

Channels of Communication

Serving Ventura, Santa Barbara, San Luis Obispo and Kern Counties

SECOND QUARTER 2018

The Official Publication of
CHANNEL ISLANDS CHAPTER
community
ASSOCIATIONS INSTITUTE

Roadmap to Successful Budgeting



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president's message



Tracy R. Neal, Esq.
Beaumont Tashjian



Dear Members,

The first quarter was a busy one for the Channel Islands Chapter. We offered educational luncheons in Thousand Oaks, and have since moved to our Oxnard location where we offer education luncheons and programs during the summer. We also expanded our educational programs offerings in Pismo Beach and Santa Barbara. The events in Pismo Beach and Santa Barbara have been well received and we will continue to offer educational programs, as well as, more opportunities to attend and sponsor events throughout the central coast.

This past quarter, we implemented a revamped membership committee, which now serves as a hospitality committee to help ensure members are not only welcomed at events, but thanked for their membership and their needs are met at events and as chapter members overall. We value our 750+ members and appreciate your continued support of the chapter.

In April, we attended Legislative Day at the Capitol in Sacramento, California. On Sunday night, our delegates had dinner with other delegates and on Monday, we “stormed” the capitol. We had the opportunity to meet with several of our local legislative representatives and their staffers. Thank you again to Louie Brown, our California Legislative Action Committee (CLAC) Advocate. Everyone had a great time and through such events, we see the value of our local grass-root efforts and the impact at the state level. Currently CLAC needs your support opposing SB 1265 (Common Interest Developments: Elections). Common Interest Development (CID) advocates are requesting that everyone pick up the phone and make a call to your assembly member and tell them you want them to VOTE “NO” on SB 1265. SB 721 (Contractors: Deck and Balconies: Inspections) was recently amended to NOT include Community Associations and it is because of the direct effort of our CLAC committee, CLAC Advocate and members who made calls to legislators to let them know their concerns. Your efforts made the difference. Thank you!

We also hosted our annual spring Community Faire in Oxnard. This year's theme was an “All Star Community Faire”. Thank you to all of you who sponsored and attended the event. As a reminder, if you are able to, support our business partners.

Thank you to everyone who joined us in Washington D.C. for the CAI Annual Conference & Exposition May 9-12. The chapter won the following 2017 Achievement Awards at the national level:

- Achievement Award for our Local Legislative Acton Day in the Public Affairs category.
- Best Net Growth Award for a large chapter. We grew by 23% in 2017 and we are on target to meet or exceed this growth rate this year!
- Best Net Retention for a large chapter. We are retaining 95% of our membership!

Joe Smigiel, the chapter's president-elect, accepted these awards on behalf of the chapter.

We are proud of and excited for the chapter's continued success and we couldn't do it without the support of you, our members.

In addition, we are excited to have participated in the statewide annual chapter meeting, attended by California CAI Chapter executive directors, presidents, and president-elects. Our chapter's successes were center stage. There were also productive conversations about the 2018 Legal Forum to be held October 19 in Temecula, California.

SAVE THESE DATES - October 19 - CAI Legal Forum, Temecula, CA and October 30 - Fall Community Faire, Westlake Village, CA.

Please maximize your membership by attending local, regional and national chapter events. Please visit the chapter's website (www.cai-channelislands.org) as it continues to be a valuable source of information on the chapter.

On behalf of the chapter's board of directors and executive director, we look forward to delivering on our goal to “cultivate communities.”

Thank you.

Sincerely,

Tracy R. Neal

Tracy R. Neal, Esq.

CAI-Channel Islands Chapter President



The Budget

Where To Begin

By Tina Nakamura, CMCA, AMS, PCAM
*Sherwood Valley Homeowners Association /
PMP Management AAMC*

It's that time of year again, budget season. Every business needs a budget to operate, and your homeowners association (HOA) is no different. While it takes time, attention to detail, and intense practicality, a detailed budget is essential for any HOA that plans to operate with the funds necessary to provide reasonable service and maintenance. A budget affects the ability to maintain your community, make repairs when needed and set money aside for future, larger repairs or replacements. Without a proper budget, home investments could decline, and the need for special assessments could increase.

Give yourself at least five months to prepare the next fiscal year's budget before your current budget concludes. This will give you ample time to ensure your community has a functional budget in place and create less panic to an already stressful project. Here are steps to assist with the budgeting process.

Review past budgets, income and expenses. Examine budgets and financial statements from the previous two to three years to help determine a starting point. Compare this year's actual expenditures to date against the original budget. Doing so will help you spot trends and determine how to budget for the upcoming year.

Assess vendor contracts and ask for expected cost increases. Call your current vendors to see if they plan to increase rates. Also review current contracts to determine if any clauses allow for annual increases. If the contract is up for renewal, you may want to consider requesting bids from other companies to help lower or maintain costs.

