CAI-GLAC

CMCA REVIEW

Key Terms & Vocabulary Resource

A

Abstention

Is to not cast a vote. Board members should abstain from voting only for clearly stated reasons such as a conflict of interest or ignorance of the matter at hand.

Acceleration

The collection of all assessments due through the end of the fiscal year. Acceleration is a technique used to collect assessments from habitually delinquent owners.

Accrual basis of accounting

Records revenue when it is earned and expenses when they are incurred. It provides an accurate picture of the association's financial condition. GAAP (Generally Accepted Accounting Principles) requires the use of accrual accounting.

Action item list

A list of actions to be taken before the next board of directors meeting as a result of decisions made at the current one or between meetings. An action item list contains the decisions to be implemented together with the names of those assigned implementation responsibility. Excel, Google Docs and Microsoft Outlook Tasks may be useful programs for helping you compile your action item list.

Actual cash value (ACV)

ACV is the depreciated value of an item, commonly used in property insurance coverage.

Ad hoc committee

This committee's purpose is to deal with a one-time issue and make recommendations to the board within a specific time frame. The board should use a resolution to establish an ad hoc committee and clearly state the charge and expected outcome to the committee. Ad hoc committees may be formed to review parking regulations, develop investment guidelines, or to renovate a lobby, for example.

Advertising injury

Advertising injury provisions in commercial general liability insurance (CGL) include language providing coverage to the community association with respect to damages resulting in "misappropriation of advertising ideas or style of doing business" or "infringement of copyright, slogan, or title." Community associations with newsletters, directories, and websites that contain advertising and use online, magazine or newspaper articles without reprint permission have this exposure.

Agenda

An agenda is more than an announcement of the order of business for a meeting. It is a meeting management tool. Meeting agendas follow a standard format, largely based on parliamentary procedure.

Aggregate amount

The total amount that the insurer will pay out under an insurance policy. This is a common feature of liability insurance policy.

Agreed amount endorsement

Provides for an agreed upon limit of property insurance. An "agreed amount" endorsement can also suspend the coinsurance clause. Coinsurance is a standard element in most property policies that obligates the insured to maintain a certain amount of property insurance on the entire property or per structure, based on a stated percentage, usually 80% - 90%. If the insured does not maintain this percentage, the insured will not be reimbursed for the full loss of the property.

Alternative dispute resolution (ADR)

An effective way to resolve alleged violations. It involves submitting the alleged violation to a disinterested third party who helps the parties reach an amicable solution. This person is not a judge or an expert in community association law, but can assist in the resolution of the alleged violation.

Appeal

An appeal is a request for a review of a case by a higher authority—if permitted by the governing documents, resolution or state statute. For example—if the hearing panel is a committee, the board of directors acts as the higher authority. If the board of directors is the hearing panel, the alleged rule violator must appeal to an authority outside the community association—for example, alternative dispute resolution.

Arbitration

A process in which a third party—called the arbitrator—renders a decision as to the respective liabilities of all parties. The object is not to reach a settlement; instead the arbitrator ultimately makes a ruling. It is an adversarial process that results in the same "win-lose" or "lose-lose" that you would see in litigation. Arbitration can be binding or non-binding. A binding arbitration typically cannot be appealed. Once the decision is rendered, unless you can prove fraud, the decision will be forever binding. A non-binding arbitration is advisory in nature. The decision that the arbitrator makes does not have to be followed. In that respect, it is like getting an opinion of your case from a neutral party, which could result in a fair settlement figure.

Architectural guideline

A rule that applies to the appearance or exterior of a lot, home, or unit. Community associations frequently develop architectural guidelines that address fencing, decks and patios, landscaping, doors and windows, color of exterior surfaces, and location of improvements upon lots, for example.

Articles of incorporation

Document that brings a corporation into existence. The document also defines its basic purposes and powers and indicates whether stock will be issued. The articles must be filed with a state in order to incorporate. Among the things it typically must include are the name and address of the corporation, its general purpose and the number and type of shares of stock to be issued.

Assessment

The owner's financial obligation to the community association during a given period of time—usually one year. Also commonly known as a maintenance fee. It covers the owner's share of the common expense (known as "common expense liabilities" in some states). An annual assessment may be paid on a monthly, quarterly, or annual basis, or however the governing documents dictate. Most of a community's revenue will come from owner assessments.

Assessments receivable insurance

This insurance actually has a certain limited value. It applies to situations in which a covered loss happens to the property (for example, a fire destroys a unit) and the community association is unable to collect assessments from the owner. Housing cooperatives can protect their assessments through "Loss of Rents" coverage, a type of business income.

Assets

Assets include anything owned that has value. Unlike commercial businesses, however, the actual land and buildings of the community association are not generally shown as an asset, although the association may include assets that can be sold without an owner vote. For cash basis reports, cash usually is the only asset.

Assignability provision

A contract provision stating that neither party may assign its obligations under the contract to any other person without the express written consent of the other party. The contract should specifically state that the contractor cannot use subcontractors without the association's permission.

Association-employed manager

An individual who is directly employed by the association to manage the community's operations. The role of the manager is to: 1) Provide information, training, and leadership on community association operations to the board, committees, and the community at large, 2) Foster a sense of community awareness and spirit within the residents, 3) Develop a body of leadership through the committee structure , and 4) Provide the necessary administrative tools to the board to enable it to make wise, informed decisions on both short-term and long-term actions and goals.

Audit

An examination of the accounting records and procedures of an organization by a certified public accountant (CPA) for the purpose of verifying the accuracy and completeness of financial records. An annual audit may be required by your community association's governing documents and/or your state's statutes. External verification of the accuracy and completeness of your community's financial records is a sound business practice.

B

Bad debt write-off

When a community association determines that a debt cannot be collected from an owner after a reasonable effort has been made, it should write off the debt. A bad debt write-off consists of recording an uncollectible debt as an expense that the association must absorb. This usually requires a resolution of the board.

Balance sheet

A summary (or snapshot) of the financial condition of the community association at a specific point in time. It provides information as to how things are on a certain date. A balance sheet summarizes what your community association owns, what your community association owes, and the "net worth" of the association. It is called a balance sheet because what the community association owns (assets) and what it owes to others (liabilities and members equity) must balance out. A balance sheet typically is prepared on a monthly basis to allow the board of directors and manager to carefully monitor the association's finances.

Ballot

A written means of voting when secrecy is desired. Ballots may be used for election of new board members and to approve a special assessment, for example.

Baseline funding

Establishing a reserve funding goal of keeping the reserve cash balance above zero (never purposefully running out of money or having special assessments). This is the most aggressive methodology, characterized by lower (typically) reserve contributions and reserve balances. This funding plan is also the riskiest, with a greater potential for special assessments and/or bank loans when things do not go according to plan.

Bid request

Alternative term for invitation to bid or request for proposal (RFP). The bid request or RFP is an announcement that an organization is interested in receiving proposals for a particular project.

Bid specifications

Detailed instructions about the products or services requested in the RFP packet. All contract terms should be included in the bid request. This will help the association avoid a situation where the successful contract bidder receives a written contract in which terms may not be acceptable to the contractor.

Board liaison system

Directors are assigned to certain committees to observe and report back to the board on activities and committee dynamics. Associations that use the board liaison system occasionally have directors that need help distinguishing their observation role from their role as a committee chairperson. The committee chairperson runs the committee while the director acts as a non-voting advisor and observer. Having a volunteer other than a board member chair a committee provides that volunteer with an opportunity to learn or improve on leadership skills that will enable him or her to later serve well on the board of directors.

Bodily injury (BI)

An insurance term indicating some type of injury to a person. For example, a slip-and-fall on a crumbling sidewalk could cause bodily injury. Commercial general liability insurance (CGL) covers against bodily injury.

Bond

Bonds are an investment option for community associations seeking to generate additional revenue over time. Bonds can yield more or less than their stated rate of interest. Because the prices at which bonds are bought and sold fluctuate in response to current interest rates, the community association may pay more than the face value of a bond if its stated rate of interest is attractive to buyers.

Budget

An annual financial plan for an organization. A budget provides an estimate of a community's revenue and expenses for a specified period of time. It is the first step in managing your community's financial operations. A budget establishes what services and programs the community will provide, when they will be done, and how they will be done. In other words, a budget reflects the board's policy decisions about what will be accomplished and what will not be accomplished during the budget period.

Building ordinance insurance

Type of insurance coverage available by endorsement to a standard commercial property policy to insure against loss caused by enforcement of ordinances or laws regulating construction and repair of damaged buildings. This protection has three components: contingent liability, demolition, and increased cost of construction.

Business ethics

Knowing what is right or wrong in the workplace and doing what is right. Business ethics applies to the delivery of products or services, and to our relationships with customers, employers, vendors, and colleagues.

Business income insurance

This insurance covers the loss of certain types of business income. It can be used to cover rental income when the community association owns and rents out a unit. It can be used to cover the loss of income if an income-producing clubhouse or vending machines should they be destroyed by a covered loss in the commercial package policy (CPP).

Business judgment rule

Standard to which directors must conform while conducting a community association's affairs. That is, if a board has exercised reasonable due diligence in making a decision, the court will generally not consider the board negligent in its fiduciary duty. Nor will the court substitute its judgment for that of the board. However, the board must demonstrate how it reached a decision with good faith, loyalty and due care. It is up to the court to decide if the board has exercised reasonable business judgment.

Bylaws

Bylaws are formally adopted regulations for the administration and management of a community association. Sometimes bylaws are developed as part of the declaration although usually, they are a separate document. While bylaws should be included in the original set of governing documents prepared by the developer's attorney, they are sometimes overlooked and must be created and adopted by the board after control of the association is turned over to the homeowners. Bylaws address such topics as: Requirements for membership in the community association; Requirements for membership meetings; Voting rights of member owners;

Procedures for electing the board of directors; qualification of directors; Procedures for the board of directors to elect officers; General powers and duties of the board; Provision for indemnification of officers and directors.

C

Cash basis of accounting

Records revenue when it is collected and expenses when they are paid (similar to a checkbook). It is a very simple method to use and is perceived as easy to understand. However, it often does not provide a true picture of the association's financial condition.

CC&Rs (Covenants, Conditions, and Restrictions)

Sometimes used interchangeably with master deed and declaration or declaration of covenants, conditions, and restrictions, the CC&Rs is a governing document used primarily for planned communities. More than any other single document, the CC&Rs establishes the planned community because it spells out the essential elements of ownership. The planned community comes into existence when the CC&Rs is filed in the office of the local recorder of deeds or registrar of titles. The CC&Rs generally: 1) Defines the portions of the development owned by the individual owners and those owned by the community association—if any. 2) Creates interlocking relationships binding all the owners to one another and to the community. association for the purposes of maintaining, governing, and funding the development. 3) Establish standards, restrictions, and obligations in areas ranging from architectural control to prohibitions on various activities in order to promote harmonious living. 4) Creates the administrative framework for the operation and management of the community association—although many of the specific administrative details are spelled out in the bylaws. 5) Provides the mechanism for financial support of the community association through assessments. 6) Provides for a transition of control of the community association from the developer to the owners.

Cease and desist letter

One of the basic steps in a due process procedure for handling alleged rule violations. A "cease and desist" letter should be sent by certified mail to the owner and contain: 1) Specific description of the alleged violation. 2) The action required to resolve the alleged violation. 3) A specific time within which the alleged violation must be corrected. 4) The penalty (sanction) which may be imposed after a hearing if the alleged violation is not corrected within the stated time (specified by state statute, your governing documents or board resolution).

