

## *SOUTH COAST HOMEOWNERS ASSOCIATION*

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Newsletter Sponsors

### UPCOMING SOUTH COAST MEETINGS

**Annual Summer Legal Forum with Beth Grimm.** Beth has provided our popular summer legal forum for us since 1999.

#### **How to Implement the New Elections Reform Law - Including Examples of How To Handle Elections in the Future for Board Members and Amending Governing Documents.**

At this meeting we will talk about what your association needs to know to conduct elections on the various topics covered by the new law, effective July 1, 2006, and will also walk through practical application to an election for directors and an election to amend governing documents. As time permits, we may also discuss the new association records disclosure law that was also effective July 1.

**Monday - July 24 – 7 PM – Holiday Inn, 5650 Calle Real, Goleta**

**Tuesday – July 25 – 7 PM – Quail Meadows West HOA, 866 Whippoorwill, Santa Maria  
(off the Santa Maria Way exit Hwy 101)**

## **PUBLICATIONS AVAILABLE FROM SOUTH COAST HOA**

**HOA 101 – Course Materials** – We have six of the course books remaining from the HOA 101 seminar given in April. The course material was developed by ECHO for its HOA University class given each year. In addition, our speakers provided supplemental material for the seminar and some of the books contain that material as well. Postpaid Cost - **\$15.00 per book**.

These will not be reprinted or reordered when sold out. First come, first served. Available by mail or for pickup at 5669 Calle Real, Goleta.

**2006 Condominium Bluebooks** – Our supply has sold out. Additional books are available from the Publisher, \$22 for 1 and \$20/each for additional copies. Piedmont Press, 2200 Powell Street, Ste 990, Emeryville, CA 94608; Tel 510-595-8400; [www.condobook.com](http://www.condobook.com)

## **CIVIL CODE SECTION 1364 - MAINTENANCE RESPONSIBILITY – PEST CONTROL**

Section 1364 of the Davis Stirling Common Interest Development Act defines the responsibility for repair caused by wood destroying pests and organisms.

In a condominium project, unless otherwise provided in the CC&Rs, the association is responsible for the repair and maintenance of the common area occasioned by the presence of wood destroying pests and organisms. Section 1364 (b)(1).

In a planned development, each owner of a separate interest is responsible for the repair and maintenance of that separate interest as may be occasioned by the presence of wood destroying pests and organisms. If the CC&Rs provide that the association is responsible, then the CC&Rs override the state law. Or, upon the approval of the majority of the members of the association, the responsibility for maintenance can be delegated to the association and the association can recover the cost of repairs as a special assessment. (CC 1364(b)(2))

Costs associated with the temporary relocation of residents during the repairs is the responsibility of the individual owner of the separate interest, not the association. (CC 1364(c))

Notice to vacate shall be made by the association to the occupants of a separate interest not less than 15 nor more than 30 days prior to the temporary relocation. (CC 1364(d)(2)).

Notice may be given by personal delivery or mailing by first class mail to both the occupants and the owner, if different.

## **INSURANCE COVERAGE AMOUNTS TO HELP PROTECT OWNERS AND VOLUNTEER OFFICERS AND DIRECTORS**

Over the past several years, amendments were made to the Davis-Stirling Act (Civil Code) to provide members with some levels of liability protection in the event of a claim or a lawsuit against the association or one of its members. These laws are found in Civil Code Sections 1365.7 and 1365.9 and are summarized below:

**Officer and Director Liability:** A volunteer officer or volunteer director of an association, which manages an exclusively residential common interest development shall not be personally liable in excess of the coverage of insurance (see item 4 below) to any person who suffers injury (bodily injury, emotional distress, wrongful death or property damage or loss) as a result of the tortuous act or omission of the volunteer director or officer, if all of the following criteria are met:

- 1) The act or omission was performed within the scope of the officer's or director's association duties. (this includes evaluation of issues pertaining to construction defect issues)
- 2) The act or omission was performed in good faith
- 3) The act or omission was not willful or grossly negligent and
- 4) The association maintained insurance at the time the act or omission occurred that includes general liability for the association and individual liability of officers and directors (errors and omissions) of the association in the following minimum amounts
  - a) **\$500,000** – if the association has 100 or fewer separate interests (units)
  - b) **\$1,000,000** – if the association has more than 100 separate interests

Other criteria that must be met include that the director may not own more than 2 separate interests (but can be a tenant(nonowner) if the association has tenant directors), cannot be the developer or a developer representative, and cannot receive compensation for services other than payment for out-of-pocket expenses.

**Member Liability:** In 1992, the California Court of Appeals in *Ruoff vs., Harbor Creek Community Association* ruled that individual owners as well as the association could be held individually liable for injuries sustained by someone in the common area. If the damages exceeded the association's insurance coverage, a claimant could go after one or several owners for the balance of the judgement (looking for deep pockets). As a result of this case, Civil Code Section 1365.9 was enacted to provide limited civil liability protection to members of the association. If the association maintains general liability insurance as noted below, then any claim for damages can only be brought against the association and not individual members.

**\$2,000,000** – If the association has 100 units or less

**\$3,000,000** – If the association has more than 100 units

## UNDERSTANDING BANK RECONCILIATIONS

Board members have a fiduciary duty under California law to review financial statements and bank reconciliations of their association on a periodic basis. As defined in California Civil Code Section 1365.5, board members are required to:

- Review a current reconciliation of the association's operating and reserve accounts at least quarterly
- Review the current year's actual reserve revenues and expenses compared to the current year's budget at least quarterly
- Review an income and expense statement for the association's operating and reserve funds at least quarterly
- Review the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts

Accurate financial reporting is highly prized by all members, not just board members. A sample bank reconciliation follows along with notes as to how to analyze it.

**BANK STATEMENTS AND RECONCILIATIONS:** Cash and Investments are the #1 assets in nearly all associations. Most associations have an operating checking account, a reserve money market savings account and certificates of deposit (CDs). Some associations will have multiple CDs and may have a brokerage account (e.g. Wachovia, Schwab) for their investments. Some associations have invested in Treasury Notes and Bills through their bank, brokerage account or Treasury Direct. For most associations, Treasury interest is not taxable by California. A few associations have mutual fund investments. See the May 2006 newsletter for a more detailed discussion of investments.

**HOW TO REVIEW:** For checking accounts, obtain the bank statement and reconciliation from the manager or treasurer. A reconciliation will start with the ending balance on the bank statement. To that balance will be added any deposits made before the statement date that don't appear on the bank statement. (Association accounts should always have a month-end ending date to facilitate review with the month-end financial statements). Any checks written before the statement date which have not cleared are subtracted to reach the reconciled balance. This balance is then compared to the general ledger or check register balance. Interest paid by the bank or bank charges are posted to the register/ledger and the amounts from the reconciliation and general ledger should then agree.

**IF IT RECONCILES, DOES THAT MEAN IT'S RIGHT?:** Not necessarily. As noted above, the book balance from the register/ledger must agree with the bank reconciliation balance. Look for old items, more than 30 days, to see if they are legitimate or should be adjusted. See example following:

### SAN JOSE CREEK HOMEOWNERS ASSOCIATION – CHECKING ACCOUNT RECONCILIATION JUNE 30, 2006

#### General Ledger Summary:

Beginning Cash, June 1, 2006	\$1,812.44
Add: Cash Received – June	6,300.00

South Coast Homeowners Association – July 2006

Less: Cash Disbursed – June	<u>7,122.44</u>
Ending Cash, June 30, 2006	\$ 990.00 <sup>1</sup>
Add: Interest Earned – Checking	.25 <sup>2</sup>
Subtract: Bank Charge – June	<u>10.00<sup>2</sup></u>
Reconciled Balance – June 30, 2006	\$ 980.25