Project and Evaluate Utility Costs. Water, gas, and electricity costs have been increasing steadily. So, don't forget to call your utility companies to see if they have a rate increase. You can generally expect these costs to rise, which needs to be factored into your budget. If your rates are becoming excessive, look into simple changes like moving to LED lights or smart controllers.

Fund your reserves. Contact your reserve analyst to complete an onsite visit, if needed, or a financial update. This will help determine which repair or replacement projects are slated for the upcoming year and whether monthly assessments must be increased to help cover these future expenses. Remember, your reserve analyst is a great resource to tell you how to fund your reserves and to ensure maintenance is not being deferred.

Determine upcoming projects. Inspect the property and identify what types of projects your community will face in the upcoming years. Then prioritize to determine if any projects are pressing and in need of attention in the next fiscal year. Anything potentially unsafe or structurally unsound, which exposes the association to liability, should be tackled first and properly budgeted for. Preventative maintenance can prevent costlier problems.

Also, **review your reserve study** and the amount of money your HOA currently has in its reserve fund. This will help you understand whether monthly assessments must be raised to cover costs.

Budget for "hidden" expenses. Set aside funding for "emergencies" that cannot be identified in advance. One year, vandalism may present a problem, and another year, a storm might destroy landscaping. You likely won't see these expenses on past years' budgets, so be careful to keep it in mind. Being prepared is a good plan.

Set monthly assessment for homeowners. Now that you have the legwork done, review your estimated monthly expenses—including funding your reserves and hidden expenses. Your total projected operating expenses plus annual contributions to your reserve fund will show the annual income needed from homeowner assessments. Take that number and allocate it as required per your governing documents (by percentage ownership or split equally) to each homeowner as the new monthly amount.

Now that you have a final budget, it's time to communicate it to your homeowners! Be sure to provide detail on how the board came up with the budget, highlighting how any increase in fees will help maintain and improve the homeowner's investment over the long run. [▲](#)



Tina Nakamura has over fifteen years of experience in community association management and holds the highest designation in the industry, the PCAM. She is currently the General Manager for Sherwood Valley HOA, and previously was the Senior Director for PMP Management,. Tina is actively involved in CAI as a committee chair, authored articles for the chapter's magazine and is a frequent chapter speaker.

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The Budget & The Board's Fiduciary Duty

By Ruth Campbell, CCAM-PM, CMCA
CID Management Solutions, Inc.

Upon their election to the Board of Directors (Board) of a common interest development, the board becomes fiduciaries with powers to act on behalf of the association. As fiduciaries, directors are held to a higher standard of conduct and have two primary duties: (i) duty of care, and (ii) duty of loyalty. This applies to directors of both incorporated and unincorporated associations.

Every year the board must adopt an Annual Budget Report that must be distributed to the membership no more than 90 days and no less than 30 days before the end of the current fiscal year (Civil Code §5300). Most often than not, the board looks to their community manager or management company for guidance on how to proceed with the preparation of the budget. The following are some points to consider:

Year-to-Date Expenditures: As provided for in Civil Code §5500, the board must review their association's financial records as follows:

- a current reconciliation of the operating accounts on a quarterly basis,
 - a current reconciliation of the reserve accounts on a quarterly basis,
 - the current year's actual reserve revenues and expenses compared to the current year's budget, on a quarterly basis,
 - the latest bank statements for operating and reserve accounts,
 - an income and expense statement for the association's operating and reserve accounts on at least a quarterly basis, and
 - the reserve study annually. (Civ. Code §5550(a).)
- If an association's governing document impose a stricter standard of review, boards must follow the higher requirements. Why is review of the monthly financials important? By reviewing the financial reports provided by management, the board should be able to track any variances in operating and reserve expenditures that will help determine whether you must increase a particular budget line item for the new fiscal year. Typically, a budget comparison report will show variances each month, so the board can see whether or not the association is staying on budget. This information is key in establishing the

projected expenses on the budget worksheet that will be reviewed and ultimately approved by the board.

Reserve Study Update: It is important for the board to have a current reserve study to be able to project which components, if any, are due to be completed for the new fiscal year. The reserve study plays an integral part in the budget process to ensure the board is budgeting the appropriate contribution into the reserve fund and adequately funds for large ticket items (i.e. painting, roof replacement, asphalt slurry seal or replacement, etc.).

Failing to adequately fund the reserve fund may result in the board not being able to complete necessary repairs/replacement of a component, resulting in the adage of kicking the can down the road. Having insufficient monies in the reserve fund may also lead to the board needing to impose a special assessment and/or obtaining a bank loan to be able to complete a project. Neither of these two scenarios ever sit well with members of an association. Owners often blame the board and/or management for poor financial planning. However,

one must look at the historical percent funded of the community and whether the board has been following the recommendations of the reserve study preparer. Most often than not, deficiencies in both operating and reserve funds are a result of years of poor planning, budgeting and/or simply not following the recommendations of the reserve study professional.