Certificate of deposit (CD)

CDs are an investment option for community associations seeking to generate additional revenue over time. When a CD is reinvested together with its accumulated interest, the ultimate yield will be higher than the stated rate of interest.

Certificate of insurance

A document issued by an insurance company/broker that is used to verify the existence of insurance coverage under specific conditions granted to listed individuals. More specifically, the document lists the effective date of the policy, the type of insurance coverage purchased, and the types and dollar amount of applicable liability.

Chapter 11 bankruptcy

Chapter 11 bankruptcy is called a re-organization because it is designed to allow for an orderly payment to creditors while enabling a corporation to continue to operate. Chapter 11 involves the development of a plan to pay off debts in a timely manner. Once a judge approves a plan as "fair and equitable," it is binding and discharges all debts not provided for under the plan. Creditors usually eventually receive more of what they are owed under a Chapter 11 than a Chapter 7. However, they don't necessarily receive all they are owed.

Chapter 13 bankruptcy

Chapter 13 is used to reorganize personal or non-corporate debt. A plan is submitted to a judge for paying off all or some of the debt over a specified period of time while waiving other debt that may have been incurred prior to filing for bankruptcy. Chapter 13 establishes a payment plan detailing the amount that must be paid and the time period for repaying it. Creditors do not have to agree to the plan. As with Chapter 11, a creditor has more of a chance of eventually being repaid under Chapter 13 than Chapter 7.

Chapter 7 bankruptcy

Chapter 7 is called straight bankruptcy or liquidation. It involves the: 1) Prompt conversion of all the individual's or corporation's non-exempt property to cash, and 2) Payment of creditors to the extent possible. The law establishes the order in which creditors are paid, and the percentage of debt that is paid. Where the community association is in the order of creditors will affect whether it is paid what is owed and, if so, how much. Typically, an association receives nothing or a very small percentage of the amount it is owed when an owner files Chapter 7.

Chart of accounts

An organized list of the titles, descriptions, and assigned numbers of all accounts in an organization's general ledger. The assigned number helps locate the account, and the title describes the purpose of the account. Management companies should retain a master list of general ledger account numbers to make it easy for managers and accounting staff to note the appropriate account number. For example, the general ledger account number for grounds maintenance should be the same for every community.

Claims made coverage

Whatever insurance company is insuring the association when the claim is made will cover the loss even though the wrongful act may have occurred when another carrier was insuring the association. Directors and officers liability insurance often incorporates "claims made" coverage.

Code of ethics for management

CAI has developed a code of ethics for management that applies to manager members and member companies who have achieved specific credentials (CMCA, AMS, LSM, PCAM, AAMC). The code sets forth the general and technical standards for integrity and objectivity, professional courtesy, conflict of interest, use of client funds, and limitations of practice. All community managers should follow this policy to ensure their duties to the client are met. CAI has also adopted codes of ethics for Reserve Specialists (RS), Community Insurance and Risk Management Specialists (CIRMS), and association board members.

Coinsurance

A standard element in most property policies that obligates the insured to maintain a certain amount of property insurance on the entire property or per structure, based on a stated percentage, usually 80% - 90%. If the insured does not maintain this percentage, the insured will not be reimbursed for the full loss of the property.

Commercial general liability insurance (CGL)

Insurance coverage against wrongful acts that lead to property damage, bodily injury, personal injury, or advertising injury claims.. For a community association to be held liable, a civil legal claim must be brought against it because of a legal wrong it is alleged to have directly committed or for which it is supposedly responsible. Wrongful acts that do not lead to property damage, bodily injury, personal injury, or advertising injury claims could be covered under Directors and Officers liability insurance.

Commercial reporting method

Most community associations use the commercial reporting method for their interim financial reports. The commercial method combines operating and reserve activities in the same column. This differs from the fund reporting method, which uses separate columns for operating, reserve, and any special funds.

Commercial umbrella insurance

This insurance extends the amount of coverage beyond the limits of scheduled underlying liability policies such as commercial general liability, hired and non-owned auto, employers liability, and perhaps directors and officers.

Committee report

Written report from a board appointed committee highlighting recommendations for board decision. Supporting research should be included in the report. Committees need to clearly state the action(s) they are asking the board to take. Committee reports submitted with the board packet will preclude the necessity for oral reports at the board meeting.

Common declarations

Common declarations are part of the commercial package policy (CPP), which combines property and liability insurance. This section of the policy is like the title page of a book. It typically includes all of the basic information that defines the policy, such as the name of the insured, the amount of coverage, description and location of the item or items being covered, and the period of coverage.

Common policy conditions

These are the basic provisions that apply to all insurance coverages in the package. For example, when to file proof of a loss or what happens when a premium is not paid.

Community association

A legal entity in which the owners enjoy the protection, enhancement, maintenance and preservation of their homes and property. They have three characteristics: 1) Membership in the community association is mandatory and automatic for all owners. This is unlike other associations whose membership is voluntary. 2) Certain association governing documents bind the owner and the association to each other through mandated actions. These "mutually binding documents" also create the automatic lien which provides for severe consequences if the owner fails to pay his or her assessments and other charges. 3) Mandatory lien-based assessments (maintenance fees) are levied on each owner in order to operate and maintain the community. The primary purpose of a community association is to provide for the community, business, and governance aspects of the association. This is achieved by administering, maintaining, and enhancing a residential real estate development, and through the establishment of a system of property rights, binding covenants and restrictions, and rules and regulations.

Community management

There are three types of community management. 1) Volunteer or self-management. The community association is managed by volunteer members of the board and association. 2) Association-employed manager. An individual is directly employed by the association. 3) Management company. The manager is a representative of a firm contracted by the association. The role of a professional community association manager is to: 1) Provide information, training, and leadership on community association operations to the board, committees, and the community at large. 2) Foster a sense of community awareness and spirit within the residents. 3) Develop a body of leadership through the committee structure. 4) Provide the necessary administrative tools to the board to enable it to make wise, informed decisions on both short-term and long-term actions and goals. In fulfilling the terms of his or her management contract and employment agreement, the professional community association manager is charged with assisting the board of directors' decision-making process by means of providing information-gathering and fact-finding support; implementing the decisions of the board; and administering the services, programs, and operations of the community association within the policies and guidelines set by the board.

Comparison to budget

Comparing the community's actual revenue and expenses with its planned or budgeted revenue and expenses. This is more meaningful when the budgeted amounts are shown in the months the revenue or expense occur, rather than simply dividing the total expense by 12 and showing 1/12 each month. For example, snow removal would show in winter months, pool lifeguard in summer months, etc. When you compare actual figures with budgeted figures: 1) Identify all significant differences or variances between actual and planned figures. 2) Determine the reasons for the differences and notify the board. 3) Advise the board of any necessary corrective action it needs to take as soon as possible. On accrual basis reports, the budgeted assessment revenue should equal the actual assessment revenue

Compilation

A presentation of financial statements by a certified public accountant (CPA) without the assurance that the information conforms to Generally Accepted Accounting Principles (GAAP). When a community association hires a CPA to perform a compilation, the CPA cannot make any claims about the accuracy and completeness of the financial statements. This differs from an audit and review, which provide a higher level of detail about the association's financial condition.

Condominium

A type of community association in which: 1) The owner owns the unit, and 2) The owner has an undivided interest in the common areas. Each owner owns a percentage of the common elements—which consist of everything except the living units, for example, a pool or lobby. The community association itself owns no real estate as an association.

Conflict of interest

A situation in which an individual's duty to one leads to the disregard of a duty to another. Be sure to take the following steps to disclose a conflict of interest. 1) Make full and complete written disclosure of all relevant facts to your board prior to any dealings which may be, or appear to be, a conflict of interest for you. 2) Obtain specific authorization from the board in writing before proceeding with any action which may present a conflict of interest. This authorization should also be recorded in the minutes of a board meeting. 3) Even after full disclosure, avoid any actions which are—or may be perceived as—a conflict of interest. Individual owners may not be aware of all the facts and may view your actions as improper.

Contingent liability

Covers the value of any undamaged portion of a building which may have to be replaced because it is impossible to tie in the remaining section to the rebuilt section because of changes in building codes over the years. Contingent liability is a component of ordinance/law insurance, which brings construction to current code so a building can be eligible for an occupancy permit.

Contract

A contract is: 1) An agreement between two or more parties. 2) Enforceable by law. 3) By which each party promises to do, or not to do, something. Whenever a community association enters into a contract, it is binding itself both legally and financially. Therefore, as a community association manager, you must assist your community to enter contracts as carefully as possible—seeking legal or technical advice whenever necessary.

Contractual transfers

This involves entering into a contract that will, among other things, transfer the community association's legal responsibility for any loss. An example would be contracting for landscape services, instead of using community association employees, and incorporating clauses such as a hold harmless provision in the contract, or the association contracts with a community association management company. Contractual transfers are a type of risk control activity.

Cooperative

A type of community association in which: 1) The owner owns stock or membership in the cooperative corporation. 2) The owner has a lease or occupancy agreement for the unit. 3) The association (corporation) owns the building and the units. For most cooperatives, the community association owns all of the real estate as a not-for profit corporation. However, there are a few cooperatives set up as for-profit entities. An owner in a cooperative has two legal relationships—one as someone who shares in ownership of the corporation and one as someone who holds a lease for a living unit. Another name for a cooperative is a stock cooperative.

Covered cause of loss

An insurance terms that refers to the losses (perils) that are covered by an insurance policy.

CPA (certified public accountant)

Community association governing documents and state statutes may require that an independent certified public accountant be involved in preparing a community's annual reports (audit, review, or compilation). A CPA is certified by a state examining board as having fulfilled the requirements of state law. These requirements usually include a certain amount of experience, passing the CPA exam, and quality or peer review. Community association year-end reports prepared by CPAs must meet standards for both the community association profession and the accounting profession. CPAs must meet standards as set forth by the Financial Accounting Standards Board (FASB) and by the American Institute of CPAs. There is no industry requirement that they meet any other standards. For this reason, it is important to select a CPA who is familiar with community associations.

Cross liability

Cross liability allows an owner to bring a claim against his or her community association. This coverage is in the owner's interest. It is standard for owners to be insured in liability insurance for condominiums and cooperatives, while planned communities must see to it that this concept is present in their liability coverage.

D

Debate

Is the term used in parliamentary procedure for discussing a motion or issue. Parliamentary procedure calls for the following rules to keep the discussion focused and to avoid disagreements turning personal: Direct all remarks to the presiding officer. Stop speaking when the presiding officer finds it necessary to speak. Confine remarks to the issue being discussed. Avoid using members' names when you refer to their positions. Avoid attacking members' motives. The presiding officer should warn a member about a serious offense the first time it happens (For example—personal attacks, use of obscene language, etc.).

Declaration

Sometimes used interchangeably with master deed and CC&Rs or declaration of covenants, conditions, and restrictions, the declaration is a governing document used primarily for planned communities. More than any other single document, the declaration establishes the planned community because it spells out the essential elements of ownership. The planned community comes into existence when the declaration is filed in the office of the local recorder of deeds or registrar of titles. The declaration generally: 1) Defines the portions of the development owned by the individual owners and those owned by the community association—if any. 2) Creates interlocking relationships binding all the owners to one another and to the community association for the purposes of maintaining, governing, and funding the development. 3) Establishes standards, restrictions, and obligations in areas ranging from architectural control to prohibitions on various activities in order to promote harmonious living. 4) Creates the administrative framework for the operation and management of the community association—although many of the specific administrative details are spelled out in the bylaws. 5) Provides the mechanism for financial support of the community association through assessments. 6) Provides for a transition of control of the community association from the developer to the owners.