**Bank Statement Reconciliation:**

Ending Balance, Bank Statement 6/30/06	\$ 5,387.33
Deposit in Transit – 3/11/06	200.00 <sup>3</sup>
Deposit in Transit - 6/29/06	<u>1,000.00</u>
Subtotal	6,587.33

Outstanding Checks	
2/9/06 #3284 – Bill Stoneman, Attorney	\$ 581.33 <sup>4</sup>
2/9/06 #3287 - Southern Calif Edison	135.00 <sup>4</sup>
6/23/06 # 3401 – GreenTree Landscape	2500.00
6/23/06 #3402 - State Farm Insurance	2090.75
6/30/06 #3403 - Bill's Plumbing	<u>300.00</u>

Total Outstanding Checks	<u>5,607.08</u>
Reconciled Balance, June 30, 2006	\$ 980.25

**NOTES:**

- 1) Low cash balance, investigate why. Has association incurred unusual expenses? Collecting all its assessments? Was the budget realistic? Reserve expenses paid from operations?
- 2) With low cash balance, association makes 0.1% interest on account and pays monthly service charge. If balance is to remain low, can association eliminate interest and eliminate monthly service charge and save money?
- 3) \$200 in transit for over three months. Posting error, perhaps a duplicate posting?
- 4) Outstanding checks over 120 days. Maybe lost in transit or replaced with subsequent check. Investigate and adjust as needed.

**SAVINGS ACCOUNTS, CDs AND INVESTMENTS:** Savings accounts, CDs and Investments should be reconciled just like the checking account, except that these accounts usually have fewer transactions. Obtain copies of the bank statements and reconciliations as with the checking account. Most banks now issue periodic statements for CDs. Look for the following:

- 1) Interest Rate: Banks pay wide ranging rates on savings accounts. Passbook savings might pay 0.5-1.5% while money market accounts will pay 3.% to 4.% (June 2006). Look on the statement to see what rate you're receiving. You may be able to obtain a higher rate just by asking the bank to change the type of account. Many money market accounts allow 3 checks to be drawn on the account each month without a fee. You might also be able to transfer funds not immediately needed to CDs or Treasury investments which pay a higher rate of interest.
- 2) Change in Fair Market Value: Mutual funds will fluctuate in value. Fund or brokerage statements should disclose the current fair market value at the statement date. Compare to previous months' statements to determine unrealized gains or losses from investments.

## **The Uncertain Future of Community Associations Thoughts on Financial Reform – Part III**

**Author: Tyler P. Berding, Esq.  
Berding & Weil, LLP**

Editor' Note: Starting in 1999, Mr. Berding wrote a series of articles that appeared in the Executive Council of Homeowners (ECHO) Journal reflecting upon the future of common interest developments. Recently, Mr. Berding re-edited the articles into a small book. With his generous permission, we will serialize the book in successive issues of the newsletter to provoke further thought and discussion on the topic. Mr. Berding received an M.A. and Ph.D. in Government from the Claremont Graduate School and his J.D. from the University of California at Davis. He can be reached at [tberding@berding-weil.com](mailto:tberding@berding-weil.com).

Part I outlined the concepts of obsolescence of association property, inadequate funding to replace property and four stages of life in a community association. Part II examined obsolete associations. Part III explores issues pertaining to underfunding of reserves.

### **A Survey of Reserve Accounts A Statistical Sample Shows Chronic Under-Funding**

The opinions stated here are based on evidence obtained in the course of our practice over many years, and upon conversations with numerous industry professionals. While few doubt that the problem is real, it had not often been statistically verified. To remedy that, we commissioned a survey of 687 community associations to collect statistical evidence of the state of association reserve funding. 'What they found was not pretty.