Duties of the Treasurer: Directors serve on a volunteer basis. There is generally no financial background or experience required to serve as treasurer on the board, although it is helpful given the duties and responsibilities of the position. The following are some of the treasurer's duties but are not limited to:

- oversee the association's operating account and reserve account
- keep and maintaining the association's financial documents
- oversee the deposits
- oversee investments
- ensure that bills are paid
- oversee the preparation of the budget
- ensure that a reserve study is prepared
- ensure that tax returns are filed on time
- sign bank cards and co-sign checks with the president or secretary

Most of the time, these duties are delegated to the manager or management company, however, the treasurer has a responsibility to oversee the work during their term on the board and report to the board as needed. Additionally, the board should be able to rely on the manager or management company to keep them apprised of extraordinary expenses that may result in being overbudget. This is where the monthly review of the financial reports is crucial—to ensure your community is staying on budget.

Budget Committee: It is often a good idea for the board to establish a Budget Committee, typically chaired by the Treasurer, to work with the manager or management in preparing and presenting a proposed budget to the board. The budget committee can

research expenditures and work with the reserve study preparer to ensure line items are being appropriately planned and adequately funded. Often, the committee as well as the manager will contact vendors and service providers to review current contracts and services to determine if they may be renegotiated. Additionally, the committee and manager may work together to obtain competitive bids to advise the board whether costs are in line with current industry standards.

Neither the board or budget committee should be afraid to ask tough questions when it comes the budget planning of your community. It is important the board work with as realistic numbers as possible to ensure your community is meeting its monthly financial obligations. Do not be afraid to speak to your reserve study professional and ask for "what-if" scenarios. Most professionals will assist the board and/or budget committee.

Recently, I had a 57-unit planned community that is almost 40 years old, come to terms that they were going to have to (1) raise the monthly assessment, (2) impose a special assessment, or (3) impose a combination of both. Three big components are due at the same time: roof replacement, painting of all surfaces, and asphalt removal and replacement. If the board chose to do all three during the same fiscal year, they risked depleting their reserve fund completely, resulting in the need for a

special assessment. Additionally, they would need to raise the monthly assessment to be able to meet the monthly obligations of the operating expenses. The board had discussions with their reserve study professional to work out various scenarios that would show the percent funded in the community for the next five years if they did nothing or imposed a special assessment. In the end, after many discussions, the board approved a minimal increase in the monthly assessment to cover increases in the operating budget, followed the recommendation of their reserve study professional regarding the monthly reserve contribution, and opted to impose a one-time special assessment to get one of the large ticket items done without having to deplete any money from the reserve fund. This way the board felt the owners may not like the special assessment, but they would accept it because the money was being used specifically for one component, reducing risk and liability to the association, and allowing monies to be reallocated in the reserve fund to other components.

The board cannot pass-the-buck and delegate their fiscal responsibilities to the manager, management company or budget committee. At the end of the day, the board is responsible for adopting the budget and ensuring the members of the community are provided with the final approved budget that outlines what the monthly assessment they pay for is being allocated to. 📌

Ruth Campbell is the owner of CID Management Solutions, Inc. in Oxnard, CA. She has been a professional portfolio manager with more than 20 years of experience in managing all aspects of Common Interest Developments (CID's). Ms. Campbell has managed over 40 associations throughout Ventura, Los Angeles, and Santa Barbara counties made up of condominiums, planned developments, gated communities, and mobile home parks.



She is an active member of CAI-Channel Islands Chapter and the California Association of Community Managers (CACM) and holds the designations as a Certified Manager of Community Associations (CMCA) and Certified Community Association Manager (CCAM®) with a specialized certification in portfolio management.



The Chapter hosted its All-Star (baseball themed) Community Faire & Educational Programs at the Embassy Suites at Mandalay Beach in Oxnard on Tuesday, April 24, 2018.

With over 240 attendees pre-registered, 50 exhibitors and 14 sponsors, the exhibit hall was buzzing with excitement and energy as association members exchanged ideas, information and networked with Business Partner Members who specialize in the industry. The event also included a "Free Legal Q&A" session for board members presented by industry attorneys while community managers enjoyed a hosted happy hour. Attendees ended the evening by attending the educational dinner program titled "Hitting It Out of The Park For Your Community" presented by Julie Adamen, Adamen, Inc. Attendees walked away with a new game plan as they learned new strategies in communication, the value of education and training for their entire board.

Thank you . . .

to our exhibitors, sponsors, program speakers, Community Faire committee members and all of the attendees for participating in a great event! Hope to see you at the Fall Community Faire on Tuesday, October 30, 2018, 4 pm at The Westlake Village Inn.