Deductible

The amount that the association or homeowner must pay on each loss. Deductibles can be split between covered causes of loss so that water damage may carry a large deductible, but other perils may carry smaller deductibles. Note: Do not raise a deductible level without first going through the risk management decision-making process.

Default

Occurs when a debtor has not met his or her legal obligations according to the debt contract, e.g., has not made a scheduled payment, or has violated a loan covenant (condition) of the debt contract. A default is the failure to pay back a loan.

Default hearing

A default hearing is one held when the alleged violator fails to appear. Holding a default hearing is part of the due process procedure for handling alleged rule violations.

Deficit in members' equity

When a community association's liabilities exceed its assets. It occurs when a community association has incurred expenses that it cannot pay until it collects future assessments from owners or sells assets. A deficit in members' equity is recorded on the balance sheet. Occasional small decreases in members' equity are common during a normal fiscal year due to such things as seasonal fluctuations in expenses. A continued or increasing decrease, however, is an indication of an inadequate level of assessments or overspending, and a signal for board action.

Demolition

One of three components of Ordinance/Law insurance. Covers the cost of demolishing any undamaged portion of a building. The basic property insurance pays for demolishing the damaged portion of the building. The other two components of ordinance/law insurance are contingent liability and increased cost of construction.

Direct writer system of insurance

Comprised of employees of a single insurance company who only place the insurance of that company.

Directors & Officers (D&O) liability insurance

This insurance is designed to pay for damages arising from wrongful acts that do not lead to property damage, bodily injury, advertising injury, or personal injury. Examples of "wrongful acts" include the failure to file taxes, collect assessments, maintain replacement reserves, or deliver core services to its residents (member/owners and tenants). For instance, the board or the community association may be at fault for not fixing hand rails (someone falls and is hurt), but the result of that wrongful behavior led to bodily injury (BI), which is insured in the CGL and not in the D&O policy. On the other hand, D&O will defend the board and may pay for any settlements or judgment if an owner sued the association for not uniformly enforcing the governing documents. An insured should specifically include the community association, committee members and employees, as well as board directors and officers, whether they are elected or appointed and whether they are past or current.

Discretionary budget line items

These are items based on owner, board, and committee desires. They are items people would like to have—given their values, lifestyle, and preferred level of service, e.g., social and recreational expenses, picnic areas, etc.

Due process procedure

A formal rules-enforcement process designed to protect the rights of all parties involved. There are several benefits to using a due process procedure to enforce community association rules: 1) Alleged violations all handled the same way. 2) Courts recognize and value the procedure. 3) Majority of violations can be resolved. 4) Non-threatening environment furthers voluntary compliance. 5) Provides opportunity to explore alternative means of resolution.

Duty of care

In the management of a community association, both the board of directors and the community manager have a duty to the membership. This is referred to as the duty of care and duty of loyalty. Duty of care requires the party acting on behalf of another to exercise the skill and care that a reasonable person would exercise under similar circumstances. For example, if an unprepared manager makes a recommendation to the board, that would be failing to exercise reasonable care. Failing to fulfill the duty of care can be considered negligence.

Duty of loyalty

Duty of loyalty is also known as fiduciary duty. A fiduciary is any party that administers the assets of another. This duty requires the fiduciary to act in the other party's interests when administering its assets. The fiduciary must avoid serving its own interests or those of third parties at the expense of the asset owner's interests, which in this case, would be the community association. Failure to maintain a duty of loyalty is unethical and considered a conflict of interest. For example, if you select a lawncare provider because they promise you a referral bonus, which you plan to keep for yourself, that is considered serving your own interests instead of the interests of the community, and therefore is a conflict of interest.

E

Electronic data processing (EDP) insurance

This insurance may be needed for computer equipment, networks, websites, security systems, protection from hackers, and similar information technology exposures. Coverages vary so much that the community association needs to carefully evaluate its exposures and the ability of the EDP to meet those potential exposures to loss. EDP is one of the common insurance coverages for property exposures to loss.

Emergency services maintenance

This is the ability to respond to unpredictable maintenance problems (for example—sewer backups, elevator failures, roof leaks, frozen pipes, etc.). The key to a successful response to an emergency is to anticipate the different possibilities—and to develop a plan for responding to each one. Especially important is the development of a disaster plan to address possible natural and terrorist catastrophes. The other four types of maintenance include routine maintenance, preventative maintenance, requested maintenance, and reserve replacement.

Employee handbook

A written set of personnel policies and procedures that define the relationship between the association and its employees and explain the responsibilities of both parties. Depending upon the state in which you work, the content of an employee handbook can have legal implications.

Employers' Liability Insurance

A common insurance coverage and endorsement for personnel exposures to loss—in this case, loss of services due to injuries received while working on behalf of the community association. Commercial insurers include employers' liability insurance with workers' compensation protection. Employers' liability provides protection for claims made by injured employees (and their spouses) for certain types of liability that is excluded in the commercial general liability insurance (CGL). Every community association should consider obtaining workers' compensation and employers' liability insurance.

Employment agreement

A contract that formalizes the relationship between the association and the association-employed manager. The agreement should contain all of the basic components of a legal contract and: 1) Specify the manager's authority and duties. 2) Establish a clear chain of command (For example—after a board makes a decision, the president must direct the manager to implement the decision before he or she can do so.) 3) Provide for the manager's compensation and termination. 4) Be signed by authorized representatives of both parties—the community association and the "manager"

Employment at will

A statement that states that the association can dismiss an employee without cause at any time. This is commonly found in the personnel manual or employment agreement. The enforceability of an employment at will statement varies by state.

Endorsements

Endorsements expand, contract or clarify coverage.

Engagement letter

When your community hires a certified public accountant (CPA), s/he will send the association an engagement letter, which is a legally-binding contract. This type of letter describes the: 1) Nature of the work to be done. 2) Type of report to be prepared. 3) Fee for services. 4) Time frame for the assignment. 5) Accountant's disclaimers—statements about what the accountant's services do not include.

Entire obligation provision

Standard contract provision stating that the written, signed contract constitutes the entire agreement between the parties. Except for any documents that are expressly referred to in the contract, neither party can claim that any other correspondence, communication, or documents contain obligations, promises, or requirements that are part of the binding contract between the parties.

Equal Employment Opportunity Commission (EEOC)

The federal government agency that prohibits discrimination against otherwise qualified people in hiring, promotion, dismissal, compensation, and working conditions based on specific personal characteristics including race and ethnicity, color, national origin, age, gender, religion, pregnancy, and disability.

Ethics

Ethics involves learning what is right and wrong, and then doing the right thing—but "the right thing" is not nearly as straightforward as conveyed in a great deal of business ethics literature. What is an ethical guideline today is often translated to a law, regulation or rule tomorrow.

Eviction

The process of physically removing a tenant (not an owner) from a property. This process involves the local court system and the use of an attorney. Do not consider this alternative without consulting your community's attorney. Many jurisdictions do not permit eviction as a remedy for violations.

Excess revenue over expense

Excess revenue is the amount left after deducting expenses from revenue on a statement of revenue and expense. This is also known as a net gain. A loss occurs when expenses are greater than revenue. A loss is indicated by putting the figure in parentheses. The net revenue or loss can be significantly different depending on whether a cash, accrual, or modified cash basis is used.

Executive session

There are times when a board of directors must hold a discussion or make decisions of a sensitive nature. Many states have so-called "sunshine laws" which limit the reasons why a governing board may go into a closed or executive session. Executive sessions may be held to discuss sensitive items such as litigation, contract negotiation, issues of a sensitive nature or personnel matters. Typically, there are no minutes for an executive session as the proceedings are confidential and intended for discussion only. Once the board has decided on its course of action, it should reconvene to the regular board meeting to vote so that the decision is recorded in the minutes. The discussion leading to the decision remains confidential. Some state statutes limit how executive sessions can be used and how decisions made in executive sessions should be recorded.

Expenses

Expenses are the cost of goods and services used to operate and maintain the community's property. Expenses on a cash basis statement consists of any amounts paid. Expenses on an accrual basis statement consists of any amounts incurred, whether or not paid. Expenses on a modified cash basis statement is generally reported on a cash basis. In a budget, there are three types of expenses: 1) Operating expenses: These are items which occur on a routine basis for the operation of the association. 2) Major improvement expenses or capital improvements: These consist of items that are not required for daily operations, but may be added later to enhance value— such as adding a gazebo or awnings. 3) Replacement funding: Amounts set aside for future replacement of existing major components.

Exposure avoidance

This risk control technique involves avoiding the circumstances that would expose the community association to certain type of loss. For example, to avoid problems that may result from serving alcohol in the clubhouse, the community association has a rule prohibiting the use of alcohol in the facility.

Extra demolition

Covers the value of demolishing any undamaged portion of a building.

Extra expense insurance

A common insurance coverage for income exposures to loss. There is usually a certain amount of this coverage in the Commercial Package Policy (CPP). It is useful to consider the community association's income exposure as a net exposure to loss because both lost revenue and increased operating expenses may be insurable. This insurance applies when a covered loss either increases operating expenses or diminishes the income produced by normal operations. An example would be the extra expense of a temporary office, temporary equipment, or temporary help, all of which may be needed if the community association's onsite office was destroyed by fire.

F

Facilities management

The process of operating, maintaining, repairing, and replacing common property—that is, the common elements or areas—in a community association. A community association has four major maintenance goals: 1) To meet the needs of the individual residents as they relate to the community association's responsibilities. 2) To preserve and enhance the common property. 3) To limit potential exposure to injury to residents, guests, and employees. 4) To protect property values of the homes or units through successful maintenance of the common property.

Fair Debt Collection Practices Act (FDCPA)

Federal statute designed to protect debtors from unscrupulous debt collectors and to impose a consistent and fair method to collect debts. The FDCPA gives authority to collect assessments. This may apply to your community association's collection efforts.

Fair Housing Act

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) prohibits discrimination in the sale, rental, financing, insuring and other housing related services of dwellings based on race, color, religion, or national origin. The original law was broadened in 1974 to add gender. In 1988, Congress further amended the law to protect people with disabilities (handicap) and familial status. Children under the age of 18 and women who are pregnant are also protected under familial status. The Act also includes design and construction accessibility provisions for multifamily dwellings (4 units or more) with first occupancy on or after March 13, 1991. Many states and local governments have adopted their own version of a Fair Housing Act that expands the protected classes to sexual orientation, age and sources of income, so every manager should be aware of all laws relating to discrimination in housing.

Fair Labor and Standards Act (FSLA)

Federal law that dictates standards for minimum wage and overtime pay. It affects most private and public employment. It requires employers to pay covered employees who are not otherwise exempt at least the federal minimum wage and overtime pay of one-and-one-half-times the regular rate of pay. Some states have higher basic minimum wage amounts. You should check with your human resources (HR) representative or HR attorney to ensure that you comply with all requirements.

Family and Medical Leave Act (FMLA)

Administered by the Wage and Hour Division of the Department of Labor, FMLA requires employers of 50 or more employees to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the birth or adoption of a child or for the serious illness of the employee or a spouse, child or parent.

