in place so that they can properly respond to a request.

QUESTION:

Our Board is considering adopting restrictions on rentals and has several questions regarding legality, limits on numbers of rentals, review of leases and how restrictions will affect mortgages when Units are sold.

ANSWER:

Generally, the Association Declaration and Bylaws can be amended to place rental restrictions on the Units. I recommend that current Owners be grandfathered and allowed to continue renting their Units. There are many variations of how rental restrictions can be implemented. Associations can prohibit rentals altogether or set a limit of approximately 10% of the Units that can be rented. Exceptions can be made for extenuating circumstances, etc.

The growing desire for rental restrictions has been the result of the secondary mortgage market which is uncomfortable with lending to communities where more than 10% of the Units are not owner occupied. In addition, the insurance market has made it clear that they too are concerned about Associations where more than 10% of the Units are occupied by tenants. As a result, most communities are amending their legal documents to provide for rental restrictions.

QUESTION:

Our Association has a prohibition against the leasing and renting of Units. How can the Association enforce this restriction when an Owner of a Unit indicates that it is not being rented, but that friends or family are living in it for free without a lease? Would this Unit be considered a rental, and counted as such, when financial institutions are checking on leases for mortgages?

ANSWER:

The rule against leasing and rental of a Unit is pretty clear, and pursuant to that rule, the Unit must be actually rented or leased pursuant to either an oral or written lease and rent must be paid. If a family member occupies a Unit, or a friend, this is not considered a rental in terms of the Association Declaration, nor is it counted as a rental for financial institutions the right to allow family members, etc. to occupy the Unit should be written into the amendment.

Ronald S. Shubert is a partner in the law firm of Phillips Lytle LLP and presently represents more than 400 community associations in New York State.



Member Spotlight: Lynn Tanner, CMCA, AMS

Executive Director, Radisson Community Association, Baldwinsville, NY

Lynn Tanner is celebrating her 25th anniversary with the Radisson Community Association in Baldwinsville, NY. She has served as their Executive Director for the last ten of these years. The community has 3000 doors made up of single family homes, condominiums, and apartments. There are 45 businesses, the largest of which is Anheuser Busch. Lynn manages fourteen full time staff and 65 seasonal staff members that oversee a community pool, maintenance department, community center, nursery school, summer recreation program, tennis courts, basketball courts, and playgrounds.

Lynn feels like she has two full time jobs these days, one managing the association, and the other managing the Coronavirus. She says it's "important to keep the community informed. You don't want to sugarcoat or over dramatize things. Not everyone is listening to the daily press briefings. They need honest, factual, up to date information." Lynn has been posting to Radisson's website, Facebook, and Twitter accounts, and continuing to publish their newsletter which is distributed in print, as well. She devoted one entire newsletter to "feel good," stories about positive things people in her community were doing to support others during COVID-19 and resources for those in need including Neighbor Help Cards.

As Western New York begins to reopen, Lynn says she and her Board are paying close attention to state and CDC guidelines and preparing contingency plans for any scenario. They plan on reopening amenities and services, but only in the safest way possible. "These are scary times. I love what I do. I like taking care of people and resolving problems. At the end of the day you feel good about what you've accomplished."

Radisson Community Members Making A Difference & Spreading Smiles!



Pam Milac organized "Baldwinsville Helping Baldwinsville" COVID-19 Donation Drive



Nancy coordinating community mask making for syracusemaskproject.org

Member Resources

CAI WNY Exchange

Ask questions, post concerns, share answers & policies regarding community association life, governance, and management!

CAI WNY members will now have the opportunity to post questions and share resources via CAI WNY Exchange on caiwny.org. Each member will receive an email invitation from CAI WNY to create a login and password which will allow them to access “member only” portions of the website including CA WNY Exchange.

Once you have created your account, you may login by clicking “login” in the top righthand corner of the home page of caiwny.org. You will then be able to post or answer questions, upload or download documents on Exchange. We hope you will find this to be a valuable tool and encourage you and your Board members to take advantage of the collective knowledge of our membership!



for Upcoming Webinars!

Having trouble with meeting Minutes?



Visit caiwny.org for resources, rules, and how-to videos!