Overall, for the 687 associations surveyed, the average percent funded was only fifty-four percent. This means that these associations have approximately half of the capital that they should currently have to fund their reserves adequately. Consider also the survey of 1,447 California community associations completed in 1995, eight years prior to the one above, by the Oakland accounting firm, Levy & Company CPAs. That survey found that the average percent funded was at sixty percent. Not only do associations have much less than they need, the trend is toward an even greater funding gap. This observation was corroborated as well by a southern California reserve study company, Association Reserves, Inc., which has observed, based on more than 7,000 reserve studies prepared by that firm over twenty years, that the average percent funded has remained in the mid-fifty percent range.

The average size of this reserve "gap" is approximately \$1,400 per unit. If this sum were to prove accurate for all of the estimated 34,400 California community associations, computed at an average of 106 units per association, this would represent a combined deficit of approximately \$5.1 billion. This survey may or may not be statistically representative of all of the associations in California, or in other states, but when this information is coupled with other evidence, one can easily conclude that many community associations are in serious financial trouble. The data also indicates—to no one's surprise—that the older an association is, the greater the under funding of reserves is likely to be.

### **RESERVE STUDY COMPANIES**

Percent funded results were also computed for thirteen reserve study companies based on ten or more studies. These results also indicate a greater degree of under funding of reserves when reserve requirements are computed solely by boards of directors or their management agents without the assistance of a professional reserve study company. This tentative conclusion is based, however, on only forty-six associations or approximately seven percent of the population surveyed.

In most respects, this survey speaks for itself. Smaller, older condominium associations tend to be worse off than larger, newer planned developments. That does not mean, however, that the newer, larger associations do not face capitalization problems. It simply means that their obligations probably have not matured to the point where the funding shortfall is critical. What the survey also indicated is that the trend is the same for all types of community associations. It also indicates that the funding crisis is just a matter of time.

What to do? As we have stated before, each director of a community association must insist on a realistic appraisal of the condition of the project and the cost of future maintenance. Any temptation to underplay these elements to keep assessments low must be resisted if the association is to have any chance at financial stability. The long-term financial security that would result from an aggressive program to increase funding will be worth whatever adverse short-term political consequences might occur. Those boards of directors that have the courage to put such a program in place will strike a blow for sound fiscal management. For those who do not, the financial consequences seem increasingly obvious.

### **The Impact on Affordable Housing Instability Hits the Most Vulnerable Communities Hard**

That community associations are in jeopardy is a reasonably safe conclusion. But what about the specific impact this problem will have on the availability of “affordable” housing? Saving the existing housing stock may be a bigger challenge than stimulating new construction. There are more than 30,000 common interest developments in California alone. They provide affordable housing for as many as five million Californians. The loss of any substantial portion of that housing stock would greatly affect our ability to house many low and moderate income residents. The following two examples illustrate the financial impact on individual owners of low to moderate income housing when unexpected or undiscovered problems arise.

Experience with certain building components has shown that an owners’ association may not discover some building failures until the damage is so obvious it can no longer be ignored. Dry rot is one of the best examples because it often attacks hidden portions of a building.

A 285-unit condominium project in Daly City, California was about nine years old when the structural supports for a portion of one building collapsed, taking parts of two units with it. The homeowner’s association called in a contractor to repair the damage. As the contractor peeled away the exterior stucco of the building, he discovered that the rot extended inward to include the framing members. The cost of that one repair exceeded \$60,000, and prior to failure, the damage was completely invisible from the outside of the building. Inspection of the remainder of the project revealed extensive rot in other buildings. The cost of repair for the entire project was estimated to exceed \$8 million! The problem was water which had leaked into the inner wall from the roof. It did not enter the units, but remained in the walls because

the walls had been improperly sealed. A complete repair required that all of the wood framing beneath it be repaired.

If the funding for the foregoing repairs had to be raised by assessing the owners, it would have been over \$28,000 per unit. It is difficult to conceive of a less affordable home. More frightening: \$8 million probably exceeds the aggregate total of all of the owners' equity in the project! The owners bought the homes, but clearly, without outside funding assistance, they can never afford to own them.