Federal Communications Commission (FCC) Telecommunications Act of 1996

As charged by Congress, in 1996 the FCC adopted the Over-the-Air Reception Devices ("OTARD") Rule concerning restrictions on viewers' ability to view programming from direct broadcast satellites, wireless cable and television broadcast stations. It overrides a community association's deed restriction that bans satellite dishes and antennae from property that is exclusively used, controlled or owned by the resident, including tenants. The rule applies to video antennas including direct-to- home satellite dishes that are less than one meter (39.37") in diameter (or of any size in Alaska), TV antennas, and wireless cable antennas. The rule prohibits most restrictions that: 1) unreasonably delay or prevent installation, maintenance or use; 2) unreasonably increase the cost of installation, maintenance or use; or 3) make it impossible to receive an acceptable quality signal. The rule authorizes community associations to impose rules that do not affect the installation, maintenance or use of a satellite dish or antenna, such as preferred placement. It also permits community associations to prohibit satellite dishes and antenna from common areas such as exterior walls, limited common area balconies, patios and roofs and to ban installations that may affect residents' safety and for historic preservation.

Federal Deposit Insurance Corporation (FDIC)

A government agency that guarantees investors' deposits in member institutions. For example, bank deposits of up to $250,000 per investor (not account) in a single FDIC institution are insured. Among the safest investments available to all community associations are certificates of deposit under $250,000, which are FDIC insured.

Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac)

Freddie Mac is a private agency backed by the federal government that insures mortgages, paying the lender if the borrower defaults. Freddie Mac sets requirements that community associations have to meet for owners to participate in their financing or repurchase programs. Agency regulates and influences such items as the amount of insurance a community association must carry, procedures for financial operations, the procedures an association must follow to dissolve, and requirements for the upkeep of property.

Federal Housing Administration (FHA)

Federally-established secondary mortgage institution that sets requirements that community associations have to meet for owners to participate in their financing or repurchase programs. FHA is a government sponsored enterprise (GSE) that buys mortgages from lenders and in doing so requires certain types of insurance to be in place. FHA guarantees mortgages and requires certain types of insurance coverage on the unit and the community before agreeing to buy the mortgage from the lender.

Federal Insurance Contributions Act (FICA)

Federal lawrequiring employers and employees to make matching contributions to Social Security. The employer must withhold the employee's share of the tax from his or her wages or salary and pay it timely to the federal government. Big penalties await those companies that do not submit their employees' withholding within the prescribed time. The Department of Labor also clarifies the difference between an employee and a contractor. As long as the management company controls when the worker is on site, what work the worker must do and when, and provides tools to perform the work, the association must treat the worker as an employee. See www.dol.gov for additional criteria.

Federal National Mortgage Association (FNMA, or Fannie Mae)

Fannie Mae is a private agency backed by the federal government that insures mortgages, paying the lender if the borrower defaults. Fannie Mae sets requirements that community associations have to meet for owners to participate in their financing or repurchase programs. Agency regulates and influences such items as the amount of insurance a community association must carry, procedures for financial operations, the procedures an association must follow to dissolve, and requirements for the upkeep of property.

Fidelity insurance

A common insurance coverage for income exposures to loss. This insurance protects against employee dishonesty which may lead to the theft of money, securities, or property. For the community association, this coverage must insure all persons (e.g., board members, committee members, volunteers, community manager, etc.) who handle funds whether they are salaried or not. Often fidelity insurance will be combined with the Commercial Package Policy (CPP). Fidelity insurance limits are often set by government sponsored enterprise (GSE) standards. The GSEs, with appropriate controls, require three months of assessments, but best practices suggest three months of assessments plus the reserve funds. The association should have its own fidelity coverage independent of the management company's policy. The management company should also be covered under the association's policy, as well as any unpaid volunteers; these provisions should be written into the policy.

Fiduciary duty

Requires directors to act in the best interests of the community as a whole, and for the benefit of the corporation. This fiduciary duty has two components: 1) Board members are required to avoid conflicts of interest and acting out of self-interest. 2) They are also required to act as reasonable people in managing the association's affairs. Although they may delegate some of their authority to others, they cannot delegate their legal obligation to protect the asset that is the total community. It is the board that is ultimately responsible for the management of the association. The board can direct or empower the manager to take certain actions on behalf of the community association. However, the board is still responsible to the owners.

Financial report

Document that reports on the community's financial condition and activities. Financial reports have two primary purposes: 1) To provide their internal and external users with the information needed to make appropriate decisions on behalf of or regarding the community association. 2) To enable the community association board and manager to control the community's financial operations. At a minimum, interim financial reports should include: 1) a statement of revenue and expense with a comparison to budget, and 2) a balance sheet.

Accompanying information to the financial reports should include: 1) Bank statements with reconciliations. 2) Aged receivables report (amount owed by owners). 3) Open payables report (amount owed by the association).

Flood insurance

A common insurance coverage for property exposure to loss. This type of insurance is available only through the National Flood Insurance Program (NFIP), a federal insurance program, if a building is in a flood plain. It provides coverage for damage caused by flood (rising water) and mudslides to buildings and contents. Policy limits are driven by the internal requirements of the NFIP. The NFIP program is predicated on the association insuring to full insurable replacement cost or a maximum of $250,000 per unit. If a building is not in a flood plain, premiums are much more reasonable and can usually be obtained as an endorsement to the Commercial Package Policy (CPP).

Foreclosure

A legal proceeding filed in court whereby a party with a claim against an owner can claim ownership of the unit involved in order to recover the money it is owed. The unit is usually auctioned by the court's representative or the association's legal counsel and sold to the highest bidder. If a community association purchases a vacant unit that is foreclosed, it may rent it or use it to house an onsite employee.

Full funding

Setting a reserve funding goal of attaining and maintaining reserves at or near 100% funded. This is a conservative methodology, characterized by higher (typically) reserve contributions and higher reserve balances. This funding plan results in the least likelihood of special assessments and/or bank loans.

Fund balance

Another term for members equity; used with the fund method of reporting. On a community association balance sheet, fund balance equals the difference between the community association's assets and liabilities. Industry standards suggest a minimum balance of 2-5% of gross assessments with 10-15% being very good.

Fund reporting method

An accounting method of segregating resources into categories, (i.e. funds) to identify both the source of funds and the use of funds. The fund reporting method consists of preparing separate columns for operating, reserve, and any special funds. This is different from the commercial method which combines operating and reserve activities in the same column. Where significant reserve expenditures are occurring or a special assessment is in progress, consider using the fund reporting method to issue separate reports on normal operations, reserve transactions, special assessments, and for the receipt and expense of any litigation/insurance proceeds. The American Institute of Certified Public Accountants recommends the use of fund reporting for community associations—especially for year-end financial reports. Fund reporting provides a clearer picture of replacement fund activity and the relationship between normal operating activities and the replacement fund than other accounting methods.

G

Generally Accepted Accounting Principles (GAAP)

Accounting standards are called GAAP. Their purpose is to provide uniformity among financial reports from different preparers. GAAP requires the following set of year-end financial reports for a community association: Balance Sheet, Statement of Income and Expense (or Revenue and Expense), Statement of Changes in Members' Equity (or Fund Balances), Statement of Cash Flow, Notes to Financial Statements, and unaudited supplementary information on future major repairs and replacements. GAAP also requires the use of accrual accounting.

Generally Accepted Auditing Standards (GAAS)

GAAS establishes the format and wording of a certified public accountant's (CPA) opinion letter.

Governing documents

The purpose of a community association's governing documents is to provide for the legal structure and operation of the community. The documents: 1) Define the rights and obligations of both the community association and its owners. 2) Create a binding relationship between each owner and the community association. 3) Establish the mechanisms for governing and funding the community association's operations, including the establishment of the automatic lien. 4) Set forth rules and restrictions for the protection of both owners and the community, enhancement of property values, and promotion of harmonious living. The general hierarchy of authority among governing documents consists of: 1) Recorded map, plat, or plan (to show the precise location of units, lots, and/or common area). 2) Declaration, CC&Rs, master deed. 3) Proprietary lease or occupancy agreement. 4) Articles of Incorporation (if incorporated). 5) Bylaws. 6) Board resolutions.

Governing law provision

A provision that addresses the legal binding of a contract: This provision states that the law of a particular state will be applied if there are any disputes about the contract after it is signed. This is particularly useful when the community association and the contractor are based in different states.

H

Hearing

One of the steps in a due process procedure for enforcing rules. A hearing is a fact-finding session and an inquiry into the allegations and an investigation of them. A hearing should be viewed as an opportunity for both the association and the alleged violator to hear the input of the other party, not to engage in additional conflict. The hearing panel determines the facts; whether or not a rule has been violated; the penalty to be imposed, if any; and the enforcement date of the penalty, if any. The hearing panel then issues this information in the form of a decision. A hearing panel may find an alleged violator to have committed a violation or not—or decide that not enough clear evidence was submitted to allow the panel to reach a clear decision. The hearing panel should issue its written decision within the time frame mandated by state statute, the governing documents, or an administrative resolution by the board. A default hearing should be held if the alleged violator fails to appear.

Hearing notice

A written notice to an alleged violator that a hearing will be held to consider his or her alleged violation. Issuing a hearing notice is one of the steps in a due process procedure for enforcing rules. A hearing notice may contain the nature of the alleged violation, the action requested to cure the alleged violation, the time and place of a hearing, an invitation to attend the hearing and produce any statement, evidence or witnesses on his or her behalf, a statement that a sanction may be imposed, and the maximum amount of any sanction.

Hired & non-owned automobile liability insurance

A common insurance coverage for liability exposure to loss. This insurance covers legal claims arising out of the use of automobiles that are not owned by the community association, but that are used while acting on behalf of the association. Thus, injury to a third party and property damage caused by the use of automobiles belonging to board members, volunteers, employees, or management staff may be covered under certain circumstances. Damage to employee or volunteer vehicles or persons is not insured under this type of policy. The association would pay only that amount of a claim that is not covered by another policy, such as the other driver's insurance policy.

Historical trend budgeting

A method of budget preparation that begins with the assumption that existing line items are needed without justification and the budgeted amount for the coming year will be based on past trends. The amount of funds allotted to each during the current year is adjusted for expected changes in the coming year. Sources of historical information include financial reports, existing contracts, and bills from the past year. For example, general repairs to common elements will continually need to be performed. Assuming previous trends will continue, the amount for the coming year should be increased by 8%.

HO-1,-2,-3,-4,-5,-6 policies

Terminology varies with insurer, but homeowner (HO) insurance policies are usually referred to by the following numbers: HO-1, HO-2, HO-3, and HO-5 refer to policies for owner-occupied single-family homes. HO-4 is a tenant's policy. HO-6 is a policy specifically for a condominium or cooperative unit owner.

Human resources management (HRM)

HRM is the process of planning, organizing, leading, and controlling an association's human resources—its employees—in order to achieve the association's goals. HRM involves: 1) Establishing and administering HRM systems. 2) Complying with applicable federal, state, and local laws and regulations. 3) Recruiting, screening, and selecting people. 4) Training and developing people. 5) Establishing performance objectives and evaluating work performance. 6) Supervising people. 7) Dismissing people, when necessary. An effective human resources management process helps both management and employees to fulfill their basic obligations to one another.

I

Income

Also commonly referred to as revenue. Income represents the earnings of the community association. Income on a cash basis statement consists of revenues received and deposited. Income on an accrual basis statement consists of revenues earned, including amounts assessed to owners in accordance with the budget but not yet received. Generally on a modified cash basis statement, income is recorded on the accrual basis. Income consists of: 1) Owner assessments: Most income will be derived from owner assessments. 2) Interest: Interest earned from invested replacement reserves and/or excess operating cash. 3) Other income: Late payment fees, fines, and user fees.

