SOUTH COAST HOMEOWNERS ASSOCIATION

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IN THIS ISSUE

UPCOMING SOUTH COAST MEETINGS

Tuesday, September 6 – Our fall finances seminar will feature **Chris Andrews, Reserve Specialist**, who will cover the new reserve disclosure forms (see May 2005 newsletter) in depth and provide practical guidance in the preparation of the forms that are now part of your annual member disclosures. **Michael J. Gartzke, CPA** plans to discuss how to read your Treasurer's, manager's or CPA's financial statements, how to identify financial problem areas and other interesting accounting issues (are there any?)

Place – Holiday Inn, 5650 Calle Real, Goleta
Time – 7 PM

Saturday, September 17 – Each year, our colleagues at the Channel Islands Chapter of the Community Associations Institute (CAI) put on a Trade Faire called the Homeowners Association Expo, held at the Marriott Residence Inn, River Ridge, 2101 West Vineyard Avenue, Oxnard. The Trade Faire presents an opportunity to meet maintenance and service professionals from 8 AM to 2 PM and to attend two legal question and answer forums from 8-9 AM and 1-2 PM. A free lunch is served to those who pre-register. There is no cost to attend. See the enclosed flyer for more information.

SOUTH COAST HOMEOWNERS ASSOCIATION IS NOW ON THE WEB!

Don't forget that South Coast HOA is on the web at **www.southcoasthoa.org**. Look there for current events and meeting reminders, a sample newsletter and membership application, a list of other resources and links.

THE MECHANICS OF A SPECIAL ASSESSMENT

By: Michael J. Gartzke, CPA

Editor's Note: It costs money to own and maintain property. Even with the best-laid plans, sometimes major, unexpected expenses occur. My thanks to Chris Andrews of Stone Mountain Corporation for his contributions to this article.

"Special assessment" is one of those terms that you hope to never have to contend with in your association. Yet, in our periodic surveys, we have found that nearly 1/3 of the responding associations had a special assessment during the previous two years. In our last survey (fall 2003), the median special assessment was $600 (half more and half less). The highest special assessment reported by respondents that year was over $15,000 per unit.

What causes the need for a special assessment? There are many factors. Recent increases in insurance and utility rates (especially water rates) have created the need for operating fund special assessments. For example, water districts can impose rate increases 30 days after proposal and hearing, so increases can happen at any time within one budget year. Lean operating budgets cannot absorb major increases in operating expenses. Major insurance premium increases have been common for several years and can also occur when replacement costs are newly analyzed and coverage limits are found to be deficient.

In other cases, some associations have been hesitant to set aside enough funds into reserves. There can be severe peer pressure from some owners to "hold the line" on monthly assessments, no matter how unrealistic this premise is. For these people, simply having enough assessment income to pay ongoing day-to-day expenses is enough. Some associations, when confronted with unbudgeted operating expenses, will "solve" the problem by not transferring budgeted reserve contributions to the reserve bank account. Thus, the reserve contribution line item in the budget becomes a "slush" fund to meet these unbudgeted expenses.

No useful purpose is achieved by absorbing the "pain" of operating expense increases in the association's budget without making adjustments. Pass these costs through to the members so that they know the causes of increased assessments. Owners who have to pay the increased costs of utilities (e.g. Carpinteria Water) can direct their complaints and concerns to the government agency boards of directors responsible for implementing these increased rates rather than to the association's directors.

The average association in South Santa Barbara County is 30 years old. These associations have repainted several times, reroofed at least once, resurfaced their streets and pool, fumigated their buildings and performed other major maintenance. Yet, some

associations are finding that major structural damage and decay has occurred within their buildings requiring substantial replacement of utility lines, wood beams, foundations and other structural components. These types of repairs also require the need for architectural design, construction management, and/or environmental remediation services in addition to the reconstruction costs that are not included in a reserve funding analysis.

Special assessments are often a result of inadequate reserve funding, a major reserve expense that occurs sooner than expected or is substantially more expensive than budgeted, or an operating expense that increases beyond that anticipated in the budget. The procedure for imposition of a special assessment is usually covered in the association's governing documents (CC&Rs) and is also laid out in California Civil Code section 1366.

MEMBER VOTE REQUIRED

Normally, a vote of the members is required to approve a special assessment. There are exceptions, to be discussed later. In order to impose a special assessment, a majority of the owners (more than 50% of those voting) of a quorum (more than 50% of the total owners) permitted to vote under the California Corporations Code must approve the assessment. For example, in a 100-unit association, if 65 members voted (over 50%of the total number of owners), then it would take 33 yes votes (more than 50% of the 65 voting) to impose the assessment. Your association's attorney should be consulted to ensure that the vote is handled properly. Proxies may be used for voting.