THE PLACE

Phillips Lytle is pleased to support WNY-CAI. We look forward to the continued growth, advocacy and investment that make our community the place to be!



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Risk Prevention

Water Damage Claims on the Rise Are You Prepared?

Bonnie Gionta, CIC



Non-weather water damage has become a leading cause of property-related losses in the US, surpassing other types of homeowners claims in frequency and cost. The latest industry data analyzed and prepared by Verisk Analytics' ISO unit reveals the extent of upward trending proliferation of water damage claims; Between 2013 and 2017, one in 50 homeowners filed a water-damage claim each year.

- Insurance companies paid \$13 billion on water-damage claims in 2017 with an average claim cost of \$10,000.
- Insurer Chubb, Ltd. says the number of annual water claims costing over \$500,000 doubled since 2015 and those greater than \$1 million tripled.
- The rise of non-weather water damage is costing insurers and their policyholders billions in losses every year. It is also creating additional challenges including policy cancellations, non-renewals, and drastic premium changes. More than 30% of California companies have refused to renew the policies of customers who filed one or two water-loss claims in the past three years, according to the Department of Insurance.

Property Drivers of Increase in Water Loss Claims

The most common cause of water damage is home appliance or structural failure. Aging homes with broken appliances, old pipes and valves, or worn-out washing machine hoses are partly responsible for the increase in overall claims. Newer homes with more bathrooms and second floor laundry rooms are also contributing to the rise.

Water damage vulnerability points in your home include the washing machine, dishwasher, roof, toilet, bathtub/shower grout and edge leaks, water heaters, refrigerator leaks, window, wall, and basement.

Some insurers decide not to renew customers who fail to take preventative steps to prevent water damage, such as installing water shut-off systems. Learn how to take simple, preventative measures to avoid policy cancellation and costly water damage losses. *USI's Water Damage Checklist* compiled by our Personal Risk Specialists, provides proactive steps to prevent or reduce water damage and information on what to do after a loss has occurred.

Homeowners' Insurance Concerns

Carriers are not obligated to pay every water damage claim. As was reported in *The Wall Street Journal*, standard homeowners' policies have excluded storm surge and river flooding since the 1960's. Likewise, homeowners' policies typically cover "sudden and accidental" damage that could be caused by an unexpected water pipe burst or leak, a broken appliance hose, overflowing toilets, and water heater failures—but not water damage from routine plumbing maintenance. Homeowners who neglected an obvious slow leak for months until the damage reaches critical levels could get into a coverage dispute.

Signs of a Potential Water Leak in the Home

It's often said that an ounce of prevention is worth a pound of cure! It can be difficult to identify moisture damage in walls. USI Personal Risk Specialists recommend looking for yellow staining and water spots on the walls and ceiling, bubbling paint or wallpaper separating from the walls and expanding caulk at your baseboards.

Also take notice of additional warning signs your home may be at risk such as an increased monthly water bill, banging pipes, rust stains, moisture in the walls or on the floor, and signs of wet soil or erosion near the foundation.

Practice Prevention to Manage Water Damage Risk

All the above are potential indicators of plumbing problems which may be avoided by taking proactive measures. Practice annual routine maintenance and visual inspection of toilets and toilet components, water heaters, water supply lines, and roof systems:

- Determine that caulking is watertight in tubs and showers and watch for dripping under sinks.
- Inspect water hoses in all appliances and only use washing machines or dishwashers when someone is home.
- Replace supply hoses every five years, even if there is no obvious deterioration or wear. Some signs of deterioration may not be visible until it is too late.
- When replacing washing machine supply hoses; supply lines to toilets and ice maker lines should also be replaced.
- Always choose a reinforced steel braided hose over traditional hoses. These will last longer, and many include check valves to stop the water flow in the event of a hose burst, making it far less likely to create catastrophic water damage.
- Set the thermostat to at least 65°F in winter months, let faucets drip on unusually cold days, and insulate pipes to reduce the risk of frozen pipes.
- Know where the shutoff valve is for the main water supply and teach other family members how to shut off the main water valve in the event of a water leak emergency. Consider turning off the water supply if you will be leaving your home for an extended period of time.
- Install smart home technology with water leak detection devices, and/or smart leak protection systems that integrate a water pressure sensor, temperature sensor and built in shutoff valve that will automatically shut off the water supply in the event of a leak.