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Budgeting for Success:

Best Practices for Handling Assessment Delinquencies

By Sean D. Allen, Esq.
Roseman Law, APC

Associations are authorized and obligated to collect homeowner assessments pursuant to statute under California Civil Code § 5605. The amount of the regular and special assessments collected must be sufficient for the association to perform its obligations under the Davis-Stirling Act and the governing documents. Fortunately, the failure of a homeowner to pay assessments when they are due grants the association the right to record a lien against the subject property and to foreclose upon that lien if the sums owed remain unpaid. The procedure can be a bit tricky, but below is a general overview.

As part of the collection and foreclosure process, community associations must first adopt a written “Statement of Collection Procedures” as part of the association’s Annual Policy Statement, which describes the association’s policies and practices in enforcing lien rights or other legal remedies for failure to pay assessments. The association must distribute this policy to its members within thirty to ninety days before

the end of the association’s fiscal year. The annual Statement of Collection Procedures must contain all of the disclosures stated in Civil Code § 5730(a) in at least 12-point type.

Before it can foreclose, the association must also have a lien recorded against the property. At least thirty days prior to recording a lien, the association must send a pre-lien letter to the owner(s) of record which meets the requirements of Civil Code § 5660. The pre-lien letter must be sent to the owner(s) of the property by certified mail. The 2017 court case titled *Mashiri v. Epsten Grinnell & Howell* makes it clear that the thirty-day time period stated in the pre-lien letter must begin from the date of receipt of the letter, not the date of mailing. Therefore, it is good practice to allow more than the minimum thirty days before a lien is recorded. Also, the pre-lien letter should not include any language which could mislead the homeowner into believing that a lien will be recorded even if the debt is disputed or paid in full.

The decision to record a lien for delinquent assessments must be made by the board of directors by a majority vote in an open meeting and be recorded in the minutes of that meeting prior to recording the lien. This may not be delegated. The vote can be done by a simple motion or by a formal resolution. After the time period called for in the pre-lien letter expires, and after the board votes to record a lien, the association may then record a lien. The lien must be in writing and contain certain information, including the total amount due, the legal description of the subject property, the names of all record owners of the subject property, the name and address of the foreclosure trustee (if seeking non-judicial foreclosure), and an itemized statement of the charges owed by the owner.

After recordation, the association must send a recorded copy of the lien to the record owner(s) of the property by certified mail within ten days. Then, after the expiration of thirty days following the recording of a lien, the association may enforce the lien through any means permitted by law, including foreclosure. However, an association may not foreclose on the lien until the amount of delinquent assessments exceeds \$1,800.00 or the assessments are more than 12 months in arrears. The association may commence foreclosure once either condition is met.

The decision to initiate foreclosure must be made by a majority of the board in executive session, and then recorded in the minutes of the next open meeting of the board. The recorded minutes should not identify the name of the owner(s), instead the subject property should be identified by its Assessor's Parcel Number (APN). A board vote to approve foreclosure of a lien must take place at least thirty days prior to any public sale. The association must then provide notice, by personal service, to the owner(s) of the property notifying them of the board's decision to foreclose. This requirement for personal service on the homeowner of the board's vote to foreclose is a mandatory prerequisite to the filing of an action for judicial foreclosure on an assessment lien. (see *Diamond v. Superior Court* (2013) 217 Cal.App.4th 1172, 1196).

This entire process must be strictly followed before the association can foreclose on a property. There are several other variables which need to be accounted for as well. For instance, the rate of interest and late fees allowed by the governing documents, when the assessments are actually considered to be delinquent, whether there are any intervening bankruptcy or title issues which need to be addressed, and what steps remain to be taken after the foreclosure sale is completed.

It should go without saying that this process is fairly complicated, and it can be an absolute minefield for a volunteer board to navigate on its own. The failure to comply completely with all of the above requirements can unwind the

entire foreclosure process and potentially expose the association to liability. Therefore, any sensible association budget should include a line item for professional assessment collection services. Remember, reliance on the advice of counsel and other experts is a key factor in insulating the board from personal liability under the Business Judgment Rule.

Of course, foreclosure is not the only collection option available to homeowner associations, although it is certainly the most effective. There are many other ways in which an association can reduce its assessment delinquencies. Voluntary payment plans can be a very useful tool if the appropriate mechanisms are in place to ensure compliance and to escalate the matter in the event of a default. The association can also pursue a simple court judgment for monetary damages in lieu of foreclosing. However, since any judicial foreclosure action will necessarily involve the filing of a lawsuit anyway, in most cases it would be prudent to simply seek the monetary judgment along with the right to foreclose on the property in the same court filing. In any event, the recommendation remains the same. These matters should be handled by professionals, and the association should budget for those services accordingly.