Just like regular assessments, at least 30 days notice must be given to impose the assessment, after the special assessment is approved by the members. Also like regular assessments, the special assessment is delinquent 15 days after its due date. Late fees, interest and collection costs can be added to delinquent special assessments. Again like regular assessments, a lien can be filed if the special assessment remains unpaid, subject to Civil Code Section 1367.

EXCEPTIONS TO MEMBER VOTE

As noted earlier, the board can impose a special assessment without a vote of the members in two situations. First, the board may impose a special assessment of up to 5% (or multiple special assessments that total up to 5%) of the budgeted gross expenses of the association for that fiscal year. This law, Civil Code section 1366(b), restricts a special assessment the board can impose without a vote of the members to a fairly low amount. For example, a board of a 40-unit association with budgeted gross expenses of $100,000 could impose special assessments under this section totaling up to $5,000 during the fiscal year. Divided by 40 units, the maximum assessment per unit would be $125. These types of assessments are used most commonly to make up a shortfall in the operating account that may have occurred due to a utility rate increase, change in insurance coverage or unanticipated minor maintenance. If your association assessments are variable or partially variable (different members pay different assessments based upon square footage of unit, number of bedrooms or some other criteria), then be sure to consult with your governing documents to determine how the special assessment is to be assessed to the members. The special assessment may not be computed the same way as regular assessments are. For example, if the special assessment is for roofing and roofing expense is allocated based on square footage of each

unit but other expenses are the same amount for each unit, then the special assessment would be computed per square foot of living area.

A second exception provides that the board can impose a special assessment without a vote in certain "emergency situations". There is no dollar limit on the amount that can be assessed under this section. If you are planning to use the emergency situation exception to impose an assessment without membership approval, be sure to get your attorney's opinion. Different people will have different opinions about what constitutes an emergency. As provided in Civil Code Section 1366(b), an emergency situation is any one of the following:

1) An extraordinary expense required by an order of the court.

An example of a court ordered assessment comes from a Ventura County court case involving reconstruction after the Northridge Earthquake. A contractor sued the association and won. The association's insurance company did not cover the loss so the court imposed a special assessment upon each owner to satisfy the judgement.

2) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible where a threat to personal safety is discovered.

3) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the pro forma operating budget under Section 1365. However, prior to the imposition or collection of an assessment under this subdivision, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

For example, if the association needs to re-roof and has not set aside any reserve funds, it would be hard-pressed to use exception 3 to impose an assessment without a member vote. The board should know what its reserve obligations are through its reserve study. However, exception 3 might be available to a board that finds that it is required to replace a "40-year" roof in 15 years as a result of "El Nino" and improper installation of the original roof. An example of exception 2 might be the repaving of your parking lot after an inspection by your insurance underwriter who indicates that your coverage might be cancelled due to the unsafe conditions found during the inspection.

IMPLEMENTING THE SPECIAL ASSESSMENT

In many cases, it will take time to gather the necessary bids, specialized reports and other information necessary to compute the amount needed for a special assessment. Keeping members informed via association minutes and newsletters is important and can help gain passage of the assessment when the time comes for a vote. If your project is a major reconstruction effort, you should consider having a "town hall" style membership meeting where information about the project and funding is presented to the owners. Invite the contractor, project manager, association attorney and accountant to make presentations

about the numerous aspects of the project. Generally, no action would be taken at such a meeting but it would allow members to ask questions about the project and state any concerns they may have.

When soliciting a vote on special assessments, some members will simply "vote their checkbook". If they have to write a (large) check, they will simply vote "no". For larger assessments, offering to accept installment payments at a somewhat higher amount (to cover the extra administrative costs) as well as a lump-sum payment may facilitate approval by some members who may not have the means (or desire) to make a large payment up front. Making a payment option available will necessitate more work for your treasurer or property manager to track the payments but it could spell the difference between passage and failure of the special assessment vote.

In today's real estate market, it doesn't hurt to stress the total market value of the association or the average value of each unit in relating the amount of the special assessment to these values. For example, a $6,000 special assessment on units worth an average of $600,000 is 1% of the market value of the unit. It may also be advantageous to mention that the work to be funded by the special assessment may, in fact, improve curb appeal – and hence property values – as much or more than the cost of the special assessment.

OTHER FUNDING OPTIONS

Civil Code Section 1366 also allows an association board to increase its regular assessment by 20% without a members' vote as part of the budget process. Depending upon what the association needs the funds for and how soon funds are required, the association can build a line item into its next year's pro forma operating budget to generate additional funding.

