



BARKER · MARTIN

# Issues Facing Older Associations

When Caulk, Paint & Patches No Longer Work

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# The Problem

- 5 million condos built 30-40 years ago
- Many failed to properly maintain and reserve for major rehab
- Exterior cladding, plumbing, electrical, mechanical
- In addition to building condition, insurance is at risk
- Recent economic downturn exacerbated the issue



# Why Now?

- Economy started to recover—owners on better financial footing
- Construction costs remain low
- Insurance forcing the issue
- Bank loans more viable
- Delay results in higher costs



# Recommendations

1. Assemble team of professionals
2. Rely upon the team
3. Do not over analyze or “paralysis by analysis”
4. Formulate the plan and stick to it
5. Be transparent and communicate often
6. Involve homeowners—to a degree



# Legal Duties

- Board has duty to preserve the assets of the corporation
- Board has duty to disclose known defects and costs
- Board has duty to disclose pending special assessment
- Budget process?



# Potential Pitfalls

- Disclosures
- Authority
  - Special assessment
  - Expending funds for repairs
  - Pledge future assessments
- Selecting designers and contractors
- Owner's rep?



# Summary

- Identify and acknowledge a problem (9 steps of grieving)
- Assemble a solid team
- Work with the team and involve homeowners
- Communicate, communicate, communicate

# In\$urance Implication\$ of Aging Building\$



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# Who does this affect?

- Insurance Companies are looking for updates to aging buildings
  - Buildings over 20 years old should be effectively modernized in terms of heating, plumbing, wiring and roofing.



# Why?

- **Aging building components increase risk of loss**
  - **Electrical & Heat Systems –**
    - Aging wiring can cause fire, electrocution, and even death.
  - **Plumbing –**
    - Aging plumbing can result in failed/burst pipes which leads to costly water damage claims.
  - **Roofs –**
    - A critical factor in life expectancy is proper ventilation. Without it, heat & moisture can build up and cause rot, shingles to buckle and insulation to lose its effectiveness.



# Where do we start?

- Conduct a risk assessment to identify & analyze the association exposures
- Develop a maintenance plan
- Fund reserve account for future repairs



# And If We Don't?

- Significant Premium Increases
- Increased Deductibles/Per Unit Deductibles
- Insurers Declining to Quote or Renew Coverage



# Community Association Banking

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## ADVANTAGES OF BORROWING:

- Downward slide of property values slowed or eliminated.
- Needed repairs/improvements completed quickly.
- Reduced financial impact on homeowners



## Disadvantages of Borrowing

- May increase monthly assessments
- Interest costs incurred may be high.

## How is the Loan Secured?



# Types of Loans Available

- Repair/Replacement
- Improvement
- Construction Defect
- Unit/ Land Purchase
- Equipment Financing

# General Loan Parameters

Terms

Fees

Rates

Penalties

Structure

Rate

## What does the lender look for to approve loan?

**Size** of Community

Cash flow

Reserve Study

Delinquencies

Delinquency Policies

Financial Documents

Stability

Managed

Cooperation

# Common Questions

- Does the bank put liens on individual units?
- Do board members sign the note as individuals or as officers of the corporation?
- Do the homeowners make their portion of the loan payment directly to the bank?
- Does the bank want association reserve and operating accounts?

# Common Questions Continued

- Is it possible for only some owners to pay over time with others selecting to pay a one-time assessment?
- If the payment were defaulted, would a lien be placed against the property of all owners or against only those who had elected to pay over time?
- Is there any tax advantage to the HOA?