Delinquent assessments are the single most important issue for boards of directors to be concerned with. The board has a fiduciary obligation to the association and its members to ensure that funds are being collected. Homeowner associations have only one source of revenue, and that is homeowner assessments. If the association is not able to collect those assessments then it is not able to properly budget for any other items, and deferred maintenance issues will quickly take their toll on the association property. As with any other business, budgeting begins with revenue, and revenue must be collected. ⬆

Sean D. Allen, Esq., is a senior attorney with Roseman Law, APC, and is the head of the firm's HOA department. Having exclusively represented homeowner associations and other common interest developments for several years, Mr. Allen has broad experience with issues and disputes that impact community associations, including CC&R interpretation and enforcement, corporate governance, compliance with Davis-Stirling Act, assessment collection, foreclosure, and bankruptcy. Mr. Allen is an active member of CAI in several Southern California chapters, frequent event speaker and has authored a number of articles pertaining to common interest development law and its application to community associations in California.





By Cryus Koochek, Esq.
SwedelsonGottlieb



It has been at least eight years since the board has raised dues and our board is still divided on whether or not to raise them. How often do boards typically raise the dues? How do we justify what the increase should be? And, how do we get the board to agree on this issue? And if we raise the dues, any suggestions on how to help the homeowners understand the necessity of the increase in dues?

ANSWER: Dues increases, typically referred to as “assessment increases,” are one of the reoccurring hot button issues impacting community associations, which makes sense considering we are talking about other people’s money. Many boards are proud to claim that they have not raised assessments for years. From a public relations standpoint, in the moment, that may make a board popular with their homeowners, but as it relates to the overall financial health and well-being of an association, the failure to take action to properly maintain, replace and repair the common elements will likely harm the association in the long run.

When assessments remain stagnant and are not increased to keep pace with the financial needs of the association, deferred maintenance is the likely result. This can also result in the board not taking proper steps to adequately plan for the association’s future by failing to properly fund the association’s reserve account, which is established to fund repairs and replacements of major components (based on a proposed useful life of thirty (30) years within a community). The majority of associations are not adequately funded and many associations are often well below the forty percent (40%) mark when it comes to what percent funded they are. By not increasing regular assessments, boards increase the chances that a special assessment will be required when a major component (such as roofs or an elevator) break down or requires major repairs. Further, by not raising assessments boards are frequently accused of artificially keeping assessments low by not budgeting for certain regular maintenance projects within the association. This is not a good thing for, at a minimum, two reasons: repair costs will certainly increase the longer an item is left unaddressed, and boards open themselves up to breach of fiduciary duty claims.

Increases in regular assessments are also necessary simply because the cost of living and cost of wages are typically increasing. Just like other businesses, and yes the association

is a business, the association’s costs of living, such as water, trash and related costs, frequently increase from year-to-year, and employee wages (including minimum wages) and/or management fees and costs are rising as well. These cost of living and wage increases are usually reflected in the price of the services offered to the association; boards need to keep this in mind when preparing the association’s budget and whether regular assessments will increase for the next fiscal year.

Although it varies from association to association, most associations increase assessments at least once every few years. Boards should always keep in mind that although it may hurt from a PR standpoint, there is no award for keeping assessments low. A board has a legal and fiduciary duty to do what is in the best interest of the association, and if keeping assessments artificially low prevents the association from performing much needed maintenance projects or substantively improving the association’s reserve funds, it is likely this will come back to haunt the board one way or another. As described above, this could lead to the necessity of a special assessment, which can be a very unpopular option considering that special assessments are unexpected and can result in significant, lump sum amounts being owed on relatively short notice.

To help homeowners understand why it is important and sometimes necessary to increase regular assessments, boards (with the help of management) should educate their homeowners on the potential consequences of not increasing assessments. Boards should attempt to teach owners why funding the reserves is so important and how this cannot be done without proper budgeting and the levying of assessments to ensure the reserves are funded healthily. Also, teaching owners about the rising costs of wages and expenses should make sense to owners, many of whom deal with similar issues in their daily work lives.

If boards really want to drive home the point to owners, it would be a good idea to chart out a sample five year budget in order to show owners the differences between keeping assessments low and increasing them. In the example where the assessments are kept low, simulate what would happen if a major association component were to break down unexpectedly or require major repairs. By showing owners the immediate impact that a special assessment would cause (with actual sample dollar amounts), owners should be able to understand why increasing assessments as needed on an annual basis is really being done to protect owners.

Boards should also educate members on the procedures for increasing assessments. The California Civil Code limits increases in both regular and special assessments to certain percentage amounts, and members should understand that the board has the power to increase assessments up to certain levels without the need for a membership vote. One good idea would be to include with the association's annual budget report (required yearly) a short summary or recap of why the association increased assessments in a given year when preparing the budget. This can provide the board an opportunity to explain some of the specific reasons that led to the increase, such as the association's rising vendor

expenses, personnel wages, or efforts to start funding the reserves more sufficiently.