While beyond the scope of this article, an association may be able to obtain a loan to meet a major maintenance obligation that can be repaid from increased operating assessments over several years. Some banks make loans to associations in the form of a line of credit and then convert it to a commercial-rate, amortized loan at the conclusion of the repairs. Options need to be considered for fixed vs. variable interest rates, length of loan (years), partial payoffs prior to maturity, deductibility of interest expense, etc. We plan to run an article in our next issue on borrowing for major repairs.

FOLLOW-THROUGH & CONCLUSION

Your quest to pass a special assessment and the net impact on the social atmosphere at your association will be optimal if you communicate effectively to your members the logical reasons for the assessment and exactly where the money is going to be deployed. As the special assessment money is being collected and then spent, progress reports by email, supplements to minutes/newsletters or postings on a bulletin board are one way to make people feel good about how their money is being spent. Once the special assessment has been collected and the reason for the assessment has been resolved via those funds, complimenting the membership on their cooperation in getting the association through difficult times can be very effective PR – just in case your association ever needs to levy another special assessment in the future...

ROOFS AND DECKS:
A MAINTENANCE PERSPECTIVE

By: Steven Saarman

Editor's Note: This article appeared in the June 2005 issue of the *ECHO Journal* and is reprinted with their permission. Information regarding ECHO appears on the back page. Mr. Saarman is President of Saarman Construction, Ltd. (General Contractor and Exterior Specialist) In San Francisco and earned ECHO's Volunteer of the Year Award in 2004. They can be reached at 415-749-2700 or at www.saarman.com.

For both roofs and decks, semi-annual inspections are the first step in any proactive preventative maintenance program. This allows the ability to identify and solve any problems as they occur with the least cost and consequential damage. The inspections should be scheduled in the spring, after the ravages of winter have passed and again in early fall, after the heat of summer has passed and in anticipation of winter. These are critical periods to "tune-up" both systems. Both roofs and decks are basically horizontal surfaces and, consequently, get more abuse from the elements (i.e. sun and rain) than any other part of the building.

The most common roofing materials used locally are: asphalt composition shingles, built-up and modified bitumen, wood shakes and shingles and clay or concrete tiles. There are maintenance elements common to each of these roof types, as well as roof-type specific maintenance procedures.

- Clean all debris from the roof surface. This includes debris that has accumulated behind HVAC units, skylights, chimneys, pipes, pitch pockets or any other penetrations. Debris has a tendency to retain moisture and accelerate deterioration of the roofing material, especially if it is asphalt or wood based.

- Check all flashings to make sure they have not deteriorated, there are no holes in them or that joints or seams have not broken loose due to thermal expansion and contraction. If flashings need to be replaced, always have flashings installed with "slope to drain" away from the building, not flat or reversed sloped, which will retain water, push it back towards the building and increase the potential for leaks.

- Check all caulking and sealants on flashings, caps or copings. Scrape and remove any caulking that is cracked and damaged. Clean thoroughly and replace it with a polyurethane caulking such as NP-1 or SIKA – FLEX IA.

- Keep your gutters and downspouts, drains and scuppers clean and free of debris. Test your downspouts before winter to make sure they run free and aren't clogged. Clogged downspouts cause gutters to fill up in heavy rains and increase the chances of water flowing backwards under the roofing.

- Trim back any overhanging tree branches that will add to accumulated roof debris and possible abrasion of the roof surface. This is also a good preventative measure from

a fire prevention point of view.

- If you have split levels roofs, make sure the siding around the roofing is maintained. This siding is often not looked at, so it has a tendency to fall into disrepair. These side wall leaks are often interpreted as roofing leaks.
- Keep moss, fungus and algae off your roofs. As the organisms grow, they penetrate the wood or asphaltic surfaces, breaking down the wood, weakening fibers, wearing off the protective granules or coatings and generally accelerating substrate deterioration. Zinc “control strips” along ridges and hips are an effective and proactive control measure and are easy to install.

With asphalt composition shingle roofs, replace any weather-damaged shingles (i.e. cracked, curled or missing). As a tune-up, if some of the shingle tabs are loose, apply a dab of roof cement on either side of the tab to reattach. This will help prevent wind blow-off. Remember, a shingle roof is a waterproof plane composed of overlapping layers of shingles like the feathers on the back of a duck. When it is healthy and well maintained, water will always run off.