Another condominium project employed a contractor to perform repairs five years earlier. The repairs were poorly performed, and failed to correct widespread leakage and the consequent dry rot. The community association sued the repairing contractor, but could not sue the original builder because the statute of limitations had expired. The suit against the repairing contractor was settled and the association received several million dollars. A good result— if it had covered all of the required repairs.

Unfortunately, the repairing contractor had only worked on one phase of the project, and the claim therefore could not be asserted against the contractor for the remainder of the units, all of which suffered from similar problems. Further, the entire project suffered from poor quality firewall and seismic safety construction, claims which were also beyond the statute of limitations. The repair estimate for the entire project: \$20 million. Needed assessment per unit: over \$50,000.

Surprisingly, this project suffered no slow down in the sales of units. Due to the high demand for housing in the San Francisco Bay Area, homes in this project were selling at market values determined as if the severe damage did not exist. Sellers who sold these units at full market value arguably recovered equity from the buyers which they did not own. Even considering the superheated real estate market, a truly informed buyer would not likely pay full market value for such a home. The owner's association had relevant information on the condition of the buildings available for review by prospective buyers, but few asked for it. Either they were not interested, or they were not told it existed. It is likely that most of the owners' equity in that project was offset by the unfunded liability for repairs.

Did the seller of any one of the units described above really have anything to sell? Under these circumstances, did the new buyers receive any equity? If not, are the lenders who hold the deeds of trust or mortgages on those properties really the owners? And what do the banks own—property with a massive unfunded liability for repair that someone will eventually have to acknowledge? Could it be that buyers in this situation are actually more like renters? If they cannot accumulate equity because the property is heading for obsolescence, their "ownership" will be short-lived.

The "gap" does not get smaller with time. Unless extraordinary amounts of cash are injected into the project, it is unlikely that the owner's association will ever catch up with the deterioration in these buildings. Both of these projects benefited from substantial cash infusions from settlement of litigation, such that obsolescence was postponed. But many, many projects have not been so lucky, and even those that do find a temporary solution can expect to have to deal with both the forces of nature and its long-term effect on buildings. If such issues as dry rot, mold, or structural failure are allowed to continue unchecked, basic habitability will be compromised to the point where condemnation is a distinct possibility. In those cases, the "affordable" home may be only a myth.

At some point in the future, when either the economy slows enough to re-introduce simple caution into the purchase of a home, or when prospective buyers are confronted with a

disclosure of the required repairs and their cost which cannot be ignored or denied, reality will catch up and the owners may discover that they don't own that "affordable" home. When that happens, the buyers will realize that their investment is as mythical as the promise of affordability.

Perhaps one solution would be to create more rental housing. Even if the quality were not improved, at least the residents would not think that they were "investing" in long-term equity growth. This would protect low and moderate income home buyers from the potential loss of their down payment. With rental housing, the investor/owners take the risk, but it is a risk they are better equipped to assume. Investors are better able to investigate the condition of rental housing buildings, and, when repairs are necessary, are more likely to have the resources necessary to affect them. A "safety net" of affordable rental housing would not only provide needed, "affordable" homes, but would also protect low and moderate income buyers from entering an investment that can only produce diminishing returns.

## **A NATIONAL ISSUE**

### **It's Not Just a California Problem**

Most of what has been written here is based upon experience in California. But clearly, the problem is not limited to that state. Community Associations in other states share many of the same problems that have led to chronic underfunding in California.

Jim Wasserman, of the Associated Press, has written on the problem of under funding from a national perspective. The article, entitled "Homeowners Associations Undermined by Cash Shortages to Maintain Properties", was picked up by newspapers across the nation on April 11, 2004. Wasserman writes: "Amid more...than 260,000 private communities nationally 36,000 in California, at least one-third have steadily put off raising necessary assessments for fear of political conflict, and now need repairs and face lifts for which they significantly lack money, say those who monitor homeowner association finances."

Wasserman quotes Robert M. Nordlund, owner of California's Association Reserves, Inc. which analyzes private communities in forty-one states, Canada and Mexico. "If you give me a list of thirty names (of community associations), ten are on the list. For those ten, the deficit is so significant they'll need one or more special assessments to make it up," Nordlund said.