Remember that boards must do what is in the best interest of the association, and this often means increasing assessments to meet the rising financial demands of the association and its long-term financial wellbeing. Although some owners may not be happy about it, increasing assessments can protect owners from being hit with large special assessments in the future and from living in a community where maintenance is deferred. ⬆

Cyrus Koochek is an Associate Attorney at SwedelsonGottlieb and has authored many published articles on community association issues. Cyrus has been practicing law since 2011 and was awarded the Rising Star award by the CAI-Orange County Chapter in 2014. He provides assistance in all areas of corporate counsel and transactional work, including the amendment and restatement of governing documents, drafting and negotiating vendor and third party contracts, and providing general legal guidance to associations.





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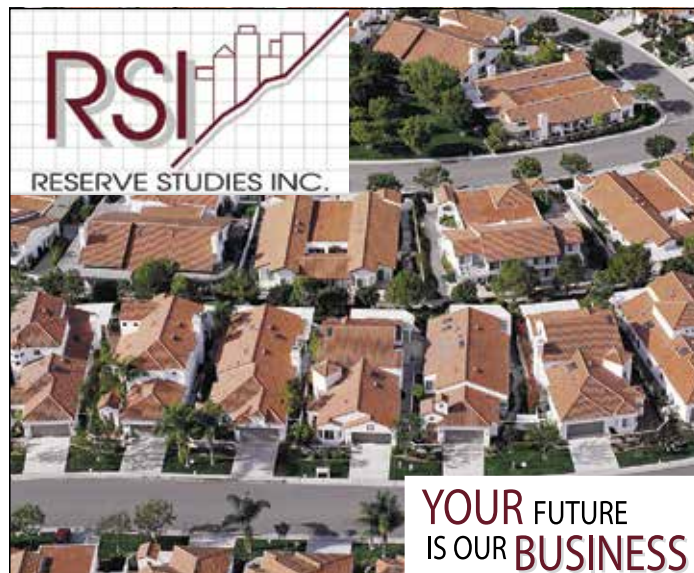
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CA Day at the Capitol Event Recap and Legislative Update

By **James Perero, Esq.**, Myers, Widders, Gibson, Jones & Feingold, LLP

My favorite local rock band in high school had a catchy tune for the simple lyric “better and better.” The words are perfect for CAI’s annual Legislative Action Day in the Capitol. Each year the event improves its legislative analysis and education sessions and sharpens its message. That translates into more effective advocacy in Sacramento’s halls of power.

On April 8 and 9, delegates from around the state convened at the capitol to learn about the legislative process, analyze pending bills that could dramatically impact associations, and persuade elected officials and their staff to see things from CAI’s (eminently reasonable) perspective. And this year, CAI had a new weapon in its policy arsenal: a comprehensive industry fact book for each legislator’s office, containing detailed demographic and financial information about California’s common interest development industry.

Delegates broadly agreed that legislators and their staff members defied caricature. They listened intently and asked good questions. “The experience was extremely educational, inspirational, and left an impression about the importance of advocacy,” remarked community association manager Martha Fogg.

CAI’s efforts in April and since then are making a difference! Two bills CLAC is supporting are moving in the right direction. One, AB 2912 (Irwin) seeks to strengthen the Davis-Stirling Act requirements for Board oversight

of finances. It has passed the Assembly, and is heading to the Senate. The other, SB 1128 (Roth), would allow an association to avoid the expense of an election where the open positions are uncontested. The bill passed the Senate on a 36-1 vote, and is headed to the Assembly.

A few bills that initially caused concern no longer do. AB 1760 (Frazier) would prohibit an association from imposing parking restrictions on emergency vehicles. CLAC took an oppose unless amended position, and the bill was defeated in the Assembly’s Judiciary Committee.

On the oppose front, AB 2353 (Frazier), as introduced, would have significantly reduced the statute of limitations for construction defect claims from 10 to 5 years. Thanks to the advocacy of CAI-CLAC members, this bill was amended to remove the statute of limitations provision in the bill.

CAI-CLAC also scored a major victory on SB 721 (Hill) that would have required mandatory inspections for balconies and elevated walkways in multi-family residential structures. The bill would have imposed substantial costs on associations. Senator Hill agreed to amend his bill in the Assembly Business and Professions Committee to delete Section 2 of the bill, which pertains to Common Interest Developments. With that amendment, the bill passed on a unanimous vote. Our success was made possible by the efforts of our members throughout the State who contacted their local legislator to voice concerns about how the

bill would impact homeowners. Thank you to everyone who called or contacted their Legislators!