Built-up or modified bitumen roofs consist of multiple layers of felts laminated together with bitumen and are designed for low slope. Low sloped roofs are generally sloped a minimum of ¼ in. per foot, while sloped roofs generally have a minimum pitch of 4:12. Proper substrate sloping with valleys and crickets allow water to be channeled toward drains. Therefore, the condition of the surface is critical. Ponding water over 48 hours accelerates roof deterioration and creates a “reservoir” when the leak occurs. Gravel is applied and imbedded into the top asphalt surface to protect the lower layers from UV penetration and material breakdown. This is why bald spots need to be addressed. Check the edge metal around the perimeter of the roof. Make sure it isn’t separating at the seams where the asphalt overlaps on to the metal. Also, if you detect blisters in the roof, don’t step on or puncture them. Blisters are a sign that moisture has entered between the roofing layers and the warmth of the sun has caused the water to vaporize and expand between the layers, creating the blister. Contact a qualified roofing contractor to repair any of these issues if noticed during one of your semi-annual inspections. As a reference point on what life span one can expect from a built-up roof, under ideal conditions, a 3-ply built-up roof should last at least 15 years, a 4-ply should last at least 20 years and a 5-ply should last at least 25 years. Quality installation and proactive maintenance is key to achieving the full life expectancy of any roof system.

Cedar shakes and shingles have been used for hundreds of years because they perform well. Cedar is a wood product, so it needs to breath and therefore the surface must be kept clean of debris. This means both the top surface area and the keyways between the shingles. Attic ventilation is also very important with cedar shakes or shingles, so heat and moisture do not build up in the attic area and detrimentally affect life expectancy of the shingles.

Clay and cement tiles are extremely durable, fire resistant and long lasting. If they are being considered as a roof replacement alternative, the roof framing must be analyzed by a structural engineer because of the added weight of the material. After the semi-annual inspection, the roofer should replace any cracked tiles, tune-up any flashings and repoint ridges and hips with mortar to maintain a watertight condition.

Decks are built to provide an exterior extension to the interior living space. As an extension, it therefore has a structure for support, a means of attachment to the building and a walking surface. Each of these areas have design and maintenance concerns.

What the deck structure is made of is determined by design and building codes. Wood-framed deck structures are built from either Douglas fir framing or pressure treated framing material. If the deck surface is of a membrane type that moves water horizontally and does not allow water to pass through and soak the framing, the framing material is generally of non-pressure treated wood. If the walking surface is open slotted planking where water drains through the surface and wets the framing, pressure treated material must be used by code.

There are deck-type specific flashing details for both membrane and open drainage deck systems. Membrane type decks are like roofs and must be constructed to be watertight. Water only touches the top-walking surface; so the waterproofing elements and flashings work together to form a “bath tub” with a drain. With an open drainage deck system, water runs through spaced decking and over the supporting wood structure, the structural metal fasteners, nails and bolts which then become susceptible to decay and corrosion. When the structural framing material is pressure treated, wood decay is not an issue, but there is a heightened concern with corrosion of the metal fasteners. Standard carbon steel or aluminum should never be in contact with pressure treated material. Even electroplated nails or fasteners do not have a thick enough layer of zinc to provide adequate corrosion protection. Only hot-dipped galvanized or stainless steel nails, screws, bolts and fasteners are recommended.

The traditional surface walking material for open drainage decks has been all-heart redwood, which has a service life 10 to 20 years. Alternate wood products such as mahogany and Ipe have become popular due to the increase in cost and scarcity of all-heart redwood. Ipe is a hardwood requiring moderate maintenance and has a service life of at least 20+ years. Redwood with sap wood (white in color) is inferior for decking because sapwood has little decay resistance, but it is cheaper and will only provide a service life of 7 to 12 years. Manufactured composite decking materials are also a viable option. They come in various colors and profiles, will not rot, have very low maintenance requirements and generally come with a 10 year warranty, but actually are expected to last 30 to 40 years. When choosing a replacement decking material, consider the cost of material, anticipated service life, maintenance requirements, slickness of the surface when wet and flame spread characteristics.

Combustibility of decking materials, both real wood and composite materials, has been tested because decks are often a path of egress during a fire. The decking material that maintained the greatest structural support and also had the lowest flame spread characteristics was 2x redwood! If your deck faces open space, this should be a consideration.

Another issue with open drainage decks is the attachment of the deck boards to the framing. Over time, nails that attach the deck boards will channel water down into the center of the structural framing members and cause decay. That is why the code now requires all exposed deck framing to be pressure treated. When replacing decking over existing non-pressure treated material, protect the top of the joists with a strip of flexible membrane, which self-seals around the nails and helps prevent water from being channeled into the center of the framing. Simpson also makes metal strips, which allow attachment to both the side of the

joist, and into the bottom of the deck board, thereby alleviating the need for top nail attachment.