Income exposure to loss

One of the four types of sudden, accidental and unexpected losses to which a community association is exposed. Income losses involve a reduction in income or an increase in operating expenses, or both. The other three exposures to loss are property, liability, and personnel.

Increased cost of construction

One of three components of ordinance/law insurance. Covers construction costs due to changes in the building code since original construction took place, e.g. wider door frames, installation of sprinkler systems, and code changes because of "green requirements" such as reflected roofs, complying with water saving specifications, etc. The other two components of Ordinance/Law insurance are contingent liability and demolition.

Indemnification

To indemnify and hold harmless means to exempt an individual or entity from responsibility for claims made against the organization and to reimburse or directly pay for the individual or entity for damages or expenses incurred as a result of such claims. A community association's bylaws will often contain a provision for indemnification of officers and directors—except in cases of gross negligence or willful misconduct. Indemnification is also a provision that should be included in all association contracts. A contract should expressly state that the contractor will indemnify and hold harmless or reimburse the community association for any amount the association is required to pay because a claim was made against the association as a result of the contractor's work—as well as for any legal costs associated with defending the association against any claims. The provision should be broad—covering any claims of any type by any party arising from the contractor's work. Similarly, the management contract between the association and a management company should include an indemnification and hold harmless provision. The contract should require the community association to indemnify, defend, and hold harmless the management firm for any claims against it as a result of the actions of the association or the board of directors. This provision should exempt the management firm from responsibility for claims made against the association (with certain exceptions) and to agree to reimburse the management firm for damages or expenses it incurs as a result of such claims or third-party actions.

Inflation guard endorsement

A common insurance contract option designed to minimize a community association's property exposures to loss. This type of endorsement will automatically raise the coverage to keep up with inflation. On the other hand, if there is little inflation, the inflation guard endorsement may artificially increase the cost of insurance premiums. Obtaining an inflation guard endorsement is prudent if the economic climate is an inflationary one.

Insurable replacement cost

The cost to replace property that can be insured and excludes the land, foundations, underground piping, and other components not typically insurable. Most sources of property insurance requirements for community associations are likely to require property insurance to be written at "insurable replacement cost" property limits for the association's real property. The replacement cost of property is the amount of money it would cost to replace the property at today's prices and would include the land, foundations, underground piping, etc. The most reliable way to determine insurable replacement cost limits is to obtain an insurable replacement cost valuation from an insurance appraiser. These valuations should be updated every 3 - 6 years in conjunction with a reserve study update.

Insurance

Transfers the financial burden of paying for certain losses to a third party—a commercial insurance company. Not all exposures to loss may be covered by insurance. Like other contracts, an insurance policy is: 1) An agreement between two or more parties. 2) Enforceable by law. 3) A contract in which each party promises to do, or not to do, something, and which terms are not negotiable. There are four primary types of insurance coverage that address the four types of possible exposure to loss: property, liability, income, and personnel.

Inventory

A typical management tool used to identify physical assets and their maintenance needs. This is a record of all real and personal physical property owned and maintained by the community association. Inventories usually record the following information for every item listed: date of purchase, warranty, quantity, description, original installer/builder or service contractor, extended warranty and provider, cost, special maintenance needs, estimated replacement data, and other items.

Investments

The purchase of anything with money value for the purpose of generating additional money over time, such as savings accounts. A community manager may be responsible for overseeing the association's investments. A well-run community association should have a written investment policy and a set of procedures for ensuring that the policy is implemented. Every community association also should establish a system of internal checks and balances to protect its investments.

J

Job description

A job description is a specific description of the required duties of a position, skills and knowledge necessary to perform required duties, and reporting relationships of the position. A written job description should exist before you hire an individual for a position. It tells you and the potential employee what is expected of the person in the position. It is an aid for planning and budgeting for the use of personnel. And it is an aid for evaluating job performance. For these reasons, it is important to take the time to periodically review and update job descriptions. An outdated job description leads to misunderstanding at best and legal problems at worst. Job descriptions should be created for each staff position.

L

Liabilities

One of the three major components of a balance sheet. Liabilities consist of what is owed to others or collected in advance (e.g., owner assessments received prior to the billed month, accounts payable, etc.). A balance sheet also contains assets and members equity (or fund balance).

Liability exposure to loss

One of the four types of exposure to loss for an association, liability losses include damage to non-association property or to a person, and arise when a person or entity threatens or actually brings a legal claim against the community association, its members, or others whom it must indemnify by contract (such as a management company). The other three types of exposure to loss for a community association are property, income, and personnel.

Lien

A legal claim by one party (community association) on the property of another (delinquent owner) to obtain the payment of a debt or the satisfaction of an obligation. The automatic lien in a community association protects the association's interests. It encourages payment of the debt. Among other consequences of a lien, the owner cannot sell or transfer the unit without settling the debt.

Liquidity

One of three essential investment objectives for community associations, liquidity refers to the ease with which an investment can be converted into cash or a cash equivalent. Due to unexpected events, a community association may need access to its invested funds at times other than planned; liquidity is the ability of the association to access and use these funds. The other two essential investment objectives are safety and yield.

Loss prevention

A risk control technique that involves taking steps to reduce the frequency of a potential loss, such as conducting weekly fire safety inspections where flammables are stored.

Loss reduction

A risk control technique that involves taking steps to reduce the severity of a potential loss, such as installing a sprinkler system where flammables are stored.

M

Maintenance calendar or schedule

A common management tool for ensuring that maintenance work gets done in a timely manner, a maintenance calendar or schedule identifies what needs to be done during the year and how frequently.

Maintenance contact sheet

A useful management tool that records the contacts for various maintenance services and any pertinent information needed during an emergency. Every community manager should have an up-to-date maintenance contact sheet and carry it with him or her at all times.

Maintenance fee

The owner's financial obligation to the community association during a given period of time—usually one year. Also commonly referred to as an assessment. A maintenance fee for an owner's share of the common expenses is a binding legal obligation based on the community association's governing documents. It covers the owner's share of the common expense (known as "common expense liabilities" in some states). Maintenance fees may be paid on a monthly, quarterly, or annual basis. Most of a community's revenue will come from maintenance fees.

Maintenance management tool

Any means used to track, record, remind, or command attention. Usually these means are forms or documents. Examples of maintenance management tools include checklists, charts of information, calendars and schedules, records of action taken, inventories, computer generated work orders, request forms, and response forms. Effective maintenance cannot occur without management tools. If a manager relies too heavily on memory and verbal communication, it becomes impossible to accurately and completely track, record, prompt, or draw attention to maintenance needs and their resolution.

Maintenance record

A common management tool for ensuring that maintenance work gets done in a timely manner. While a maintenance calendar highlights when maintenance ought to be done, the maintenance record shows when it actually was done. A maintenance record is useful for contracting work out. Maintenance records can be used to verify that work was done before paying any invoices. Maintaining a maintenance record can also help the manager take quick action when necessary.

Major improvement expenses

Budget items that are not necessarily required, but are added to improve the quality of life for the residents, appearance of the property—or to enhance the value of the community association as reflected in the resale value of units. A major improvement expense this year becomes a reserve item in the following and future years. Improvements are different from maintenance, repairs, or replacements. They increase the life, usefulness, or value of a property. They are called major improvements because they last more than one year and involve a large amount of funding. Examples of major improvement expenses are the addition of a new tennis court, more picnic areas, or additional street lights.

Management audit

A way for the board of directors to evaluate management performance, the audit consists of a review of: 1) Governing documents and existing policies and procedures. 2) Current condition of the property. 3) Owner/resident satisfaction. 4) Fiscal operations. This review can be done by the board and manager together, or a third-party management consultant can be hired.

Management contract

This document should establish the scope and duties of the manager, including limitations of the manager's authority. This contract is used for a management firm. The contract should contain all of the basic components of a legal contract and: 1) Specify the manager's authority and duties. 2) Establish a clear chain of command. 3) Provide for the manager's compensation and termination. 4) Be signed by authorized representatives of both parties—the community association and the "manager."

Management letter

A separate report prepared by a certified public accountant (CPA) that often accompanies the audit or review. This is a separate narrative (descriptive) report discussing the community association's accounting system and controls and any weaknesses found in them during the audit plus any other comments on the association's finances. Follow up on any issues raised in a management letter as soon as possible.

Management plan

A statement of goals and objectives approved by the board. It includes the yearly cycle of tasks that management should perform on the community association's behalf. Whether you are a manager who is employed by your community or by a management company, you should have a management plan so you and your board are clear on what is expected of you.

Management report

The manager's report on the association's current management and administrative activities. It is the manager's opportunity to update the board on action items of interest or concern and to demonstrate all the accomplishments the manager performed on the association's behalf. The management report should be distributed to the board along with the agenda and other supporting materials in advance of the meeting.

Mandatory budget line items

Budget items based on community and owner needs. They are requirements that the community is obligated to meet, e.g., income taxes, management fees, repairs, utilities, and maintenance.

Mandatory committee

A committee that is required by the governing documents. Mandatory committees typically are assigned responsibilities related to elections, nominations, and architectural standards.

Master association

A governance structure where there is more than one residential community association grouped together. Often there is a hierarchy with independent sub-associations under a master association. It is also known as an Umbrella Association.

Master deed

Sometimes used interchangeably with declaration and CC&Rs or declaration of covenants, conditions, and restrictions, the master deed is a governing document used primarily for planned communities. More than any other single document, the master deed establishes the planned community because it spells out the essential elements of ownership. The planned community comes into existence when the master deed is filed in the office of the local recorder of deeds or registrar of titles. The master deed generally: 1) Defines the portions of the development owned by the individual owners and those owned by the community association—if any. 2) Creates interlocking relationships binding all the owners to one another and to the community association for the purposes of maintaining, governing, and funding the development. 3) Establishes standards, restrictions, and obligations in areas ranging from architectural control to prohibitions on various activities in order to promote harmonious living. 4) Creates the administrative framework for the operation and management of the community association—although many of the specific administrative details are spelled out in the bylaws. 5) Provides the mechanism for financial support of the community association through assessments. 6) Provides for a transition of control of the community association from the developer to the owners.

Mechanical equipment breakdown insurance

A common insurance coverage for property exposure to loss. If a community association has mechanical equipment of any kind (including elevators, pool equipment, and electrical transformers), it should consider this coverage because the Commercial Package Policy (CPP) does not cover damage from mechanical breakdown, electric arcing, or power surges. Some policies also insure computer equipment, security systems, closed circuit TV, and similar information technology property.

Mediation

A form of alternative dispute resolution (ADR) whereby disputes are submitted to a trained, uninvolved third party for assistance with solving a problem. Mediation is a non-adversarial process that is intended to bring about a "win-win" resolution. In this process a neutral third party—called a mediator—attempts to guide the parties into reaching a resolution or settlement that is favorable to everyone. It gives both parties a chance to present their side in a forum where confidentiality is guaranteed. Mediation is often the first meaningful discussion the parties have, in which each party has the opportunity to face the other and work through the issues with the help of the mediator. Like arbitration, mediation can be binding or nonbinding, depending on the terms agreed upon between the parties before the session begins.

Medical payments insurance

A common component of an association's liability insurance policy. Medical payments insurance is technically an accident policy that pays third parties for limited medical expenses without the injured party having to file a lawsuit against the association. For example, a visitor may trip over a sprinkler head and twist her ankle. This type of insurance will cover the visitor's medical expenses.