We do need your help with SB 1265 (Wieckowski) which would prohibit any association from enacting board member qualifications and would make other changes to the Davis-Stirling Act that would increase association costs. The bill passed the Senate on a party-line vote, and now on to the Assembly. We encourage you to contact your local Assemblymember and ask her or him to oppose this bill!

Now is a great time to mark your calendar for April 8 and 9, 2019 (yes, it’s a Monday and Tuesday, next year!), and stay tuned for our chapter’s Local Legislative Action Day in early July. These are great opportunities to get inspired and to make a positive difference for millions of Californians living in community associations. [⬆](#)

James Perero is an attorney at the law firm Myers, Widders, Gibson, Jones & Feingold, LLP where he represents community associations as general and litigation counsel. His work with community associations

aims to improve and strengthen the quality of life for community association members through development and enforcement of effective governing documents, and, when necessary, through litigation. Mr. Perero is an active member of CAI-Channel Islands Chapter and currently serves as the chapter’s CAI-CLAC delegate.



Chapter Calendar of Events 2018

- Aug 9** **Dinner Program**, Los Robles Greens, Thousand Oaks, 6 pm
- Aug 16** **Managers' Program**, The Courtyard Marriott, Oxnard, 11:30 am
- Aug 28** **Chapter Luncheon**, The Courtyard Marriott, Oxnard, 11:30 am
- Sept 13** **Central Coast Dinner Program**, Ventana Grill, Pismo Beach, CA, 6 pm
- Sept 25** **Chapter Luncheon**, Los Robles Greens, Thousand Oaks, 11:30 am
(Annual Meeting at 11 am)
- Oct 18** **CID Law Course / BP Essentials Course / CLAC Dinner**, Pechanga, Temecula, CA (pre-Legal Forum Activities)
- Oct 19** **CAI Statewide Legal Forum**, Pechanga, Temecula, CA
- Oct 30** **Community Faire**, The Westlake Village Inn, Westlake Village
- Nov 8** **Central Coast Dinner Program**, Ventana Grill, Pismo Beach, 6 pm
- Nov 13** **Chapter Luncheon**, Los Robles Greens, Thousand Oaks, 11:30 am
- Dec 11** **Chapter Luncheon**, Los Robles Greens, Thousand Oaks, 11:30 am

2019

- Jan 29** **Chapter Luncheon**, 11:30 am, Los Robles Greens, Thousand Oaks
Chapter Board Meeting, 10:15 am
- Feb 7** **Central Coast Dinner Program**, 5:45 pm, Ventana Grill, Pismo Beach
- Feb 26** **Chapter Luncheon**, 11:30 am, Los Robles Greens, Thousand Oaks
Chapter Board Meeting, 10:15 am

Please Note: Event dates, times and locations are subject to change. Please check the chapter website: cai-channelislands.org for the most current information

The Value of Having a POA/HOA Education Partner

By Dave Gulbranson, Secretary, Northshore POA

A new day has dawned in property owners association (POA) or homeowners association (HOA) education for boards and association residents. The Federal and State authorities have now elevated these association operations from the former “mom and pop” type mentality to a new expectation of informed and legally responsible type entities similar to the operations of large corporations. No longer can boards and residents ignore their responsibilities of being informed and educated. Today you must have read and understood the CC&R's, the Rules and Regulations, the Architectural Guidelines, the association's financials, the reserves (and reserve studies), the IDR/ADR guidelines and a host of other considerations. So, the question is...do you feel like resigning now as a board member?

Not so fast...many POA/HOA residents and board members participate in monthly meetings hosted by the Channel Islands Chapter of the Community Associations Institute (CAI). These meetings are designed to inform, educate, entertain and elevate all aspects of HOA responsibilities by providing instruction, experience, guidance, and legal requirements to boards and residents on how to deal with the task of operating and living in an association.

Here at Northshore POA in Westlake Village, California, the association board has committed to attend CAI meetings to further their education. Going one step beyond, the board has agreed to pay for the attendance at CAI meetings for the first ten association residents who ask to attend the luncheon meeting each month. It is our POA's hope to have residents and board members understand from the CAI program experts, the rights and responsibilities of being in a community association. The simple goal is to remove the emotional issues by implementation of professional, common sense, informed and educated responses to problems which arise in every POA/HOA. **We appreciate the support and education that CAI provides to us as community association residents. They are truly a valued partner.** 🏠

Congratulations to the Channel Islands Chapter for receiving the following achievement awards from CAI-National:

- Best Net Growth (for membership) award at 23% for a large chapter
- Best Net Retention award (for membership) at 95% for a large chapter
- Achievement Award for our Local Legislative Action Day in the Public Affairs category



*Tom Skiba,
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CEO with
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Joe Smigiel
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Villa Ventura Homeowners Association • White Oak Townhomes Owners Association
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By Gary Porter, RS, FMP, CPA
Facilities Advisors International



What is the correct amount of funding for reserves? Why doesn't the board try to be 110% funded?