The problem parallels the financial crisis faced by many municipalities. "The trend, especially in older privately run neighborhoods, represents a striking parallel to the financial deficits plaguing local and state governments. As the public sector has delayed maintenance, many private association boards are watching streets, pools, balconies, siding and clubhouses slowly deteriorate while their reserve funds contain half or less of the money needed to eventually fix them. And just as city halls and statehouses fear raising taxes, voluntary, often inexperienced association boards fear the wrath of homeowners over possible higher assessments," writes Wasserman.

The economy has helped to exacerbate the problem. "Low interest rates have kept reserve funds from building in recent years. Associations can also foreclose on homeowners don't pay their dues, so residents are often wary of raising them" according to the article.

Wasserman suggests that all of this threatens the very existence of many community associations, and the impact on real estate across the nation could be substantial given the high percentage that community associations represent of all developments. The article quotes one expert as saying: “In Florida, which with California contains forty percent of the nation’s condominium communities, associations must calculate appropriate reserve funding. But a majority vote among members can block the assessments needed to reach it... There, older residents of such neighborhoods tend to think, “Why do I care about the roof in five years?”

Wasserman continues: “But under funded reserves could threaten the forty-year old culture of living in a privately run neighborhood which is where eighty percent of all new homes are built nationally. CAI (The Community Associations Institute), which advises association-governed communities, estimates that fifty million Americans – nearly one in six of the country – live inside such communities with half paying between \$100 and \$200 a month to maintain them.”

“In California, private communities with monthly or yearly dues now contain more than one-fourth of the state’s twelve million places to live and sixty percent of its new housing. Many of the states 477 cities encourage privately run communities inside their boundaries because they build and maintain their own streets and parks, even as if their residents also pay property taxes to support city facilities.” Wasserman concludes: “That means new buyers will most likely have to pay higher fees to compensate for what previous owners failed to assess themselves.”

All of this describes an industry that has and will continue to struggle with financial stability. Short of throwing in the towel and watching numerous projects sink beneath the waves, are reforms available which might staunch the hemorrhaging? A few thoughts on reforming community association finance follow.

### **Next Issue – Thoughts on Financial Reform**

### **2006 LEGISLATION**

**AB 770** - This bill would until July 1, 2009, establish in the Department of Consumer Affairs, the Office of the Common Interest Development Ombudsperson. The bill would require the Ombudsperson, to report annually to the Legislature, and to submit recommendations to the Legislature on specified topics by January 1, 2009. The bill would require the Ombudsperson, commencing July 1, 2007, to offer training materials and courses to common interest development directors, officers, and owners, in subjects relevant to the operation of a common interest development and the rights and duties of an association or owner. The bill would require the Ombudsperson to maintain a toll-free telephone number and Internet Web site for purposes of further providing that information and assistance, and would require an association director or agent to meet certain requirements in that regard. The bill would authorize the Ombudsperson to provide assistance in resolving common interest development disputes. This bill would impose a biennial association fee on common interest development associations of \$2 per unit (down from \$10), payable upon filing specified information with the Secretary of State.

A companion bill, SB 551, which would have added enforcement and citation powers to the agency appears to be dead in this session. AB 770 has been revised to be only a 2-year pilot project.

**SB 1560** - This bill would revise provisions governing the conduct of elections in a common interest development. Among other things, the bill would require an association to adopt rules to allow one or more inspectors to appoint or oversee independent 3rd parties to verify signatures and count and tabulate votes, specify that a quorum shall only be required if so stated in the governing documents of the association or other provision of law, permit a ballot received by the inspector of elections to be treated as a member present for purposes of a quorum, authorize a secret ballot to be distributed and voted upon by the membership without a meeting, and impose other requirements relating to proxies and secret ballots, as specified.