Members' equity

Another term for fund balance; used with the fund method of reporting. On a community association balance sheet, members' equity equals the difference between the community association's assets and liabilities. Industry standards suggest a minimum balance of 2-5% of gross assessments with 10-15% being very good.

Minutes

Minutes of meetings must be kept to document the actions and decisions of the board of directors. Minutes are the permanent record of the board. The minutes should reflect what actions were taken in the meeting, not what was said. The minutes are not meant to provide a narrative or transcription of the meeting.

Mixed-use development

Usually consists of a mixture of residential and commercial and/or industrial uses. Their marketing slogan is often "live, work, play."

Modification provision

One of several provisions that address the legal binding of a contract. This provision states that the contract may not be modified in any way unless such modification is written and signed by both parties.

Modified cash basis of accounting

Records revenue on the accrual basis and expenses on a cash basis with selected items on an accrual basis. For example, the association may accrue a large roof repair payment that will be due in a few months, but will not accrue any other expenses that were incurred but not yet paid. Modified cash varies in format depending on the number of items accrued. This method of accounting is also commonly known as modified accrual.

Moral principles

Statements defining how values such as respect, honesty, fairness, and responsibility are applied. Also commonly known as ethical principles.

Moral values

Values which guide how we ought to behave. These include values such as respect, honesty, fairness, and responsibility.

Motion

A proposal that the board takes a stand or action on a specific matter. A board of directors can consider ideas from committees, board members, or owners. However, only board members can actually make a motion. Motions should be made only for items listed on the agenda.

N

Net loss

In a community association budget, when expenses exceed revenue A loss is indicated on a statement of revenue and expense by putting the figure in parentheses. The net revenue or loss can be significantly different depending on whether a cash, accrual, or modified cash basis is used..

Net revenue

The amount left after deducting expenses from revenue on a statement of revenue and expense. The net revenue or loss can be significantly different depending on whether a cash, accrual, or modified cash basis is used.

Notes to financial statements

Narrative information intended to be an integral part of the financial statements and necessary for a comprehensive review of the statements presented. Notes to financial statements are required by Generally Accepted Accounting Principles (GAAP) as part of the year-end financial reports for a community association.

Notice of meeting

An announcement of an upcoming association meeting. Should be sent in writing to board members at least a week before a meeting. Exactly how far in advance you send a notice of meeting may be set by your community association's governing documents or state statutes. A meeting agenda and any supporting materials should accompany the notice. All owners should receive a board meeting schedule at least once a year.

O

Occupancy agreement

Governing document for cooperative owners that defines the member or stockholder's rights and obligations in relation to the living unit. The occupancy agreement: 1) identifies the premises that the stockholder is permitted to occupy exclusively. 2) Defines the term of the lease and the rent (sometimes called maintenance) that is payable by the stockholder. 3) Establishes the powers and obligations of the cooperative's board of directors, including assessment rights. 4) Defines the events which would result in the termination of the proprietary lease. Also commonly known as a proprietary lease, this document serves generally the same purpose as the declaration or CC&Rs in other community associations.

Occupational Safety and Health Administration (OSHA)

OSHA's mission is to "prevent injuries and protect the health of America's workers by ensuring safe and healthful workplaces." If your association has employees, it must comply with all OSHA requirements. When the association contracts with a company whose employees will be working on the property, the contract should contain a provision requiring the contractor to comply with all provisions of OSHA. Some OSHA requirements include specific working conditions, specialized training, safety equipment, posting of warnings related to products and work site conditions, and reporting of accidents.

Occurrence

For most liability insurance policies, coverage is based on occurrence—that is, the event has to happen during the period of policy coverage. If the amount the insurer will pay for one incident (occurrence) is the same as the aggregate amount it will pay, try to obtain coverage that will either increase the aggregate or delete it altogether. If that fails, then the community association should consider purchasing a commercial liability insurance umbrella that will increase the Commercial General Liability (CGL) limits.

Operating expenses

Budget items that occur on a regular basis for the normal and usual services and repairs for the association. For example: 1) Swimming pool management. 2) Professional and administrative services (management, legal, accounting, insurance). 3) Utilities (electric, gas, water, oil). 4) Contract services (lawn maintenance, elevator, trash removal, janitorial services, painting). 5) Repairs (plumbing and pipe, electrical, door and lock). 6) Personnel costs (compensation and benefits for community employees). 7) Educational costs for employees, board members and volunteers (membership, courses and publications from Community Associations Institute).

Opinion letter

Assessment by a certified public accountant (CPA) about a community association's financial condition, typically delivered as part of an audit. The format and wording of the opinion letter is established by GAAS, Generally Accepted Auditing Standards. There are five possible outcomes: 1) The auditor issues an unqualified or "clean" opinion that says the auditor finds everything in order and the financial statements fairly reflect the financial condition of the association. This is the desired outcome. 2) The auditor issues a qualified opinion that says the statements taken as a whole are fairly presented with certain exceptions. 3) The auditor simply provides explanatory paragraphs that impart important information for the reader about the community association. 4) The auditor "disclaims" or refuses to issue an opinion. Usually this occurs when the client organization or the circumstances surrounding the audit restrict the accountant's ability to collect sufficient evidence to form an opinion. 5) The auditor issues an adverse or negative opinion. In this case, evidence indicates that the financial statements do not fairly reflect the community association's financial position or operating results.

Ordinance law insurance

A common insurance coverage for property exposure to loss, ordinance law insurance is usually obtained by endorsement to the Commercial Package Policy (CPP). It is necessary because the CPP restores the covered loss to its original condition, which could mean 30 years ago. Ordinance law insurance brings the construction to current code so the building is eligible for an occupancy permit. This protection has three components: contingent liability, demolition, and increased cost of construction.

P

Parliamentary procedure

A set of rules for conduct at meetings. Experience demonstrates that this can be a very effective decision-making method in a group setting. Be sure to introduce new board members to parliamentary procedure as they take their places on the board. The most popular version of parliamentary procedure is Robert's Rules of Order.

Payment bond

A contract should provide for the community association's financial protection if the contractor should default. Depending on the type of project, a contract may require a payment bond, where the surety (a third party) guarantees that the contractor's suppliers and any subcontractors will be paid if the contractor does not pay them—to protect the association from having a mechanic's lien placed against them. A payment bond usually comes in a package with the performance bond.

Percent funded

One standard method of measuring the size of an association's reserve account, providing information about how the account measures up against the needs of the association. Percent funded allows an association to measure the relative size of their replacement reserves compared to a 'fully funded' reserve balance.

Performance bond

A contract should provide for the community association's financial protection if the contractor should default. Depending on the type of project, a contract may require a performance bond, a guarantee by a surety (a third party) to protect the community association if the contractor fails to perform or finish the work. A performance bond usually comes in a package with the payment bond.

Performance evaluation

The process of reviewing a person's work performance to determine the extent to which his/her established goals and standards have been met. Performance evaluations should be performed regularly—usually after the first 90 days of employment and annually thereafter. Conducting a performance review takes time and effort, but has many benefits. It is the basis for: 1) Letting an employee know where he or she stands. 2) A salary review. 3) Consideration for promotion. 4) Identifying training and development needs. 5) Documenting unsatisfactory performance. 6) Checking on the effectiveness of your efforts.

Performance goals

Those regular and special tasks management expects an employee to perform during a certain time period. The job description can be the basis for setting goals. But goals are more specific than a restatement of duties listed in the job description. This is because they relate to the community association's current needs.

Performance planning

The process of establishing performance goals and standards for an employee. Performance planning has several benefits. It is a means of: 1) Linking the employee's performance goals with the association's goals. 2) Planning and assigning work. 3) Motivating an employee. 4) Providing feedback to an employee on his/her performance. 5) Holding an employee accountable for meeting performance standards.

Performance standards

A description of the results management expects an employee to accomplish during a certain time period. They are reflected in the criteria used for performance evaluation.

Personal injury (PI)

Injury arising from libel, slander, false arrest, invasion of privacy, wrongful entry, or malicious prosecution. For example—a community newsletter inappropriately and incorrectly lists an owner as delinquent in assessments. Personal injury is a liability exposure to loss for a community association. The Commercial General Liability (CGL) part of the Commercial package policy (CPP) provides insurance coverage for legal claims arising from bodily injury (BI), property damage (PD), advertising injury (AI), and personal injury (PI).

Personal money judgment

A decision by a judge to allow the community association to claim the owner's personal property to settle a delinquent account. The association must file court papers, appear before a judge, and convince the judge that the owner owes the association money. A personal money judgment is also known as a summary judgment.

Personal property

For insurance purposes, property consists of "real property" and "personal property." Examples of personal property include inventory, furniture, fine arts, equipment, supplies, machinery and valuable papers and records.

Personnel exposure to loss

One of the four types of exposure to loss for an association, personnel exposures usually involve claims of employees regarding discrimination in hiring or firing, harassment, or other allegation. The other three types of exposure to loss for a community association are property, income, and liability.

Personnel manual

A written compendium of laws, rules and regulations designed to communicate to employees their employment status, define the relationship between the association and its employees and to supervisors their responsibilities. A meaningful personnel manual serves as a powerful preventive law device because it is a ready reference for the use of both employees and their supervisors. A personnel manual is also commonly referred to as an employee handbook.

Planned community

A type of community association in which the owner owns the lot and/or unit and the association owns the common areas. Other names for planned communities include Homeowner Association (HOA), Owner Association, Townhouse Association, Property Owners Association (POA), and Planned Unit Development (PUD). Planned communities are the most common type of community association.

Policy forms

Policy forms define the type of insurance coverage provided, for example, property, liability and boiler and machinery. The forms also define how comprehensive each type of coverage is—what is included and what is excluded.

Preventive maintenance

One of five basic maintenance programs for community associations, preventive maintenance is periodic maintenance to avoid disruptive breakdowns and to prolong the useful life of the physical asset in question. Examples include rebuilding pool pumps with a life expectancy of eight years every five years, cleaning problem sewer lines every month to avoid backups, sealing cracks/seal coating asphalt paving, lubricating pump motors, and changing oil in the association's truck. Literature from the manufacturer is one of the best sources of information on preventive maintenance for equipment. The other four types of maintenance include routine maintenance, emergency maintenance, requested maintenance, and reserve replacement.

Professional ethics

The rules or standards that govern the conduct of members of a profession. The special expertise demonstrated by members of the profession holds them accountable to a higher standard of trust by others.

Progress payments

Partial payments based on some demonstrable progress in completing the contracted work involved. It is reasonable for a contractor to negotiate progress payments. Just be sure to tie them to observable progress and don't let them get ahead in payments of the actual work completed. Progress payments may be outlined in the "compensation" section of a contract.

Progressive discipline system

A procedure whereby performance problems are brought to the employee's attention and the employee and employer take appropriate actions to correct them. An effective—and legally defensible—system requires that the employee has received a written job description, orientation to the job and initial job training, and a performance evaluation at the end of an initial probationary period.

Property damage (PD)

Property damage is a liability exposure to loss for a community association. The Commercial General Liability (CGL) part of the Commercial package policy (CPP) provides insurance coverage for legal claims arising from bodily injury (BI), property damage (PD), advertising injury (AI), and personal injury (PI). An example of property damage is an improperly maintained light pole falling on a car.

Property exposure to loss

One of the four types of exposure to loss for an association, property losses can be tangible community association property (buildings, contents, etc.) or intangible association property (information, proprietary website, etc.).. The other three types of exposure to loss for a community association are personnel, income, and liability.