ANSWER – There is no correct amount of funding, as each association is unique, and it is generally not a good idea to fund at any level in excess of 100%.

Some questions about reserves arise repeatedly because (1) board members and managers keep changing, (2) some people don't like the answers they receive, (3) the answers are influenced by personal opinion, and (4) there really aren't any "right" answers to the questions.

Funding goals are different for every association, and are influenced by past funding decisions made. Funding goals range from very low to very high, with most associations falling somewhere in the middle.

1) The low-end goal is usually expressed as having just enough money to take care of projected future expenses but nothing in excess of that amount, often referred to as a baseline funding goal. The positive aspects of this goal are that it keeps assessment levels low and there is no idle retained in association bank accounts; the members get to keep that money in their own accounts.

The negative aspects of the baseline funding goal are that it raises the risk of special assessments and that current owners are viewed as not paying their fair share, because they are using resources and not paying for them. They are "kicking the can down the road" to future owners. The risk is that any mistake in assumptions when using a baseline goal can result in special assessments.

2) The high-end goal is usually expressed as being 100% funded. The positive aspects of a 100% funding goal are that the association USUALLY has enough money to meet future expenditures, and that current owners are perceived as paying their "fair share" of reserves, because they are contributing amounts equal to what they are "using up" in "wear and tear" of components.

The negative aspects of 100% funding are that assessments are higher, and the association ends up sitting on large amounts of idle cash for long periods of time.

3) The mid-range goal falls anywhere between the base line and 100% funding goals and is usually referred to as a "threshold" level of funding. The majority of funding plans fall into this category where the goal is to have enough money to meet all projected future expenditures, plus have a "cushion" to cover any changes in estimates, the kind that might otherwise cause a special assessment.

Statutory requirements are set forth in the California Davis-Stirling Common Interest Development Act. Civil code section 5600 (a) states "the association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this act." This has been interpreted by some to mean that ANY of the three funding goals described above may meet the statutory requirement. You decide.

Section 5600 (b) states "An association shall not impose or collect an assessment or fee that exceeds the amount necessary to defray the costs for which it is levied." This is generally interpreted to mean that an association CANNOT assess more than a 100% funding goal.

Percent funded

Percent funded is a crude measure of reserve fund status that isn't objective because of the different calculation methods used by various reserve providers. I can demonstrate 48 different variations of this calculation, and we have observed differences of as much as 17% depending on the calculation method used. Percent funded, as presently used by many reserve providers, is not reliable.

An example of percent funded is that, given a component with a cost of \$10,000 and a useful life of 10 years, the association should set aside \$1,000 annually for those 10 years so that it accumulates the full \$10,000 replacement cost at the end of ten years. At the end of year six, it should have \$6,000 "reserved" in order to be 100% funded.


Because each association is unique, we have seen associations only 30% funded that do not require a special assessment, but one association 87% funded that required a special assessment. It all depends on cash flow and "peak expenditure events."

When can an association dip into their reserve fund and is it ever a good idea?

ANSWER – There is generally NO time that an association should ever “dip into their reserve fund.”

Section 5510 (b) of the Davis-Stirling Act states “The board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components that the association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established.”

Section 5515 states that “the board may authorize the temporary transfer of moneys from a reserve fund to the association’s general operating fund to meet short-term cashflow requirements or other expenses, if the board has provided notice of the intent to consider the transfer in a board meeting notice provided pursuant to Section 4920.” The board must disclose the reasons the transfer is needed and issue a written finding, recorded in the board’s minutes, explaining the reasons that the transfer is needed, and describing when and how the moneys will be repaid

to the reserve fund. Further, the transferred funds must be restored to the reserve fund within one year of the date of the initial transfer, unless the board gives notice for considering a transfer and makes a finding supported by documentation that a temporary delay would be in the best interests of the common interest development to temporarily delay the restoration. The final requirement is that the board must exercise prudent fiscal management in maintaining the integrity of the reserve account, and if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits stated above. 

Gary Porter, RS, FMP, CPA of Facilities Advisors International has been preparing reserve studies since 1982. His company provides reserve studies nationwide from 9 offices and has performed thousands of reserve studies. As a Reserve Specialist (RS), Facilities Management Professional (FMP), Certified Public Accountant (CPA), and valuations expert recognized by California courts, Mr. Porter is the only reserve provider with credentials in all three of the disciplines that comprise the reserve study process – facilities management, pricing, and financial modeling

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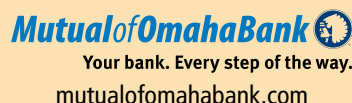
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Schedule of Events

August 9

Dinner Program

Los Robles Greens
Thousand Oaks

August 16

Managers' Program

The Courtyard Marriott
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August 28

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