

The Liabilities of Deferred Maintenance

Community Association Board members have the fiduciary responsibility to care for and protect their Association from liability. The greatest burden of this responsibility relates to the Association's physical assets: the complex itself – buildings and grounds. A Board should strive to enhance the property values in the community, and this starts with proper maintenance. Beyond regularly scheduled site walks, responding to homeowner complaints and keeping maintenance records, how do you capture the larger picture? In this article we discuss common deferred maintenance issues in HOAs and what a Board can do to address them before they morph into serious liabilities.

Building envelope water infiltration. Water infiltration is the single largest issue of liability for Associations. Did you know that the greatest number of HOA construction defect claims in California are from water intrusion? A building is designed to create a habitable and comfortable environment for its occupants, and central to that is its need to repel water. There are many areas where water can improperly enter a building: roofs, windows, walls, decks, planters, etc. If not addressed immediately, resultant damage to building components can include mold, dry rot, and insect infestation. We have seen a number of Associations where consistent water infiltration over time caused such damage that it led to compromise of the building's structural wood framing. Even concrete is subject to damage from water intrusion; for example, failed waterproofing membranes over structural concrete decks can cause spalling in subterranean parking garages below. Over many years, the spalling worsens, causing potential failure of the structural concrete deck itself.

Proactive Maintenance Approach. Associations should take proactive steps to monitor and maintain the waterproof integrity of their buildings. Respond to water intrusion complaints quickly, and retain a professional to investigate if needed. Often, multiple sources of water intrusion are missed when an unskilled maintenance contractor performs repairs. The life expectancy of many building envelope systems can be extended by proactive maintenance. In planters, irrigation and landscaping should be monitored regularly to eliminate over-watering and run off, and trees and plants with invasive roots replaced. Renewing the top coat of deck membranes will lengthen its life expectancy. Many roofing systems can be extended by the application of a reflective coating. Stucco can be pressure-washed regularly to remove adhered dirt that often accelerates paint failure. Proactive maintenance is always a good financial investment in that it is more cost-effective to extend the life of a common area component than to replace it; however, be careful to apply systems that are compatible with the underlying materials.

Plumbing. Piping is another common area component that every Association should proactively monitor and maintain. In the event of a water loss, damage occurs to buildings, personal property, and even occupant health. Resultant mold and loss of use can be huge liabilities to an Association. A good way to determine whether the pipes in your building are nearing their life expectancy is to watch for emerging maintenance patterns. There will be increasingly more pinhole leaks, clogs and backups, more homeowner complaints, and more service calls.

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Proactive Maintenance Approach. Maintenance plans such as regular, routine hydrojetting of main sewer lines can help keep lines clear of buildup and prolong the life expectancy of drainage piping. For pinhole leaks in water lines, consider installation of a potassium injection system in hot water piping to reduce the frequency of leaks.

Earth Movement. The largest dollar value in HOA construction defect claims in California are from soils-related problems. This is because when there is a soils problem, it is very expensive to diagnose and repair. Earth movement can create nuisance conditions to homeowners such as out-of-level floors, sticking windows and doors, but can get progressively worse over time, leading to building compromise of life-safety structural systems. When the earth beneath a building moves, it becomes necessary to support the existing building, engineered to resist wind and earthquakes, while also designing the new foundations to support their own weight. (Buildings are not built with handles to conveniently hold them so they can be jacked up while a new foundation is laid!) Repairs are expensive and complicated with the need to coordinate multiple engineering disciplines.

Proactive Maintenance Approach. Many slope failures are caused or exacerbated by inadequate drainage or maintenance of drainage systems, piping leaks below grade, burrowing animals on a hillside, irregular irrigation practices, and improper or lack of planting. Hillside soils are prone to slope creep, a progressive, slow movement of soils in a downslope direction. Slope creep can accelerate with even seasonal variations in watering. Professionally designed and installed drainage and irrigation systems, monitored on an ongoing basis, regular pest control inspections and landscaping maintenance all combine to form a proactive program to protect soil stability, and in turn, adjacent building integrity.

A “lifetime building component” may be a correct reserve study term but is actually a misnomer, in that nothing lasts forever. Practically every common area component will become a liability for an Association if it is neglected long enough. Keep track of your warranties and component life expectancies. Be aware of any pattern or cluster of calls at a given time or about related issues. Plan ahead, anticipating the need to replace building components, i.e., know when your roof is coming to the end of its life expectancy and replace it before it leaks. The best way to limit risk is to perform regular inspections and proactive maintenance, retain professionals for their expert opinions, and follow their recommendations. Above all, Board members should keep their eye on the big picture and spend what is necessary to take care of their physical assets. Proactive maintenance saves the Association money and ensures that property values are enhanced in the long run.

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