Proprietary lease

Governing document for cooperative owners that defines the member or stockholder's rights and obligations in relation to the living unit. It: 1) Identifies the premises that the stockholder is permitted to occupy exclusively. 2) Defines the term of the lease and the rent (sometimes called maintenance) that is payable by the stockholder. 3) Establishes the powers and obligations of the cooperative's board of directors, including assessment rights. 4) Defines the events which would result in the termination of the proprietary lease. Also commonly known as an occupancy agreement, this document serves generally the same purpose as the declaration or CC&Rs in other community associations.

Prospective bidder's questionnaire

This is a document that asks for certain types of information to determine if the bidder is technically and financially qualified to handle a job of this scope. The prospective bidder's questionnaire may be included in the association's RFP (request for proposal) packet for very large and complicated jobs. This is also commonly known as a qualifications sheet.

Proxy

A written statement authorizing another person to cast a vote on the signer's behalf. The association's governing documents may dictate when and if proxies are permissible.

Public offering statement

A disclosure statement that provides information on the community association to the first prospective buyers in a new development. It is also mandated by state statute. Because it is often accompanied by copies of the governing documents, some people think of the public offering statement itself as a governing document. However, this is a misconception; the public offering statement is not a governing document.

Q

Qualifications sheet

This is a document that asks for certain types of information to determine if the bidder is technically and financially qualified to handle a job of this scope. The qualifications sheet may be included in the association's RFP (request for proposal) packet for very large and complicated jobs. This is also commonly known as a prospective bidder's questionnaire.

Quorum

The number of members required to be present for the board to legally conduct the business of the association. In the absence of a quorum, the only formal actions a board may take are to recess, adjourn, or take measures to obtain a quorum. A community's bylaws typically set the quorum for a board meeting.

R

Real property

For insurance purposes, property consists of "real property" and "personal property." Examples of real property include buildings, land, and the newest type of property exposure—information such as websites, logos and similar electronic information and data processing (EDP). Information loss is an exposure for some community associations that have websites and use e-mail to communicate electronically with members.

Reconciliation of expenses and revenue

After you draft your budget for the coming year, you must reconcile your estimated expenses with your community's anticipated revenue. To reconcile means to bring together after a difference. If estimated expenses exceed estimated revenue, you will have to weigh discretionary expense items against the probable impact of any increase in assessments—or a special assessment. On this basis, decide whether a reduction in expenses is appropriate—or an increase in revenue from assessments. When reconciling expenses and revenue, be certain about the exact powers your board has to establish assessments. In some cases, it may be necessary to have a vote of your owners to approve an increase in assessments or to impose a special assessment.

Representation letter

When your community hires a certified public accountant (CPA), s/he will send the association a representation letter, which should be executed by the management company or board officer, or both, depending on the recommendation of the management company's legal counsel and best practices in your area. The representation letter states that the information the community association provides is true to the best of its knowledge. Describes the steps the community association has taken to provide for the preparation of accurate and complete financial statements.

Request for proposal (RFP) packet

An announcement that an organization is interested in receiving proposals for a particular project. Preparing an RFP packet involves: 1) Gathering preliminary information. 2) Hiring an expert to prepare specifications with accuracy and thoroughness. 3) Compiling a complete RFP packet. 4) Conducting a pre-bid walk through. 5) Possible consulting with a professional engineer or architect. The RFP packet includes: 1) The bid specifications or detailed instructions about the products or services requested. All contract terms should be included in the bid request. This will help the association avoid a situation where the successful contract bidder receives a written contract in which terms may not be acceptable to the contractor. 2) Information about the association that the contractor will need in order to prepare a bid. 3) Information about work conditions, such as hours, uniforms, parking, storage areas, license requirements, daily clean-up requirements, and time requirements. 4) Requests for information about the contractor that will help the association evaluate the contractor's ability to perform the work and meet the specifications.

Requested maintenance

One of five basic maintenance programs for community associations, requested maintenance is corrective action in response to a resident or board member request or contractor recommendation/observation, or observed during a regular site visit. For example: missing lawn sprinkler head or patio gate repairs. The other four types of maintenance include routine maintenance, emergency maintenance, preventative maintenance, and reserve replacement.

Reserve account

Funds put aside—in reserve—for the replacement of major components of a community's common property. Typically, the reserve account might be used to replace asphalt paving, concrete sidewalks, roofs, central heating and cooling plants, swimming pool, tennis courts, elevators, and many other property components. Revenue raised for adding a major item will be a major improvement expense. Revenue raised for replacing that item when it deteriorates will come from the reserve account.

Reserve cash flow statement

A community association financial statement showing the amount to be funded and the amount to be expended from the replacement fund over a given period of time.

Reserve replacement

One of the five basic maintenance programs for community associations, reserve replacement consists of replacing assets as needed from the inevitable deterioration process as they wear out or break. The basis for your reserve replacement is the reserve study and replacement fund budget. However, the maintenance needs of a replacement item may require adjustments in both your reserve study and replacement fund budget to allow you to replace the item sooner or later than originally planned. For example: roof replacement or fence replacement. The other four types of maintenance include routine maintenance, emergency maintenance, requested maintenance, and preventative maintenance.

Reserve Specialist (RS)

A CAI designation program to help community managers and board members identify qualified reserve study providers and to assist communities in developing their reserve study. Utilizing a Reserve Specialist means managers and boards can obtain proposals from competent reserve study providers and make informed business decisions to responsibly fund their association's replacement reserves. The RS designation is awarded to qualified reserve specialists who, through years of specialized experience, can help ensure that community associations prepare their reserve budget as accurately as possible.

Reserve study

A budget planning tool with which the association expects to offset ongoing deterioration and prepare for inevitable future expenses. Reserve projects are typically the largest expenses that an association faces, and proper financial preparation is essential. The reserve study is used for developing a reserve account budget. The study addresses all major common physical components of the property that the association must repair, replace, restore, or maintain. The study should contain, at a minimum, a statement of the remaining useful life of each item; an estimate of the current cost of repair, replacement, or restoration, of those items; and an estimate of the total annual contribution necessary to defray the cost of repair, replacement, or restoration, of those items after deduction of existing reserve funds. In essence, the study must include all items for which the community has long-term replacement responsibility.

Residents forum

Typically held at the beginning of a board meeting, is an open forum for owners and residents to speak. This gives them the opportunity to raise items for future board consideration. Some boards prefer to hold the open forum at the end of the meeting because many issues the owners want to raise may be addressed during board discussion.

Resolution

A motion that follows a set format and is formally adopted by the board of directors. Resolutions may enact rules and regulations or formalize other types of board decisions. Resolutions are typically kept in a Book of Resolutions. There are four types of resolutions: 1) Policy resolutions: owners' rights and responsibilities, i.e., use of recreation facilities. 2) Administrative resolutions: internal operation, i.e., where board meetings will be held. 3) Special resolutions: apply a policy or rule to an individual owner, i.e., decision about alleged rule violation. 4) General resolutions: routine events, i.e., adoption of annual budget. Resolutions are part of a community association's governing documents.

Responsibility chart

A management tool that can be used to keep track of who is responsible for the maintenance of various property elements or areas. It commonly is used as a handout for owners and tenants and maintained on the community's website. Typical responsible parties include the owner, the association, the developer, a committee, or a manufacturer.

Revenue

Revenue represents the earnings of the community association. Revenue is also the collective items or amounts of income which, in the case of a community association, are appropriated for common expenses. Revenue on a cash basis statement consists of revenues received and deposited. Revenue on an accrual basis statement consists of revenues earned, including amounts assessed to owners in accordance with the budget but not yet received. Generally on a modified cash basis statement, revenue is recorded on the accrual basis. The typical sources of revenue for a community association include: 1) Owner assessments: Most revenue will be derived from owner assessments. 2) Interest: Interest earned from invested replacement reserves and/or excess operating cash. 3) Other revenue: Late payment fees, fines, and user fees. Revenue is also commonly referred to as income.

Review

A year-end report prepared by a certified public accountant (CPA). A review is less thorough and less costly than an audit, but provides some assurances to the board and other interested parties that the financial statements make sense. Report states that the CPA is not aware of any material or significant changes that should be made to the financial statements in order for them to be in conformity with GAAP (Generally Accepted Accounting Principles) for community associations. As is also the case with audits, it is important to use a CPA who is familiar with community associations. If included in the scope of work, a review typically includes the preparation of the association's tax return. A review provides: 1) No external verification of the accuracy and completeness of financial records. 2) No confirmation of selected transactions. 3) No inspection of records. 4) An analytical review of financial procedures for comparison and changes from the previous year. 5) Interviews of management personnel. 6) Some assurances that the financial statements make sense. 7) No opinion letter, but a report that no material or significant changes are needed.

Risk control

A way to treat the primary exposures to loss for a community association (property, liability, income, and personnel). Risk control activities include: 1) Exposure avoidance. 2) Loss prevention and reduction. 3) Segregation of exposure. 4) Contractual transfers.

Risk financing

The process of obtaining resources to pay for any financial consequences of accidental loss.

Risk management

The process of making and carrying out decisions that will minimize the adverse effects of accidental losses upon the community association. This may consist of incorporating risk control techniques within the community and purchasing a comprehensive community association insurance program.

Robert's Rules of Order

Robert's Rules is the most popular version of parliamentary procedure, which is a set of rules for conduct at meetings. There are many sources available that present these rules in a simple, straightforward way. Make the effort to train your board to use them effectively, as they can be a very effective decision-making method in a group setting.

Routine maintenance

One of five basic maintenance programs for community associations, routine maintenance is regular, recurring upkeep that must be done. Typically, the job description for a maintenance employee or a service contract is used to define the routine maintenance that is expected. For example, cleaning the common areas and mowing the lawns. The other four types of maintenance include preventative maintenance, emergency maintenance, requested maintenance, and reserve replacement.

Rule

Also called a regulation or resolution, is a specific statement of required behavior or action, a violation of which carries a penalty (sometimes called a sanction). In a community association, rules outline expected behavior, identify limitations, and govern the community in the use of common property; the use of individual lots or units; changes in the architecture, the construction, or the appearance of lots or units; and the behavior of residents, guests, and other visitors. Community associations frequently develop rules that address pets, parking, noise, garbage, solicitation, etc.

S

Safety

One of three essential investment objectives for community associations, safety consists of protecting the principle (amount of original investment) from loss as much as possible. Key questions to ask to determine the safety of an investment: 1) Is the principle insured? By whom? For how much? 2) How stable is the institution? 3) Is the investment speculative—that is, is there a chance of a financial loss, as well as a chance for a financial gain? 4) Would a prudent investor choose this investment? The other two essential investment objectives are liquidity and yield.

Segregation of exposures

A common risk control technique used to treat primary exposures to loss. Segregation of exposures involves establishing some type of backup to prevent a loss, such as backing up all computer files and storing the backup files offsite in a separate place, or keeping a hard-to-replace mechanical part on hand.

Self help

One of several internal resources a community association can use to encourage an owner or tenant to conform to community association rules. Self help means the community association takes action to correct the violation itself.Self help corrections may be effective, such as towing, or could be illegal, such as trespassing to remove the violation from a lot/unit. Self help corrections could also end in physical harm to the person trying to correct the violation, so it is best not to consider this potentially dangerous alternative without consulting with your community's attorney.

Severability provision

A legally binding contract provision that states that if a court finds any part or clause of the contract to be illegal or invalid, that part will be separated (severed) and the remainder of the contract will remain in force, so that the whole contract need not be invalidated.