This bill would also revise portions of the association records disclosure law effective July 1, 2006 (AB 1098) to permit the association to withhold or redact information from the association records regarding *interior* architectural plans for individual homes, including security features. This bill would additionally prohibit a 3rd party from being liable for damages for failing to withhold or redact information unless the failure to withhold or redact information was intentional or negligent. This bill would permit the associate to deliver documents by electronic transmission or machine-readable storage if those records are transmitted in a redacted format.

The bill would also modify the accounting method requirements of AB 1098 (full accrual accounting on interim financial statements) to permit modified accrual method statements (income-accrual, expenses-cash). This method of accounting is used by many management companies. Cash basis financial statements and reporting would still be prohibited by this statute.

The bill would declare that it is to take effect immediately as an urgency statute. The bill remains pending in the Legislature.

**AB2100** - This bill, sponsored by the California Association of Realtors, would require the pro forma operating budget to include the current deficiency in reserve funding expressed on a per unit basis, a statement as to whether the board of directors of the association has determined to defer or not undertake repairs or replacement of any major component, and a statement whether the association has any outstanding loans. This bill would require the study to also include a reserve funding plan that indicates how the association plans to fund the annual contribution to meet the association's obligation for the repair and replacement of all major components. This bill would require, if the board of directors determines an assessment increase is required to fund the reserve funding plan, any assessment increase the board adopts to be approved in a separate board action from the action to adopt a reserve funding plan. The bill would require, commencing January 1, 2009, a summary of the reserve funding plan to be distributed to all members.

Chris Andrews, Reserve Specialist of Stone Mountain Corporation, points out that the current bill has inconsistent language regarding the "required" funding of reserves between sections. Chris also notes that a new disclosure in the bill could be difficult if not impossible to define:

“...the estimated amount required in the reserve fund at the end of each of the next five budget years is \$ \_\_\_\_\_, and the projected reserve cash balance in each of those years, taking into account only assessments already approved and known revenues, is \$ \_\_\_\_\_, leaving the reserve at \_\_\_\_ percent funding. If the reserve funding plan approved by the association is implemented, the projected reserve fund cash balance in each of those years will be \$ \_\_\_\_\_, leaving the reserve at \_\_\_\_\_ percent funding.”

This bill has been cruising through the Legislature with limited discussion and debate.

**AB2851** – This bill would authorize a condominium plan to be amended or revoked by a subsequently acknowledged recorded instrument executed by all of the persons whose signatures would be required on the certificate as of the date of the amendment or revocation for the condominium project. The bill would further authorize the amendment of a condominium plan by an association for the purpose of repairing, rebuilding, or reconstructing all or a portion of a condominium project, if (1) the association obtains the written consent of each owner, *the* boundaries of whose separate interest are affected by the revised condominium *plan*, (2) the amendment is reasonable and does not eliminate any special rights, or privileges of an owner or impair any security interest, (3) 67% of the owners whose units are subject to that condominium plan vote to approve the amendment, and (4) the association receives the approval of the superior court using a specified petition process. The bill also would set forth notice, election, and recording requirements for amendment of a condominium plan, specify requirements for execution of amendments to plans that affect only industrial or commercial uses, and provide that no amendment of a condominium plan is required for a unit owner to use any common area wall, floor, or ceiling area adjacent to the unit for installing utilities and other fixtures.

Other bills pertaining to construction defects and nonjudicial foreclosure are also pending.

Three major HOA industry groups advocate on behalf of association interests in Sacramento. They are the Executive Council of Homeowners (ECHO), Community Association Institute's California Legislative Action Committee (CAI-CLAC) and the California Association of Community Managers (CACM). Many of you turned out for a first-person account of this lobbying process when Skip Daum of CAI-CLAC provided our May program. In addition, your editor attended a presentation in Santa Clara recently by ECHO where one of the speakers was the Assemblyman who has sponsored AB 770 (the ombudsman bill) as he described why he has become involved in HOA legislation.