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Phil Lamb

Welcome!

One simple step to ensure new residents feel a part of your community

Kris Fulmer, Chapter Executive Director

When people move into a community, it may be their first time living in a homeowners association or condominium. They may or may not have read or understand the CCRs, Rules & Regulations, or welcome packet sent by the management company. This is where a visit from the Hospitality Committee creates a friendly introduction to the community, where the new owner is free to ask questions, and information is exchanged in a hospitable environment. Often the visit is accompanied by a housewarming gift or basket, a personal welcome letter from the association or condominium Board, and a list of common FAQs. This is a good time to review the Rules & Regulations, especially pet policies, and the maintenance matrix, as well as the procedure for reporting issues that fall within the responsibilities of the association or condominium. During this time of social distancing, you may want to schedule a visit via videoconference or chat by telephone until it is safe to meet in person.

If your community does not have a Hospitality Committee, it might be time to create one. The goals are simple, and the budget does not have to be large. Chances are, people who love living in your association will be first to volunteer!



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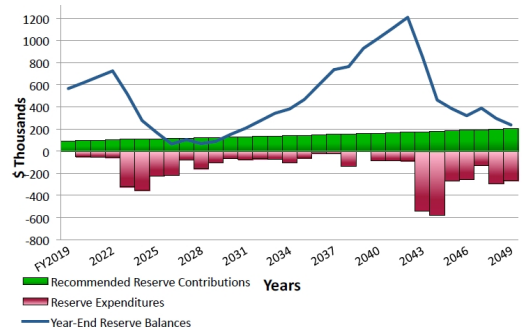
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Reserve Studies

The Foundation to Your Association's Long-Term Financial Strategy

Michelle Baldry, PE, PRA, RS, EBP



All too often Associations disregard the need to have their reserve studies updated. Or, worse yet, never have a reserve study completed at all. It is nearly impossible for Associations to accurately budget and fund for future capital needs if they do not have a complete picture of the future (schedule and cost of capital projects). Much like developing a personal investment strategy, there are two steps to ensuring a successful long-term financial strategy for your community.

1. **Identify your long-term needs** - A professional reserve study provides a detailed, 30-year outlook of the timing and cost of future capital projects and a funding plan to offset such expenses.
2. **Periodically review your needs** - A reserve study update looks at all the variables that can change over time that impact the reserve funding plan. Periodic reserve study updates ensures your forecast of future expenditures is up-to-date and accurate. This ensures that your community is funding at the correct levels.

Why have a reserve study?

A comprehensive reserve study prepared by an independent engineer serves as a "blueprint" for the future. When properly prepared, a reserve study details both the anticipated timing and cost of future capital projects, all of which are derived from the current state of each common element, as well as local conditions and project costs. These future costs along with your Association's current reserve funds are then utilized to develop a long-range funding plan. The result? A schedule of anticipated projects and recommended annual reserve contributions that your Association can depend on with complete confidence when creating your long-term financial strategy for funding capital expenses.

Any long-term financial strategy must account for changes over time. Changes in market conditions, ROI of each fund and actual investment contributions are examples of variables that result in requiring periodic adjustments to one's personal investment strategy to remain on track. So it is for reserve studies which serve as a community's long-term financial strategy for funding capital expenses.

Over time many variables affect the actual timing and cost of future capital projects. Having the most up-to-date picture of these projects provides a solid basis for adjusting future contributions and maintaining adequate reserves.

When should we update our reserve study?

Often, clients successfully manage their communities near-term needs for several years with the benefit of a quality reserve study. However, many variables or changes culminate in the need for a reserve study update including deferred or accelerated projects, lower than recommended reserves, changes in material and labor costs, unusual weather events that might impact remaining useful lives, as well as new products and technology. Board discretion (adding or deleting projects) can also require changes to ensure proper funding levels.

Updating every 3-5 years is considered management best practice and promotes your Association's ability to develop and sustain a long-term financial strategy for maintaining its common elements in excellent condition through stable, yet adequate reserve contributions.

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