Site visit checklist

A common management tool for ensuring that maintenance work actually gets done properly and in a timely manner. A site visit checklist documents a community's current maintenance standards and helps the manager identify potential problems.

Site visit report

A common management tool for ensuring that maintenance work actually gets done properly and in a timely manner. A site visit report is a compilation of all the maintenance needs identified during a site visit. It is commonly used to: 1) Assign maintenance tasks to staff or contractors. 2) Budget for maintenance needs. 3) Identify any preventive maintenance that needs to be done. 4) Determine when onsite staff or independent contractors are not properly performing work on time. 5) Demonstrate to the board that the manager is visiting the property and complying with contractual obligations.

Servicemembers Civil Relief Act (SCRA)

Federal law that impacts American forces on active duty by requiring the delay of all civil court actions, such as bankruptcy and foreclosure, until the service member returns from active duty. SCRA also protects active service members' dependents from being evicted if the rent does not exceed $1,200 per month by requiring the landlord to obtain a court order authorizing eviction. SCRA may apply to your community association's collection efforts.

Special assessment

A one-time assessment, often voted on by owners, to cover a major expense, such as a major repair or replacement or improvement that was not included in the annual operating budget or replacement reserve. Reliance on special assessments is not considered part of a responsible funding plan. Special assessments may be indicative of poor management.

Standing committee

Committee that meets a basic and on-going community association need. Examples of typical standing committees that are not mandated include: budget/finance, grounds, social/welcome, newsletter, recreation/pool/swim team, public relations, and rules/dispute resolution. Standing committees serve at the pleasure and direction of the board in an advisory capacity, and can be disbanded at a board directive.

Statement of cash flows

A year-end financial report that summarizes the flow of funds into and out of the community association. Summaries are prepared for normal operations, investment activities, and any borrowing activities. The statement of cash flows shows how changes in balance sheet accounts and income affect cash and cash equivalents and breaks the analysis down to operating, investing, and financing activities. The statement of cash flows is required by GAAP (Generally Accepted Accounting Principles).

Statement of changes in members' equity (or fund balances)

A year-end financial statement that reconciles the beginning and ending members' equity with results of operations for the period. Members equity or fund balance equals the difference between the community association's assets and liabilities. Industry standards suggest a minimum balance of 2-5% of gross assessments with 10-15% being very good. The statement of changes in members' equity is required by GAAP (Generally Accepted Accounting Principles).

Statement of revenue and expense

A record of the association's financial transactions and activities over a given period of time—usually a month, plus the fiscal year to date. Its purpose is to track the financial activity of the association. The statement of revenue and expense should be compared to the budget to provide a variance report. The three major components of a statement of revenue and expense are revenue, expense, and excess revenue over expenses. The statement of revenue and expense is required by GAAP (Generally Accepted Accounting Principles).

Statute

Statutes are laws written and adopted by legislatures or administrative agencies. There are three types of state statutes that apply to community associations: 1) General state statutes. 2) Specific state statutes. 3) Uniform state statutes. State statutes of one of several sources of legal obligations for community associations.

T

Third-party insurance

Liability coverage purchased by an insured (the first party) from an insurer (the second party) for protection against claims of another (third party).

Threshold funding

A reserve funding goal of keeping the reserve balance above a specified dollar or percent funded amount. Here a specific minimum figure is chosen (either a cash value or percent funded value) below which the reserve fund never drops. The threshold funding approach is often used to define an objective that results in more "safety net" funds available than under baseline funding, while not as conservative as fully funding. This funding plan typically falls between baseline funding and full funding in terms of the possibility of requiring special assessments and/or bank loans.

Timed agenda

A list of meeting items with a period of time assigned to each. Once the time limit is reached, the group either votes on the motion or moves on to the next agenda item, postponing the vote to the next meeting. Timed agendas should be approved at the beginning of the meeting. For a timed agenda to be effective, the presiding officer must politely insist that time limits be obeyed and incomplete items postponed to another meeting. An appointed board member should keep time for the presiding officer, so he or she can concentrate on running the meeting. If meetings always run longer than one-and-a-half to two hours, consider recommending the use of a timed agenda to your presiding officer.

Transition

The general process by which the control and responsibilities of the governing board of an association are transferred from the developer to the persons who bought unit/lots in the association. Transition is not a single event. It is a multi-stage process of many events taking place over a period of time—ranging from when the declarant decides to build until the declarant no longer has any financial obligations to the association.

Treasury bills (T-bills)

Short-term instruments that mature in 13, 26, or 52 week periods. They are issued in minimum denominations of $10,000. Anything larger must be in $5,000 increments. As soon as one is purchased, the buyer receives the promised earnings. Then, when the bill matures, the buyer receives the face value (value indicated in the wording of the treasury bill). Treasury bills are among the safest investment options for community associations because payment is guaranteed by the government. Treasury bills are also commonly referred to as "T-bills."

Treasury bonds

Investment option that matures in more than 10 years. Treasury bonds are issued in denominations from $1,000 to $100,000. They are also interest-bearing with interest paid every six months. When the bond matures, the buyer receives the full face value. Treasury bonds are among the safest investment options for community associations because payment is guaranteed by the government.

Treasury notes

Investment option that matures in one to 10 years. Treasury notes are issued in denominations from $1,000 to $100,000. They are also interest-bearing with interest paid every six months. When the note matures, the buyer receives the full face value. Treasury notes are among the safest investment options for community associations because payment is guaranteed by the government.

Turnover

That date upon which homeowners gain control of their association from the developer. Typically, turnover occurs at an annual or special meeting of the homeowners.

U

U. S. Bankruptcy Code

The purpose of bankruptcy laws is to help honest people and businesses find a way to pay their debt or get a fresh start. Bankruptcy laws help people who can no longer pay their creditors start anew—by liquidating assets to pay their debts or by creating a repayment plan. Among many other corrections and revisions, and with the strong lobbying efforts of CAI staff and volunteers, the Bankruptcy Prevention and Consumer Protection Act passed in 2005 contained a small provision benefitting community associations. It clarified that associations have the authority to collect assessments that come due after the date the homeowner filed for bankruptcy.

Umbrella association

Governance structure where there is more than one residential community association grouped together. Often there is a hierarchy with independent sub-associations under an umbrella association Also known as a Master Association.

V

Veterans Administration (VA)

One of four entities—including Fannie Mae, Freddie Mac, FHA and VA—that have an impact on community association insurance obligations. Federally-established secondary mortgage institution that sets requirements that community associations have to meet if owners are to participate in their financing or repurchase programs. Federal agency regulates and influences such items as the amount of insurance a community association must carry, procedures for financial operations, procedures an association must follow to dissolve, and requirements for the upkeep of property.

Volunteer or self-management

The community association is managed by volunteer members of the board itself or by committees under the direction of the board. While there are no out-of-pocket management fees, continuity can be difficult because of volunteer turnover and inconsistent service. Professionalism depends on the skills and experience of those who volunteer. Other management options include hiring an association-employed manager or management company.

W

Waiver of lien

Contract provision that gives up the right to make a claim against the community association for payments not received. A waiver of lien should be used when a project involves the heavy use of materials or subcontractors—e.g., some type of construction project—and the community association wants to avoid the risk of having to pay for materials or subcontractors if the contractor fails to do so. A performance bond, payment bond, and waiver of lien all provide for the community association's financial protection if the contractor should default.

Waiver of subrogation

A common insurance contract endorsement designed to minimize a community association's property exposure to loss, the waiver of subrogation prohibits the insurer from attempting to seek restitution from a third party who causes any kind of loss to the insured. This type of arrangement is allowable under certain circumstances where the insured could be held liable for a claim that is paid. In other words, a waiver of subrogation is the endorsement that deletes the right of the association to seek reimbursement for a covered loss from the owner who caused the damage. Also commonly known as a "waiver of the transfer of recovery rights."

Waiver of the transfer of recovery rights

A common insurance contract endorsement designed to minimize a community association's property exposure to loss, the waiver of the transfer of recovery rights prohibits the insurer from attempting to seek restitution from a third party who causes any kind of loss to the insured. This type of arrangement is allowable under certain circumstances where the insured could be held liable for a claim that is paid. In other words, a waiver of the transfer of recovery rights is the endorsement that deletes the right of the association to seek reimbursement for a covered loss from the owner who caused the damage. Also commonly known as a "waiver of subrogation."

Waiver provision

Contract provision that states that a waiver (permission) by one party of any breach of contract (failure to fulfill a provision) by the other party shall not act as a general waiver of future breaches. In other words, each party says to the other, "If we let you slide on any contract requirement at any time, it doesn't mean we're letting you slide on any other requirements, or even on that one a second time—unless we decide to let you do it again."

Warranty

A promise or guarantee that parts, materials, or labor will last for a designated period of time. Warranties required should be part of the RFP (request for proposal) packet when a community association is interested in receiving proposals for a particular project. In addition, any contract the association signs should state the agreed upon warranties clearly and in detail. A warranty should state what is covered, for how long, what is not covered, and what the contractor will do if the work or product proves defective.

Work order/response form

A form for assigning maintenance work to be done. With some planning, it can be used: 1) To document owner and tenant requests. 2) To assign maintenance tasks to both maintenance staff and contractors. 3) As a response form to be returned to an owner or tenant, indicating that work was completed or confirming that it was assigned. 4) As a basis for allocating charges, when appropriate. A work order/response form has several benefits. It: 1) Identifies whether the need is an emergency or not. 2) Requires attention. 3) Allows follow-up to evaluate satisfaction. 4) Provides a means of monitoring costs. 5) Provides a history of the repairs that have been made. 6) Documents any problems with contractors reported by owners or tenants. 7) Indicates if the work is a recurring problem necessitating further evaluation. Most software programs have work order/response forms as part of their system.

Workers' Compensation Insurance

A common insurance coverage and endorsement for personnel exposures to loss—in this case, loss of services due to injuries received while working on behalf of the community association. State statutes determine the classes of employees to be insured and coverage for loss of services due to employment-related injuries. In most states, workers' compensation insurance is obtained from commercial insurers. Coverage for associations with no employees is rated on an "if any employee" basis and usually is a minimum premium. Every community association should consider obtaining workers' compensation insurance.

Wrongful acts

Legal claims can be brought against a community association based on the manner in which it conducts its business. Examples of "wrongful acts" include the failure to file taxes, collect assessments, maintain replacement reserves, or deliver core services to its residents (member/owners and tenants). Directors and officers (D&O) liability insurance is designed to pay for damages arising from wrongful acts that do not lead to property damage, bodily injury, advertising injury, or personal injury.

Y

Yield

One of three essential investment objectives for community associations, yield is the amount of return on an investment. The other two essential investment objectives are liquidity and safety.

Z

Zero-base budgeting

A method of budget preparation where all amounts are set to zero and the budget amount must be justified, instead of assuming the line item is needed and adjusting the amount for the coming year. The zero-base approach keeps you from accepting this year's figures at face value. It requires you to analyze the reasons for the actual amounts spent. The actual dollar figure may be less or more than the budgeted figure because of circumstances you cannot assume will exist during the coming year. For example, lawn maintenance costs during a dry season will be low—but a community cannot assume that the coming year will be just as dry.

55

55 and older community

Must have one person who is 55 years of age or older living in at least 80% of its occupied units. The community must be designated "55 and older" to qualify as this type of housing that legally prohibits children and limits occupancy to a certain age span. The designation process involves submitting applications and obtaining approval before any enforcement of the ages of residents commences. Approval from the Department of Housing and Urban Development (HUD) must be received before construction begins.