The Legislature is currently in recess as they passed the state budget on time! They will reconvene in early August and all this legislation must be completed by the end of August, passed and then sent to the Governor for signature. Any bill that is not passed will not be reconsidered but would have to start as a new bill next January in the new legislative session.

You can track any of this legislation by going to [www.leginfo.ca.gov](http://www.leginfo.ca.gov). You can find out the current status of the bills, any amendments, hearing dates, votes, etc. The analyses provided by legislative staff provide insights as to why the legislation exists. Often, this is the only information a legislator may see prior to casting a vote.

## **SOUTH COAST NEWSLETTER SPONSORS**

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### **FINANCIAL SERVICES**

First Bank Association Services  
Judy Remley/Linda White  
2797 Agoura Rd  
Westlake Village, CA 91361  
800-539-9616

### **ASSOCIATION MANAGEMENT**

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Santa Barbara Resources, Inc.  
Phyllis Ventura, CCAM  
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Santa Barbara, CA 93160  
805-964-1409

Spectrum Property Services  
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Ventura, CA 93003  
805-642-6160

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Town'n Country Property Management  
Connie Burns  
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Goleta, CA 93117  
805-967-4741

**Association Management (Cont)**

Goetz & Associates  
Manderley Property Services  
North Santa Barbara/SLO Counties  
Gordon Goetz, CCAM  
805-937-7278

Good Management Co.  
Michelle Armstrong, PCAM  
1 N. Calle Cesar Chavez #230A  
Santa Barbara, CA 93103  
805-564-1400

**RESERVE STUDIES**

Stone Mountain Corporation  
Chris Andrews  
P. O. Box 1369  
Goleta, CA 93116  
805-681-1575

[www.stonemountaincorp.com](http://www.stonemountaincorp.com)

The Helsing Group  
Roy Helsing  
2000 Crow Canyon Place, Suite 380  
San Ramon, CA 94583  
800-443-5746

**INSURANCE**

State Farm Insurance  
Buzz Faull  
1236-G Coast Village Circle  
Santa Barbara, CA 93108  
805-969-5838

State Farm Insurance  
Ed Attlesey  
160 N. Fairview #3  
Goleta, CA 93117  
805-964-9988

Timothy Cline Insurance Agency  
Tim Cline, CIRMS  
725 Arizona Ave #200  
Santa Monica, CA 90401  
800-966-9566

**Insurance (Cont)**

Nina Corman  
Allstate Insurance  
830 E. Ocean Ave.  
Lompoc, CA 93436  
866-736-8944

**CONSTRUCTION MANAGEMENT**

Stonemark Construction Management  
Bart Mendel  
290 Maple Court, Suite 120  
Ventura, CA 93003  
800-844-9240

**GENERAL CONTRACTOR/REPAIR**

Raymond Arias Construction  
Raymond Arias  
1 N. Calle Cesar Chavez #230-B  
Santa Barbara, CA 93103  
805-965-4158

**PAVING CONTRACTOR**

Smith-Patterson Paving  
David/Jim Smith  
1880 N. Ventura Ave.  
Ventura, CA 93001  
805-653-1220

**ROOFING CONTRACTOR**

Derrick's Roofing  
Frank Derrick  
650 Ward Drive, Suite F  
Santa Barbara, CA 93111  
805-681-9954

**LANDSCAPE CONTRACTOR**

Kitson Landscape Management  
Sarah Kitson  
5787 Thornwood  
Goleta, CA 93117  
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**POOL SERVICE**

Avalon Pool & Spa Service  
Brandon Fennell  
P. O. Box 8026  
Goleta, CA 93118  
805-637-4745

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**ORGANIZATIONS**

**Community Associations Institute – Channel Islands Chapter**

P. O. Box 3575  
Ventura, CA 93006  
805-658-1438  
[www.cai-channelislands.org](http://www.cai-channelislands.org)

**Executive Council of Homeowners**

ECHO  
1602 The Alameda #101  
San Jose, CA 95126  
408-297-3246  
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