Membrane decks are of two types: buried and surface-applied. Buried membrane decks consist of a waterproof membrane integrated with metal flashings installed over a sloped substrate. The membrane is covered with a drainage/protection mat to facilitate movement of water over the membrane and to protect the membrane for the next step. This system is then overplayed with concrete or mortar and tile as the primary wear surface, fully protecting the waterproof membrane below. This is the most costly deck system to initially install, but offers tremendous advantages of very low maintenance and a service life of 50+ years. Only poor installation details or application will cause this type of deck to experience problems.

Surface membrane decks are very popular, have much lower installation costs and require moderate maintenance. On average, they must be top-coated every 3 to 5 years and a new membrane applied every 12 to 15 years. They are damaged by prolonged moisture (i.e. ponding, carpeting or plant pots not on feet) and are prone to abrasive damage (i.e. unprotected furniture feet or heavy foot traffic). Repairs are easily executed and affordable, but, if such decks are left unattended, substantial damage may occur and repair costs will escalate.

Typical preventative maintenance programs for surface membranes involve visually inspecting each deck semi-annually. Because the top surface is the waterproofing element, its condition is critical for performance. Just like a preventative program with roof, implement the following:

- Remove all debris to prevent accumulating and trapping moisture.
- Make sure nothing is placed on top of the membrane that does not allow it to dry out.
- Visually check seams, look for cracks, note water stains indicating pending and look at heavily used areas, such as below a table or barbeque, for problems with the membrane surface.
- Make sure drains and scuppers drain freely.
- Lightly power wash the surface to remove moss, fungus or algae. A mild soap or TSP solution may be used to help clean the surface and remove stains.

To get the most out of your roofs and decks, an association must develop and implement a preventative maintenance program. An observant eye, and not living in denial, is a large proactive step forward. If you are at the stage to consider replacement of materials, become a vigilant well-informed consumer. Utilize the resources around you and ASK questions! As is often said, "The only dumb question is the question not asked." Each association is ultimately the guardian of its own equity and its destiny. Good luck!

A HOMEOWNERS ASSOCIATION CAN BE A DANGEROUS PLACE…

The Associated Press reported that a Glendale, Arizona man (President of his homeowners association) was shot and critically injured by his neighbor last month. The President was patrolling his condominium complex at 3 in the morning when his neighbor shot him. The neighbor mistook him for a burglar. The neighbor was arrested for aggravated assault.

13 X-Acto blades were found in the playground area in a gated community in Newport Beach after a 5-year old boy pricked his foot on one of the blades on July 30. The association sifted the sand to depth of two feet in order to ensure that all blades were found.

Finally, the *Santa Maria Times* and the *Santa Barbara News-Press* report that a Santa Maria man set fire to his own condominium unit on August 3 causing major damage to his unit and the two adjoining units and minor to moderate damage to nine others. It was reported that the owner was angry with his homeowners association. Initial press reports do not indicate why he was angry with his association. Perhaps we will find out. Do you suppose the association was foreclosing for unpaid assessments?

"THE DAVIS-STIRLING ACT IN PLAIN ENGLISH"

In mid-May, we distributed an extra special member benefit to all primary members of South Coast, the book ***"The Davis-Stirling Act in Plain English"*** by Beth A. Grimm. The book includes a modified version of the Davis-Stirling Act with the author's commentary and explanation following each section. A limited number of extra copies are available at $35/each. Please make your check payable to South Coast HOA and mail to the address above. When we run out, additional copies are available from the author.

DO YOU KNOW AN ASSOCIATION THAT CAN BENEFIT FROM SOUTH COAST HOA MEMBERSHIP?

Over 130 associations are members of South Coast HOA; some since our inception in 1989. We understand that there are over 600 associations in Santa Barbara County so we'd like them all to receive the benefits of membership. For a limited time, a 2006 membership is available for $60 which will include newsletters from now until December 31, 2006, the *2006 Condominium Bluebook,* to be shipped in January 2006 and a copy of Beth Grimm's, *The Davis-Stirling Act in Plain English"* which we distributed to all current members last month. You may direct prospective members to our website www.southcoasthoa.org for additional information and you are welcome to share this month's newsletter with them so they can see the assistance that is available to them as volunteer board members.

FINAL CALL

We have 5 copies remaining of the *2005 Condominium Bluebook.* Normally sold for $17, these copies are available for $12 each until they gone. As you know, this is an essential reference guide for board members.

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